

PURCHASE ORDER for DURUM WHEAT SEED
SOUTHERN AUSTRALIA DURUM GROWERS ASSOCIATION INC.
 ABN 65 351 773 505 PO Box 6, Georgetown SA 5472 Ph: 0419 812 810 Fax: 08 8662 4089

PURCHASE ORDER

PURCHASER BUSINESS NAME:

ABN/ACN:

PURCHASER CONTACT NAME:

Address:

Billing Address (if different):

Phone: **Mobile:** **Fax:**

Email Address:

SEED REQUESTED BY PURCHASER

Item Code	Description	Tonnage
DBA Aur BH17	Aurora durum wheat seed direct off header	
DBA Aur BH17	Aurora durum wheat seed cleaned off header	
DBA Aur C17	Aurora durum wheat seed cleaned in Bulker bags	
*Note: bulk off header 4 tons minimum.		

Completed Purchase Orders are to be returned to the SADGA Treasurer

SADGA Treasurer: Jan Crawford Fax: 08 8662 4089 Ph: 0419 812 810 Email: SADGAtreasurer@gmail.com
POST: PO Box 6, Georgetown SA 5472

Upon acceptance of the Purchase Order by SADGA:

- The Purchaser will be advised of the name of the Seed Multiplier and location at which the Seed will be available.
- The Purchaser will be contacted by the Seed Multiplier prior to harvesting to make arrangements for collection by the Purchaser within fourteen (14) days of harvest.

All freight and associated costs are the responsibility of the Purchaser.

Final orders are to be received by close of business on the following dates: SA - 24/2/2018, VIC – 31/3/2018

I/We agree to the terms and conditions of this Purchase Order:

Purchaser's Signature:..... **Date:**.....

SADGA Signature:..... **Date:**.....

SADGA TERMS AND CONDITIONS

The following conditions, provisions and terms ("**Terms and Conditions**") govern the relationship between SAGDA and the Purchaser in connection with the supply of Seed by the Seed Multiplier on behalf of SADGA.

1. DEFINITIONS AND INTERPRETATION

- 1.1. "**Agreement**" means the documents comprising the Purchase Order and these Terms and Conditions;
- 1.2. "**Contract Sum**" means the amount to be paid by the Purchaser to SADGA as calculated by SADGA using the Purchase Order quantity of Seed requested together with the Price as released by SADGA, as recorded on the invoice;
- 1.3. "**Purchaser**" means the business or company identified in the Purchase Order;
- 1.4. "**Purchase Order**" means the document preceding the Terms and Conditions having that title and signed by the Purchaser.
- 1.5. "**SADGA**" means the Southern Australia Durum Growers Association;
- 1.6. "**Seed**" is the seed ordered by the Purchaser to be supplied by the Seed Multiplier as listed in the Purchase Order;
- 1.7. "**Seed Multiplier**" is a member of SADGA whom makes Seed available to the Purchaser on behalf of SADGA.
- 1.8. "**Treasurer**" is the person identified as such on the Purchase Order.
- 1.9. Headings are for convenience only and do not form part of these Terms and Conditions; and
- 1.10. Reference to the singular includes the plural and the plural includes the singular.

2. PLACING AN ORDER

- 2.1. The Purchaser is deemed to have confirmed the accuracy of the Purchase Order and to have read and accepted these Terms and Conditions by signing the Purchase Order and returning a copy of the Purchase Order to the Treasurer of SADGA.
- 2.2. No seed will be available for collection until the Purchase Order is signed and returned to the Treasurer.
- 2.3. Seed is sold to the Purchaser to be grown as a commercial sale by the Purchaser and must not under any circumstances be resold as seed.
- 2.4. The Seed price is determined by SAGDA and made available to Purchasers on or about 2 December of the given year.
- 2.5. Any amendments to the Purchase Order must be made in writing to SADGA and approved by SADGA no later than the date of harvest by the Seed Multiplier, after which time all orders and quantities are final.
- 2.6. The Purchaser will be liable to SADGA for the cost of all Seed which is the subject of a Purchase Order after the date of harvest by a Seed Multiplier, together with any cleaning fees incurred under clauses 3.4 to 3.6.

