

## TERMS & CONDITIONS OF SALE FOR GOODS AND SERVICES

Cotton Growers Services Pty. Ltd. (CGS) ABN: 15 001 723 048 and the APPLICANT ('Applicant') agree to the following terms and conditions of sale for goods and services:

1. Subject to Clause 16, all goods or services referred to in an invoice will be deemed correctly charged and delivered or supplied without defect in accordance with goods and services that were delivered or supplied.
  - 1.1 No goods or services unsold or not used by the Applicant, whether a wholesaler or primary producer, will be accepted for return by CGS, unless otherwise agreed, in writing, by CGS.
2. All current credit accounts must be settled in full by noon on the last NSW banking day of the month following the month in which the goods or services were delivered or supplied. ("30-day standard terms")
  - 2.1 Where "Crop Terms" have been agreed in writing, CGS is entitled to apply interest ("the service charge") on the credit account. Where the credit account is outside of 30-day standard or other agreed terms (including agreed Crop Terms), CGS shall be entitled to charge interest ("the service charge") on the outstanding balance, calculated monthly, and compounding, at the minimum rate of 1.33% per month. CGS may vary the service charge at its absolute discretion.
  - 2.2 In the event that CGS is required to undertake any legal action to recover monies owed from a customer, the customer acknowledges and submits to the laws and jurisdiction of New South Wales. The customer will be responsible for all costs and disbursements incurred by CGS in such a recovery action including but not limited to its full legal costs including solicitor fees, representation fees, court costs and all other costs of the recovery action.
3. Crop Terms Accounts are due for payment by no later than the 30th June following the day of invoice. CGS reserves the right to apply a service charge at the minimum rate of 1.33% per month on any monies outstanding and not cleared by 30th June following the day of invoice.
4. In the event that the Applicant sells, transfers or otherwise discontinues their business they shall notify CGS of the same and attend to the payment of their account within 7 days noting that service charges of clause 2.1 herein continue to apply. The Applicant further agrees to close their credit account with CGS to prevent misuse of the same.
5. All payments to CGS will be made to it at Lot 422 Boolcarrol Road, Wee Waa, New South Wales or as directed by CGS from time to time. CGS will provide bank account details on each Tax Invoice to facilitate payment by electronic means.
6. CGS is hereby permitted to give or obtain information about the Applicant or its affairs in accordance with the Privacy Act (1988) (Cth). CGS is committed to protecting your privacy and you agree to allow CGS to hold such information for the purposes of managing your accounts and advising you of new products and services provided by CGS. Information collected by CGS is only available to certain CGS employees whom, are bound by CGS's Privacy policies. The Applicant is aware that this permission is required under the Privacy Act and you are entitled to request access to these details at any time for the purposes of review and accuracy.
7. The Applicant warrants that all information set out in this application is true and correct in every particular.

8. Any credit limitation in place in respect of this Application shall be nor will the rights of the parties be varied or waived if this limit is exceeded or unstated.
9. If any term is or becomes void or otherwise unenforceable it may be severed from these terms and conditions. The remaining terms and conditions shall continue to apply.
10. Subject to clause 2.1 herein, if default is made in respect of any monies owing, the Applicant consents to CGS applying to any court in Australia for recovery purposes.
11. The signatories to this trading account warrant their authority to bind the Applicant and, in the case of a partnership each of his/her/their/its partners. The obligations of each of the parties comprising the Applicant, shall be enforceable against them jointly and severally notwithstanding, in the case of a partnership, the signatories to this trading account shall not comprise all of the Applicant's partner.
12. If after the date of this application, the Applicant becomes incorporated, admits additional partners, has partners retire, or the membership of the Applicant otherwise changes in anyway, all the parties comprising the Applicant at the date of this application shall remain together with the newly incorporated entity or as the case may be the additional partners or further members of the Applicant, personally liable for the debts of the Applicant until CGS, in its absolute discretion advises to the contrary in writing.

12.1 All notices required or permitted to be given by one party to another under this document must be in writing, addressed to the other party: and

- a) delivered to that party's address; or
- b) transmitted by electronically (either email or facsimile) to that party's address.

12.2 A notice given to any party under sub-clause 1 of this clause is treated as having been given and received:

- a) If delivered to a party's address on the day of delivery if a business day, otherwise on the next following business day; or
- b) if transmitted electronically (either email or facsimile) to a party's address and a correct and complete transmission report is received on the day of the transmission if a business day, otherwise on the next following business day.

13. The Applicant acknowledges that they have read and understand the "Terms and Conditions of Sale" and acknowledge that these terms will apply to any purchase of goods and services by the Applicant from CGS on the Applicant's trading account.

14. Completion of a CGS sales order by the Applicant personally, or by any person acting under the Applicant's instructions or at the Applicant's request, constitutes an offer on the part of the Applicant incorporating these terms and conditions. CGS may accept all or part of the offer either verbally or in writing or by supplying all or part of the goods ordered. Any acceptance by CGS shall be on these terms and conditions. If there is any inconsistency between these terms and conditions and terms and conditions stipulated or referred to by the Applicant, or in any provision contained in any materials or literature prepared by CGS, then these terms and conditions shall prevail.

