

AGRIMIX Pty Ltd
SEED SUPPLY TERMS & CONDITIONS

Agrimix Pty Ltd may offer Seed for purchase in accordance with the Terms set out below. By purchasing Seed from Agrimix, you agree to comply with and be bound by these Terms. Agrimix may update these Terms from time to time without notice. You may review the most current version of these Terms at any time through the Agrimix website at agrimix.com.au.

1 DEFINITIONS

In these Terms:

Agrimix means Agrimix Pty Ltd ABN 22 159 796 399 of Unit 1, 8 Castlemaine Street Coorparoo Queensland 4151;

Agrimix Brand means any branding, including any trade mark (whether or not registered), which is owned or used under licence by Agrimix or a related body corporate;

Agrimix Brand Guidelines means those guidelines governing the use of the Agrimix Brand by the Purchaser, set out on the Agrimix website, as updated by Agrimix from time to time;

Business Day means for the purposes of receiving a Notice, a day which is not a Saturday, Sunday, public holiday or bank holiday in the city in which the Notice is to be received and for any other purposes, a day on which the banks are open for business in Brisbane, Queensland other than a Saturday, Sunday or public holiday in Brisbane, Queensland;

Delivery Point means an Agrimix authorised depot location set out in the Order or any other location notified to the Purchaser by Agrimix in writing;

Force Majeure Event means an event or cause beyond the reasonable control of a party, including, to the extent it is beyond the control of that party, an act of God, lightning, storm, flood, fire, earthquake, explosion, pandemic, war, terrorism and governmental restraint, expropriation, prohibition, intervention, direction or embargo;

GST means goods and services tax or similar value added tax levied or imposed in Australia under the GST Act or otherwise on a supply;

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

Notice means a notice, consent, approval or other communication under these Terms;

Minimum Storage Requirements means storage in a watertight covered area, which is at all times cool and dry, pest free and suitable for storage of seed, and otherwise in accordance with any other instructions provided by Agrimix in writing from time to time;

Order means a purchase order for the Seed placed by the Purchaser under and in accordance with these Terms;

Order Confirmation means the written confirmation provided by Agrimix to the Purchaser in response to a request for an Order detailing the type and quantity of Seed ordered and the expected date product will be available for collection by the Purchaser at the nominated Delivery Depot;

Order Details means the following information required for an Order:

- (a) the variety and quantity of Seed required;
- (b) the Price;
- (c) the Delivery Point from which the Purchaser will arrange collection;
- (d) the name and contact details of the Purchaser's transport company;
- (e) the freight account number which relates to the Order; and
- (f) any other details Agrimix may require from time to time;

Price means the price payable for the Seed as set out in the Order;

Purchaser means the party who wishes to acquire the Seed from Agrimix on the terms and conditions set out in these Terms;

Seed means the seed of a variety or varieties as set out in the Order;

Special Conditions means the additional conditions the Purchaser must comply with as notified to them in writing by Agrimix from time to time; and

Terms means these terms and conditions under which Agrimix may sell Seed to the Purchaser and includes any Special Conditions.

2 SEED SUPPLY

2.1 Grant to Purchaser

Subject to the Purchaser not being in breach of its obligations under these Terms, Agrimix grants to the Purchaser the right to sell the Seed to customers located in Australia.

2.2 Disclaimer

The Purchaser acknowledges and agrees that the Seed that may be supplied to the Purchaser by Agrimix under an Order is provided on a strictly 'as-is' basis, and in the event that the Seed does not comply with the terms of these Terms, Agrimix will (at its option) replace the defective Seed at no cost to the Purchaser or refund all payments made by the Purchaser in respect of the defective Seed and this will be the limit of Agrimix's obligation.

3 ORDERS

3.1 Orders

- (a) All Orders must be submitted to orders@agrimix.com.au and contain the Order Details. Agrimix reserves the right to refuse to process any Order which is not valid in its reasonable opinion.
- (b) Orders may only be cancelled or varied by the Purchaser once they have been submitted with the approval of Agrimix, which may be withheld in its absolute discretion.
- (c) Subject to receiving a valid Order, Agrimix may provide the Purchaser with an Order Confirmation.

3.2 Delivery

Agrimix will use reasonable endeavours to make Seed available to the Purchaser at the Delivery Point and otherwise in accordance with these Terms.

4 PRICE

- (a) The Retailer may purchase Seed from Agrimix for the Price in accordance with a valid Order.
- (b) The Purchaser must not disclose the Price, including any discounts to the Price, to any third party (except as permitted to do so by law).