3. COLLECTION

- 3.1. The Purchaser will be advised by SADGA of name of the Seed Multiplier and the location where the Seed will be available.
- 3.2. The Purchaser will be contacted by the Seed Multiplier prior to harvesting to make arrangements for collection. Collection by the Purchaser is to occur within fourteen (14) days of harvest.
- 3.3. All freight and all other associated costs are the responsibility of the Purchaser.
- 3.4. SADGA is contractually obliged to supply the Purchaser with clean Seed. Should any Seed be assessed by SADGA or its agents as requiring cleaning, this will be undertaken as directed by SADGA and at the cost of the Purchaser. SADGA is unable to release Seed that does not meet minimum acceptable standards nor able to transfer the responsibility cleaning of the Seed to the Purchaser.

- 3.5. The Purchaser is responsible to ensure that all vehicles are free of contaminants. The Seed Multiplier has complete discretion to refuse entry to any vehicle they deem to be contaminated by weeds or foreign grain.
- 3.6. Should a Grain Multiplier be required to clean a vehicle prior to loading a surcharge of \$100.00 will be applied to the Purchaser's invoice. Cleaning of a vehicle is at the discretion of the Grain Multiplier.

- 3.7. All vehicles will be weighed before and after the collection of Seed at a weighbridge agreed between the Purchaser and Seed Multiplier, unless the Seed Multiplier has facilities suitable onsite to ascertain the weight of seed provided to the Purchaser
- 3.8. Following collection, the Seed Multiplier will notify SADGA of the exact tonnage collected by the Purchaser. SADGA will then issue an invoice to the Purchaser to be paid in accordance with clause 5.

4. TITLE

- 4.1. Until the Purchaser has paid the Contract Sum in full legal and beneficial ownership of the Goods remains with SADGA.
- 4.2. Until such time as SAGDA receives payment of all costs due and payable by the Purchaser, the Purchaser holds the Goods (at no cost) as trustee for the SADGA.
- 4.3. In addition to any lien to which the SADGA may by statute or otherwise be entitled, SADGA shall, in the event of the Purchaser's insolvency, bankruptcy or winding up, be entitled to a general lien for the unpaid price of any Seed collected by the Purchaser but not paid for.
- 4.4. Nothing in Clause 4.3 prevents SAGDA from exercising any legal rights and remedies to recover payment of all amounts due and payable under this Agreement and otherwise at law.
- 4.5. The purchaser has the full responsibility of all costs and damages associated with transit of seed.

5. PAYMENT

- 5.1. The Purchaser must pay SAGDA, within thirty (30) days of the date of SAGDA issuing an invoice for such payment to the Purchaser, the total amount set out in the invoice/s issued by SAGDA.
- 5.2. SAGDA may, in its absolute discretion, seek and recover from the Purchaser and the Purchaser agrees to pay:
 - 5.2.1. interest on all overdue invoices from the date of an unpaid invoice monthly at a rate of 2% above the official cash rate at the date the invoice falls due;
 - 5.2.2. any costs and expenses incurred in collecting or attempting to collect any amounts that are not paid by the Purchaser when due including debt collector's expenses, and solicitor's fees on a solicitor/client basis.

6. COMPLETION

- 6.1. SAGDA shall not be liable to compensate the Purchaser for any delay in the provision of the Seed by the Seed Multiplier.

7. LIMITATION OF LIABILITY

- 7.1. All liability and obligations imposed under statute are expressly excluded but only to the extent that this exclusion does not contravene the statute or cause any part of the Agreement to be void.
- 7.2. To the maximum extent permitted by law:
 - 7.2.1. SAGDA will not be liable to the Purchaser or any other person or third party in respect of any consequential or other loss or damage (including loss of profit, loss of income or loss to reputation) arising directly or indirectly from the performance or non-performance of the Seed under this Agreement;
 - 7.2.2. SAGDA's liability arising out of a connection with this Agreement whether under the law of contract,

in tort, in equity under statute or otherwise shall be limited to an amount equal to the Contract Sum;

- 7.2.3. SAGDA shall not be liable to the Purchaser for any statements, representations, guarantees, conditions or warranties not expressly contained in the Purchase Order.