15. All prices quoted by CGS or stated in CGS's price list are effective as at the date on which the price is quoted and are subject to alterations without notice to the Applicant. All prices are exclusive of any delivery costs and government charges including but not limited to any Goods and Services Tax ("GST"), Drum Muster charges or other industry or regulatory charges which, if applicable, will be applied to the Applicant's account. In respect of any liability of CGS for GST under this agreement for any taxable supply, the Applicant covenants to pay CGS at the same time as any payment is made involving CGS in GST liability, the additional amount of GST, together with the payment to which it relates. Unless otherwise agreed in writing the price payable by the Applicant will be the price prevailing at the time of dispatch of the goods by CGS to the Applicant which price shall be payable in full.

16. It is the responsibility of the Applicant to verify for itself, at the time of supply that the quantity and type of goods supplied is in accordance with the order. Any claim for short or wrongful supply of goods must be notified within fourteen days with full particulars and substantiation of the claim made by the Applicant in writing to CGS. Any claim which the Applicant does not notify or substantiate within the time aforesaid (time being of the essence) shall be deemed to have been absolutely waived and the use of such description shall not constitute this contract a sale by description. All other warranties however expressed or implied are hereby expressly excluded to the full extent permitted by law. Where so permitted, the liability of CGS for a breach of a condition or warranty that cannot be excluded is supply of equivalent goods or the cost of replacing or rectifying the goods or of acquiring equivalent goods. All goods to be acquired from and all services to be supplied by CGS are subject of this agreement. So far as the law permits, CGS shall not be liable in any way whatsoever for any indirect or consequential loss or loss of any act or matter or thing done permitted or omitted by CGS.

17. Any time or date quoted by CGS for availability of goods is an estimate only and CGS shall not be liable for any failure to supply all or part of the goods on a particular date or at a particular time. If CGS determines that it is or may be unable to supply within a reasonable time or at all, the contract may be cancelled by it. In the event of cancellation, the Applicant shall have no claim against CGS for any damage, loss, cost or expense whatsoever. The Applicant shall not be relieved of any obligation to accept or pay for the goods by reason of any delay in supply.

18. Where CGS provides the Applicant a quote for fertiliser products and the Applicant accepts such quote, the parties are deemed under these terms and conditions to have entered an irrevocable supply contract for the goods. The Applicant understands that accepted quotes are binding and irrevocable. Unless otherwise agreed in writing, 30-day standard payment terms apply to the supply of all fertiliser products.

19. Property in the goods shall not pass from CGS to the Applicant until the Applicant has paid for them in full. Until such time as the goods have been paid for in full, the Applicant shall hold the goods as bailee for CGS. The risk of loss of or damage to the goods or third-party damage arising from the carriage, storage or use of the goods shall pass to the Applicant upon supply.

20. The Applicant acknowledges that neither CGS nor any person purporting to act on its behalf has made any representation or given any promise or undertaking which is not expressly set out in writing in this purpose or any other matter.

21. Failure by CGS to insist upon strict performance of any term, warranty to condition of this contract shall not be deemed a waiver thereof or of any rights CGS may have and no express waiver shall be deemed a waiver of any subsequent breach of any term, warranty or condition.

22. Any notice to be given by the Applicant to CGS shall be sent by prepaid mail to CGS's business address. No notice shall be deemed to have been given until it is actually physically received at such address.

23. All contracts shall be governed by and construed in accordance with the laws of New South Wales.

24. Nothing in this Application Form, or its Terms and Conditions, constitutes, or creates any form of partnership, joint venture, or like enterprise between CGS and the Applicant.

25. CGS at its discretion may update these Terms and Conditions from time to time. CGS will publish such information at [www.cgs.com.au](http://www.cgs.com.au) with hard copies available on request.

26. Without limiting or waiving any other right under this contract, CGS may at any time by giving notice in writing to the Applicant terminate this contract forthwith, in any of the following events:

- a) if the Applicant commits a breach of any of the terms and conditions of this contract and fails to remedy such breach within fourteen (14) days (or such shorter period as is reasonable in the circumstances) from receipt;
- b) if the Applicant enters into liquidation whether compulsorily or voluntarily otherwise than for the purposes of amalgamation or reconstruction or compound with their creditors or have a receiver and/or manager and/or administrator appointed of all or any part of their assets or takes or suffers any similar action in consequence of debt;
- c) if in the case of natural persons or a partnership, the Applicant or any member of its partnership becomes bankrupt or insolvent or enters into any arrangement with his creditors or takes or suffers any similar action in consequence of debt;
- d) the Applicant threatens to or ceases to operate the business for the purpose which the goods or services the subject of this contract were delivered or supplied;
- e) if CGS determines that it is or may be unable to supply within a reasonable time or at all the goods or services the subject of this contract.

In the event that this contract is terminated in accordance with this clause the Applicant shall have no claim against CGS for any damage, loss, cost or expense whatsoever.

27. The Applicant, in the case of a corporation, means its permitted assigns, and in the case of a natural person means its heirs, executors, administrators and permitted assigns.

28. The Applicant will not during the term of this contract assign or purport to assign its rights under the contract without the prior written consent of CGS, which consent shall be enforceable against them jointly and severally notwithstanding, in the case of a partnership, the signatories to this trading account shall not comprise all of the Applicant's partners.