5 PURCHASER OBLIGATIONS

- (a) The Purchaser must comply with any Special Conditions (if applicable).
- (b) The Purchaser agrees that it will:
 - (i) store all Seed in accordance with the Minimum Storage Requirements at all times;
 - (ii) maintain any terms and conditions on the on bags of Seed provided to it by Agrimix;
 - (iii) ensure that any applicable labelling required by Agrimix or by law is applied to all bags of split Seed sold to customers;
 - (iv) actively promote and market the Seed; and
 - (v) comply with the Agrimix Brand Guidelines at all times.
- (c) The Purchaser may, at the request of a customer, split Seed into reduced bag sizes to provide smaller quantities to a customer.
- (d) If the Purchaser does split Seed into reduced bag sizes, it must comply with any applicable Special Conditions in doing so.
- (e) The Purchaser will immediately notify Agrimix upon:

- (i) becoming aware of any breach of Plant Breeder's Rights which may attach to the Seed from time to time;
 - (ii) becoming aware of any fault, defect or other issue with the Seed or their packaging;
 - (iii) receiving a complaint from a customer in relation to the Seed; or
 - (iv) a customer returning, or attempting to return, the Seed to the Purchaser.
- (f) Any notice given by the Purchaser to Agrimix in accordance with clause 5(e)(iii) or (e)(iv) must include the customer's name, contact number and email address. The Purchaser agrees to comply with any relevant privacy laws when collecting and providing a customer's personal information to Agrimix.

6 TITLE AND RISK

6.1 Title

- (a) Title in the Seed will pass to the Purchaser upon the earlier of:
- (i) Agrimix receiving full payment for the Seed; and
 - (ii) the Purchaser selling the Seed to customers, in which case title to that Seed passes to the Purchaser immediately before that sale.
- (b) The Purchaser may on-sell the Seed to third parties in the ordinary course of business unless Agrimix has terminated these Terms.
- (c) The Purchaser acknowledges that it holds the Seed in its possession as bailee for Agrimix until such time as title passes in accordance with this clause 6.1.

6.2 Risk

Risk in the Seed will pass to the Purchaser upon collection by the Purchaser, the customer, or its nominated carrier from the Delivery Point and the Purchaser will be fully liable for any lost or damaged Seed on and from the time risk passes to the Purchaser under this clause 6.2.

7 TERMINATION

7.1 Rights to terminate

Agrimix may terminate an Order (or any part of an Order), by giving the Purchaser thirty (30) days' written notice.

7.2 Consequences of termination

- (a) On termination of these Terms the Purchaser must account for and make payment in full to Agrimix of any amounts outstanding under these Terms and provide Agrimix reasonable access to any premises where the Purchaser stores the Seed to allow Agrimix to collect any Seed.
- (b) Termination of these Terms does not affect any accrued rights or remedies of a party including, for avoidance of doubt, any and all of the Purchaser's obligations.

8 INDEMNITY AND LIABILITY

8.1 Indemnity

The Purchaser agrees to indemnify Agrimix for any loss, damage, costs or liability it may suffer or incur arising out of or in connection with any breach by the Purchaser of these Terms (including if a third party makes a claim against it that arises from the Purchaser coating, mixing or blending Seed, splitting Seed into reduced bag sizes).

8.2 Limitation of liability

- (a) Under no circumstances and despite anything else in these Terms, neither party is liable for any indirect, consequential or special loss.
- (b) To the extent permitted by law, Agrimix's maximum liability to the Purchaser for all proven loss or damage arising from a breach of these Terms or a claim under common law or tort is limited, in the aggregate, to half the amount paid by the Purchaser to Agrimix in the twelve (12) month period prior to the liability arising.

9 INVOICING

- (a) All invoices are due in full within thirty (30) days from the date of the invoice.
- (b) The Purchaser must pay Agrimix on demand interest at the rate of 12% per annum on all overdue amounts owed by the Purchaser to Agrimix, calculated daily.
- (c) All costs and expenses associated with collecting overdue amounts, including (but not limited to) legal fees and internal costs and expenses of Agrimix, are to be paid by the Purchaser as a debt due and payable under these Terms.
- (d) Agrimix reserves the right to refuse to accept an Order placed by the Purchaser if any invoice (or part thereof) remains unpaid past its due date.
- (e) The Purchaser is not permitted to deduct or set-off any sums against any tax invoice.

10 GST

This clause applies if a party to these Terms is, or becomes, liable to pay GST regarding any Supply of goods, services or anything else under these Terms.

10.1 Definitions

Capitalised expressions which are not defined in these Terms but which have a defined meaning in the GST Act have the same meaning in this clause.

10.2 GST payable in addition to consideration

If a party (**Supplier**) makes a Taxable Supply under these Terms, then the Recipient of the Taxable Supply, must pay the Supplier the GST payable on the Taxable Supply in addition to the consideration for the Supply.

