



Variety Licence Agreement

SEED LICENSE AND END POINT ROYALTY AGREEMENT

This Agreement is made between Us, as the PBR owner and supplier of the Seed (via an Authorised Distributor) and You, the grower, and sets out the terms and conditions pursuant to which You will be authorised to acquire and grow Seeds and to Sell and otherwise Use the Grain.

A: A copy of this Licence will have been provided to you at the point of sale of the Seed from an Authorised Distributor.

B. To be authorised to grow and sell the Licensed Variety You must agree to the full terms and conditions of this Licence as set out herein by signing the attached acknowledgement and returning it to the PBR owner by the means set out on the acknowledgement notice. You must complete this requirement prior to opening the Seed bag or sowing the seed.

C. If you do not agree to the terms and conditions of this License, then you must immediately return your seed (in a saleable condition) to your Authorised Distributor.

D. Do not open the Seed bag or sow this Seed if you do not return the signed Acknowledgment form to the PBR Owner.

E. Opening the Seed bags and sowing the Seed shall be taken as acceptance of the present terms.

TERMS AND CONDITIONS

It is agreed:

1. Meaning of Words

The meaning of words starting with a capital letter that are used in this Agreement is set out in Schedule 1.

2. Grant of License

2.1 In return for you agreeing to the terms and condition of this Licence, including the Schedules and paying the EPR we grant you a non-exclusive license to use the Licensed Varieties to:

- a) plant Seed on your own Farm to produce grain or fodder;
- b) produce more grain or fodder on your own farm using Retained Seed; and
- c) Sell grain or fodder other than for the purpose of further propagation.

2.2 You acknowledge and agree that any variety derived from the Licensed Variety including any Essentially Derived Variety of any Licensed Variety or any sport or mutation arising or resulting from the Use of any Seed or Retained Seed acquired by You will be owned by the owner/s of the PBR and You will on request and at Your own cost do all things necessary to give effect to this clause, including but not limited to assign and transfer any and all right, title and interest in the Essentially Derived Variety and the right to apply for anywhere in the world, to the said owner/s of the PBR or its/their nominee.

3. What you cannot do

3.1 You agree that you are not to Sell any Grain for use as a Propagating Material without the Licensees or Owners express written permission.

3.2 You agree not to breed or create any derivative varieties including Essentially Derived Varieties from the Seed.

4. Notice to declare production of Harvested Material

4.1 On or before 31 March each year, we will provide, or arrange for a third party to provide, you with a notice to declare your production of Harvested Material for the twelve month period. You must accurately complete and return the notice as directed by that notice.

4.2 If for any reason you do not receive such a notice by 31 March you must provide to us a written notice on 30 April with the following information for the previous 6 month period:

- a) your name and address;
- b) the quantity of Harvested Material produced by you;
- c) the quantity of Harvested Material Sold by you and the name of each purchaser;
- d) the quantity of Retained Seed;
- e) the quantity of Harvested Material that has been or is intended to be Consumed;
- f) the quantity of Harvested Material that are stored or warehoused for future sale, and;
- g) the total End Point Royalty due to us in relation to the Harvested Material.

4.3 In addition to the information you are required to provide under clauses 4.1 and 4.2 (above), you must provide any other reports or information set out in Schedule 2.

4.4 You agree that:

- a) any Authorised Distributor may pass on Details to us; and
- b) any entity that stores, warehouses, conditions, purchases or Sells the Harvested Material that you produce may pass on Details to us.

5. Payment of End Point Royalty

5.1 Unless collected earlier by an EPR Collector during the sale of the Harvested Materials which you authorise herewith, You must pay to us, by 30 April each year, (or by such later time as notified to You in writing by Us where clause 4.2 applies) the End Point Royalty (and any applicable GST) as set out in Schedule 2 for each tonne of Harvested Material Sold or Consumed by you for the previous twelve- month period.

6. Interest

We reserve the right to charge interest on overdue amounts at the rate specified in Schedule 2.

7. Tax Invoice

We will issue you a tax invoice to reflect the payment made on 30 April each year.

8. Your other Obligations

8.1 You must:

- a) make sure that anything you do under this Contract complies with all applicable laws;
- b) promptly notify us if you become aware of any unauthorised propagation, production, reproduction, sale or use of any grain or fodder; and
- c) if you plan to sell any property on which Seed or Retained Seed has been planted:
 - (i) notify us and provide details of the purchaser;
 - (ii) ensure that it is a condition of sale that the purchaser takes over your obligations under this Contract; and
 - (iii) pay or have paid all EPRs due on any Harvested Material that is on the property at the date of sale.