10.3 Tax Invoice

Within seven days of a Supply being made under these Terms, the Supplier must provide to the Recipient a Tax Invoice or other documentation that complies with the requirements for a valid Tax Invoice under the GST Act.

10.4 Payment of GST

Subject to the Supplier issuing a Tax Invoice to the Recipient as required under clause 10.3, the Recipient must pay the GST on the Taxable Supply under these Terms to the Supplier at the same time as the Recipient pays the consideration for the Supply to the Supplier.

10.5 Reimbursement or indemnity

Despite any other provision of these Terms, if the whole or part of any consideration under these Terms is a reimbursement or an indemnity to one party of an expense, loss, outgoing or liability incurred or to be incurred by the other party, the consideration excludes any GST included in such expense, loss, outgoing or liability incurred or to be incurred for which the other party can claim an Input Tax Credit. The other party will be assumed to be entitled to a full Input Tax Credit unless it can establish otherwise.

10.6 Adjustment Events

If an Adjustment Event occurs regarding a Supply under these Terms, the Supplier must issue to the Recipient an Adjustment Note regarding the Adjustment Event within seven days of the Supplier becoming aware of the Adjustment Event.

10.7 Additional amount

If the Adjustment Note gives effect to an Increasing Adjustment, the Recipient must pay to the Supplier the GST component of the Increasing Adjustment not later than the fourteenth business day of the month following the month in which the Adjustment Note is issued to the Recipient.

10.8 Credit or refund

If the Adjustment Note gives effect to a Decreasing Adjustment, the Supplier must pay to the Recipient the GST component of the Decreasing Adjustment not later than the fourteenth business day of the month following the month in which the Adjustment Note is issued to the Recipient.

11 FORCE MAJEURE

- (a) If a party is unable either wholly or partially, as a result of a Force Majeure Event, to carry out its obligations (excluding payment obligations) under these Terms and notifies the other party promptly of the Force Majeure Event and attempts to circumvent the Force Majeure Event as quickly as possible, then that party's obligations will be suspended for the period of time they are affected by the Force Majeure Event.
- (b) If after a period of ten (10) Business Days, the Force Majeure Event has not ceased, Agrimix may terminate these Terms immediately by written notice to the Purchaser.

12 DISPUTE RESOLUTION

12.1 Process

- (a) In the event of any dispute between the Purchaser and Agrimix arising out of or under these Terms, either party may give the other party a notice specifying the dispute and if the dispute is not resolved within seven (7) days after a notice is given, each party must nominate one representative from its senior management to actively seek to resolve the dispute.
- (b) If the dispute is not resolved within twenty-one (21) days of the dispute being referred to senior management, the dispute will be referred to mediation with the President of the Queensland Law Society appointing a mediator.

12.2 Costs

Each party will bear its own legal costs incurred in connection with the mediation. The costs incidental to the mediation, including the mediation fees, will be apportioned equally between the parties.

12.3 Compliance

The parties must comply with this clause 12 prior to referring the dispute to arbitration or litigation (except in circumstances in which a party is seeking urgent interlocutory relief).

13 Notices

13.1 Service of notices

A Notice must be:

- (a) in writing and signed by the sender or its duly authorised representative, addressed to the recipient and sent to the recipient's address as notified to the other party; and
- (b) delivered by personal service, sent by pre-paid mail or transmitted by or email, or any other lawful means.

13.2 Effect of receipt

- (a) A Notice given in accordance with this clause 13 is treated as having been given and received:
 - (i) if personally delivered, on delivery;
 - (ii) if sent by pre-paid mail, on the fifth clear Business Day after the date of posting (or the seventh Business Day after the date of posting if sent to or from an address outside Australia); and
 - (iii) if sent by email, at the time of transmission by the sender, unless the sender receives an automated notice generated by the sender's or the recipient's email server that the email was not delivered,

except that, if the delivery, receipt or transmission is after 5.00pm in the place of receipt or on a day which is not a Business Day, it is taken to have been received at 9.00am on the next Business Day.

14 GENERAL

14.1 Governing law and jurisdiction

These Terms is governed by and is to be construed in accordance with the laws applicable in Queensland, Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland, Australia and any courts which have jurisdiction to hear appeals from any of those courts.

14.2 Severability

- (a) Subject to clause 14.2(b), if a provision of these Terms is illegal or unenforceable in any relevant jurisdiction, it may be severed

for the purposes of that jurisdiction without affecting the enforceability of the other provisions of these Terms.

- (b) Clause 14.2(a) does not apply if severing the provision materially alters the scope and nature of these Terms, or the relative commercial or financial positions of the parties, or would be contrary to public policy.

14.3 Further steps

Each party must promptly do whatever any other party reasonably requires of it to give effect to these Terms and to perform its obligations under it.

14.4 Amendment

Agrimix may amend these Terms from time to time in its absolute discretion.

14.5 Assignment

The Purchaser must not assign or deal with its rights under these Terms without the prior written consent of Agrimix.

AGRIMIX Pty Ltd
SEED SUPPLY SPECIAL CONDITIONS

Agrimix Pty Ltd may offer Seed for purchase in accordance with its Seed Supply Terms and Conditions (Terms). You may review the most current version of the Terms at any time through the Agrimix website at agrimix.com.au. In accordance with the Terms, Special Conditions apply to the sale of Progardes®. By purchasing Progardes® from Agrimix, you agree to comply with and be bound by the Terms, which include these Special Conditions.

1 DEFINITIONS AND INTERPRETATION

1.1 Capitalised terms

In these Special Conditions, all capitalised terms have the same meaning as given to them in the Terms unless the context indicates otherwise.

1.2 Interpretation

These Special Conditions are to be read in conjunction with the Terms. In the event of any inconsistency between the Terms and these Special Conditions, the Special Conditions prevail to the extent of any inconsistency.

1.3 Definitions

In these Special Conditions, the terms set out below have the following meaning:

ASF Code means the relevant Australian Seed Federation National Code of Practice, as updated from time to time;

Establishment Guide means the Progardes® establishment guide (accessible at progardes.com.au/establishment/), as amended, varied or replaced from time to time;

Planting Rate Guidelines means the planting rate guidelines for Progardes® as notified by Agrimix to the Purchaser, as updated from time to time;

Progardes® means a composite of Desmanthus varieties and includes materials covered by Plant Breeders' Rights under the *Plant Breeder's Rights Act 1994* (Cth); and

Progardes® Supply Terms means the terms and conditions which govern the supply of Progardes® (which may be included on the Seed bag or otherwise made available to the Purchaser), as amended, varied or replaced by Agrimix from time to time.

2 PURCHASER OBLIGATIONS

2.1 General obligations

(a) The Purchaser acknowledges and agrees that, prior to making a sale of Progardes® to any customer, it must provide the customer with a copy of:

- (i) the Establishment Guide; and
- (ii) the Progardes® Supply Terms; and
- (iii) the Planting Rate Guidelines.

(b) The Purchaser must use its best endeavours to ensure that its customers adhere to the requirements contained in the Establishment Guide, Progardes® Supply Terms and Planting Rate Guidelines.

2.2 Splitting into reduced bag sizes

(a) If the Purchaser splits Progardes® into reduced bag sizes (in accordance with clause 5(c) and (d) of the Terms), it must ensure that it affixes a label to every bag that sets out the following information:

- (i) species of the Seed;
- (ii) weight of the bag;
- (iii) relevant Lot Number; and
- (iv) the PBR Information (if applicable).

(b) When splitting Progardes® into reduced bag sizes, the Purchaser must also comply with any additional labelling requirements contained in the ASF Code.

2.3 Blending Progardes®

- (a) The Purchaser acknowledges that Progardes® must not be included in a blend with any other Desmanthus product.
- (b) Subject to the Purchaser complying with all its obligations under the Terms, the Purchaser may include Progardes® in a blend with other grasses and legumes that are not Desmanthus.

2.4 Prohibition on coating etc.

- (a) The Purchaser must not (and must ensure that any of its customers do not) attempt to coat, treat with any biological or chemical treatments, or otherwise alter Progardes® (other than expressly permitted by the Terms), and will ensure that Progardes® is sold in accordance with the conditions and specifications advised by Agrimix from time to time.
- (b) The Purchaser acknowledges that any mixtures or other changes or variations to the form of Progardes® is done so at the Purchaser's (or customer's, as the case may be) own risk and Agrimix accepts no liability whatsoever in connection with such changes.

3 ACKNOWLEDGEMENTS

The Purchaser acknowledges that:

- (a) Progardes® is not for personal, domestic or household purposes; and
- (b) the performance of Progardes® may be impacted by a number of factors which are outside the control of Agrimix including, but not limited to, climatic conditions, soil composition, applications methods and farming practices.

4 LIABILITY

- (a) Notwithstanding any other provision of the Terms, if the Purchaser (or a customer of the Purchaser) chemically coats or treats Progardes®, Agrimix accepts no responsibility, and will not be liable whatsoever, for any consequences that may be attributed to such treatment.
- (b) Agrimix is not liable for any direct, indirect, punitive, incidental, special or consequential damages including, without limitation, damages for loss of use or profits, arising out of or in any way connected with the use of Progardes®, whether based on negligence or otherwise.