8.2 You must:

- a) keep records in sufficient detail to enable all EPRs to be easily and accurately determined;
- b) within 30 days after receiving a request from us, make those records available to us or an auditor appointed by us;
- c) Provide within a reasonable time when requested all relevant records, and pay all audit fees (on an indemnity basis) where the audit report indicates that You have underpaid, under-estimated or under-calculated any amount due as EPRs by more than five per cent (5%) and also pay the full amount of any shortfall (inclusive of any GST or other taxes owing on such amount); and
- d) keep the records for 7 years from the date you Sell any Harvested Material.

8.3 If any audit shows that you have overpaid us by more than 5% we will repay the overpayment to You.

9. Promises and exclusions

9.1 We warrant that:

- a) we have all rights necessary to grant you the permission and License contained in clause 2; and
- b) the Seed you buy from us or an Authorised Distributor will be unencumbered and will not be subject to any obligations to anyone else unless We have told you about those obligations.

9.2 Except to the extent provided in clause 9.1 (above), We exclude all terms, conditions and promises implied by custom, the general law or statute, except any promises that cannot be excluded by Law.

10. Liability

10.1 You:

- a) acknowledge that you Use the Licensed Varieties at your own risk;
- b) indemnify us against all Loss incurred by us and resulting from your Use of any Seed, Retained Seed or Harvested Material or any breach of this Contract.

10.2 If we contribute to any Loss which we have asked you to pay under clause 10.1, then you don't have to pay us for the portion of the Loss that we contributed to.

10.3 Except to the extent provided under non-excludable or unavoidable Law, We exclude alliability for any special, indirect or consequential damages arising out of Your Use or dealings with any Seed, Retained Seed or Harvested Material.

11. Dispute resolution

11.1 The Parties shall without delay and in good faith attempt to resolve any Dispute within thirty (30) days of the date one Party notifies the other in writing of the dispute.

11.2 Any dispute or difference arising out of or in connection with this Contract will be submitted to an expert in accordance with, and subject to, The Institute of Arbitrators & Mediators Australia Expert Determination Rules.

12. Term

This Contract takes effect from the date on which you accept or Use any Seed and, subject to clause 13, continues in relation to each Licensed Variety until it is terminated by the variety owner and/or licensee.

13. Rights to end Contract

13.1 Either of us may end this Contract immediately by giving notice to the other if the other:

- a. breaches any provision of this Contract and fails to fix the breach within 30 days after receiving notice asking it to do so; or
- b. breaches a provision of this Contract where that breach cannot be fixed.

13.2 This Contract terminates automatically with respect to a particular Licensed Variety if we lose the right to grant the License in respect of that Licensed Variety.

13.3 We may end this Contract immediately by giving notice to you if you are unable to pay any of your debts (including EPRs) as and when they become due.

13.4 Lose the right to grant the License in respect of that Licensed Variety.

13.5 We may end this Contract immediately by giving notice to you if you are unable to pay any of your debts (including EPRs) as and when they become due.

14. At the end of Contract

At the end of this Contract:

- a) the License ends;
- b) unless already deducted you must pay the EPR Collector or us any amounts of EPR outstanding;
- c) except as provided under clause 14 (d) you must promptly:
 - (i) Sell or destroy all Harvested Material;
 - (ii) destroy all Seed, and;
 - (iii) destroy all Retained Seed or Sell the Retained Seed other than for further propagation, and pay the applicable EPR on the Harvested Material and the Retained Seed Sold.
- d) you may grow out any crop planted at the end of this Contract and Sell or Consume the Harvested Material from that crop and must pay EPR on that Harvested Material, but you must not plant any new crops using the Harvested Material;

- e) the following clauses continue, along with any other clause intended to continue after this Contract ends: clauses 8 (Records), 9 (Promises and Exclusions), 10 (Liability) and this clause; and
- f) accrued rights and remedies are not affected.

15. Notices

15.1 Any notices under this Contract must be in writing and must be given in accordance with clauses 15.2 and 15.3.

15.2 A notice given in accordance with this clause will be deemed received:

- a) if left at the recipient's address, on the date of delivery;
- b) if sent by prepaid post, 10 days after the date of posting unless it is in fact received earlier, in which case, on the date of receipt;
- c) if sent by fax, when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the notice; or
- d) if sent by email, when the sender's email receives no notification of an inability to successfully transmit the email; or
- e) when posted to our website and/or posted to the Variety Central website (www.varietycentral.com.au).

15.3 Only matters of a general nature relating to more than one grower may be the subject of a notice given in the manner described in 15.2(d) above. Notices given to individual growers must be addressed to the relevant contact person in Schedule 2 or to the address provided by the Authorised Distributor or EPR Collector.

16. Waiver

The failure of either of us at any time to insist on performance by the other of any obligation under this Contract is not a waiver of any right to claim damages for breach of that obligation unless we acknowledge in writing that the failure is a waiver.

17. Amendment

We may change the terms of this Contract by giving you at least 30 days notice. If we change EPR rates we must notify you by October 1st in order for the change to take effect in the following Calendar Year.

18. Severability

If part or all of any clause of this Contract is illegal or unenforceable it will be severed from this Contract and will not affect the continued operation of the remaining provisions.

19. Assignment

Except to the extent necessary to comply with clause 7.1(c)(2), you must not assign or transfer or attempt to assign or transfer any obligation or right arising out of this Contract, without our written consent.

20. Entire Contract

This Contract and schedules record the entire Contract between each of us and supersedes all earlier agreements and representations by either of us.

21. Governing Law

This Contract will be governed by the Governing Law as stipulated in Schedule 2, and the Courts of that State or Territory will have jurisdiction over all matters arising under it.

SCHEDULE 1

Glossary

In this contract:

Authorised Distributor means Vicary Produce and PB Agrifood.

Consume means to use Seed so that it cannot be further propagated.

Contract means this agreement together with its schedules.

Details means details of the Licensed Varieties, details of the Sale/purchase of Seed and Harvested Material, your name, your address, and details of your business or company (including ABN and CBH and/or NGR number).

End Point Royalty or **EPR** means the royalty payable by you for every tonne of Harvested Material Sold or Consumed by you, or Retained Seed Sold by you as permitted by clause 14(C)(3).

EPR Collector means us, or any third party with whom we have entered into an EPR collection arrangement.

Essentially Derived Variety has the meaning given to it in the PBR Act, namely, a plant variety (as defined in the PBR Act) is taken to be an essentially derived variety of another Plant Variety if:

- a) it is predominantly derived from that other Plant Variety; and
- b) it retains the essential characteristics (as defined in the PBR Act) that result from the genotype or combination of genotypes of that other variety, and;
- c) it does not exhibit any important (as distinct from cosmetic) features that differentiate it from that other variety.

Farm means farming land owned or controlled by You and/or your farming enterprise and includes land subject to a sharefarming agreement.

Harvested Material means the grain or fodder from crops of the Licensed Varieties grown from Seed or Retained Seed.

License means the license granted under clause 2.

Licensed Varieties means the varieties listed in Schedule 2.

Loss means all liabilities, expenses, losses, damages and costs (including legal costs on a full indemnity basis and whether incurred by or awarded against us).

PBR means plant breeder's rights as defined in the PBR Act.

PBR Act means the Plant Breeder's Rights Act 1994 (Cth) as amended from time to time.

PBR Owner means Agriventis Technologies Pty Ltd (ACN 618 614 341)

Propagating Material has the meaning given to it in the PBR Act, namely in relation to a Plant of a particular Plant Variety, means any part or product from which, whether alone or in combination with other parts or products of that Plant, another Plant with the same essential characteristics can be produced.

Retained Seed (or Farm Saved Seed) means grain retained and used by you for the purpose of producing more grain or fodder as permitted by clause 2.1(B).

Seed means seed of the Licensed Varieties but does not include Retained Seed. **Sell** has the meaning given to it in the PBR Act, namely it includes letting on hire and exchanging by way of barter and 'Sale' and 'Sold' have equivalent meanings.

Us/We as the PBR owner or Authorised Distributor of the Seeds.

Use means to plant, grow, Sell, or Consume.

You as the person or entity who either purchases, accepts, retains or sow.



SCHEDULE 2 – DETAILS

Item 1 Licensed Varieties and applicable End Point Royalty rate:

Item 1

| Licensed Varieties | EPR Rate \$ per MT GST Exc | GST |
|--------------------|----------------------------|--------|
| GREEN DRAGON ® | \$8 | \$0.80 |
| TAIPAN | \$8 | \$0.80 |

Item 2 End Point Royalty:

The Grower is liable to pay Us/EPR Collector a Royalty calculated by reference to each metric tonne of Harvested Material the Grower Sells or Consumes less any quantity of Retained Seedwhere the harvest occurred on or after **1 March 2022**.

Item 3 Interest:

We/EPR Collector may charge interest at a rate equal to the Small Business Variable Small Overdraft Indicator Lending Rate published by the Reserve Bank of Australia from time to time plus 3%, calculated daily, for any amounts due but unpaid for more than 30 days.

Item 4 Governing Law:

New South Wales

Item 5 Contact details:

Grower – See Acknowledgement

Contact person and address as provided by the Authorised Distributor or EPR Collector in accordance with clause 4.4

Item 6 Grower Information:

We reserve the right to provide your contact details to any grain accumulator or EPR collector.