8. **SUSPENSION AND/OR TERMINATION BY SAGDA**

- 8.1. SAGDA shall be entitled to suspend and/or terminate the supply of Goods and/or Services forthwith by written notice to the Purchaser upon the happening of any one of the following events:
- 8.1.1. where full payment of any invoice issued by SAGDA to the Purchaser whether for the whole or part of the Contract Sum has not been received by SAGDA in keeping with clause 5 above;
- 8.1.2. where the Purchaser, being an individual, commits an act of bankruptcy or, being a corporation goes into liquidation or has a receiver or administrator appointed to control its affairs, is deemed unable to pay its debt or has a petition presented for its winding up or for an administrative Order ; or
- 8.1.3. where the Purchaser is in material breach of any of the Terms and Conditions and:-
- (a) SAGDA has given the Purchaser a written notice demanding the breach be remedied within fourteen (14) days and the Purchaser fails to comply with such notice; or
- (b) such breach cannot be remedied; or
- (c) such breach evinces an intention on the part of the Purchaser that it does not wish to be bound by the terms of this Agreement.
- 8.2. Any suspension and/or termination shall be without prejudice to and shall not affect any rights of SAGDA against the Purchaser that have accrued up to the time of suspension or termination (as the case may be).

9. **VARIATION AND/OR TERMINATION BY THE PURCHASER**

- 9.1. The Agreement may only be cancelled and/or varied by the Purchaser with the written consent of SAGDA.
- 9.2. To the extent permitted by law, SAGDA may require, as a condition of such consent, that the Purchaser pay reasonable charges for such cancellation/variation, which takes into account expenses incurred by SAGDA to the date of cancellation and/or variation.

10. **FORCE MAJEURE**

- 10.1. SAGDA will have no liability to the Purchaser in relation to any loss, damage or expense caused by SAGDA's failure to supply the Goods and/or complete the Services as a result of fire, flood, hail, frost, tempest, earthquake, riot, civil disturbance, theft, vandalism, crime, strike, lockout, breakdown, war, the inability of SAGDA's Seed Multipliers to supply the necessary material or any other matter beyond SAGDA's control.

11. **PRIVACY**

- 11.1. The Purchaser hereby authorizes SAGDA to collect, retain, record, use and disclose consumer and/or commercial information about the Purchaser, in accordance with the *Privacy Act 1988 (Cth)*, to persons and/or legal entities who are a solicitor, or any other professional consultant engaged by SAGDA, a Debt Collector, Credit Reference Organization and/or any other individual or organization which maintains credit references and/or default listings.

12. **DISPUTE RESOLUTION**

- 12.1. Without prejudice to either party's rights under relevant legislation both parties agree that:
- 12.1.1. the Purchaser and SAGDA will initially use all reasonable endeavors to resolve any dispute arising under this Agreement within 14 days of a party being advised by written notice of such a dispute;

- 12.1.2. in the event that the parties are unable to resolve the dispute within the timeframe specified at clause 12.1.1 above, the parties may either agree to refer the matter to mediation or some other form of alternative dispute resolution or commence legal proceedings.

- 12.1.3. To the extent possible, both parties shall continue to comply with their respective obligations under this Agreement whilst the dispute is being addressed by the procedure as set out in this clause 12.1;

- 12.1.4. Nothing in this Agreement shall prevent SAGDA from seeking injunctive relief at any time if it is deemed necessary by SAGDA.

13. **APPLICABLE LAW**

- 13.1. The Agreement is governed by the laws of South Australia and the parties submit to the exclusive jurisdiction of the Courts of South Australia.

14. **SEVERANCE**

- 14.1. If any part of this Agreement is found to be void, voidable or not enforceable, that part shall be struck out without affecting or eroding the enforceability or validity of the remaining parts and such severance shall not detract from the obligations each party has under this Agreement.

15. **GUARANTEE**

- 15.1. The person signing this Agreement on behalf of the Purchaser and named as the Purchaser's contact hereby guarantees the payment of all monies that become due and payable under this Agreement. This guarantee will continue following the termination of this Agreement until all monies owing to SAGDA are paid in full.

16. **ENTIRE AGREEMENT**

- 16.1. This Agreement contains the entire agreement between SAGDA and the Purchaser. The parties agree that any negotiations that lead to the formation of this Agreement have been accurately incorporated in this Agreement.
- 16.2. In entering into this Agreement, the parties hereby acknowledge that they have not made any warranties or representations to each other except as incorporated in this Agreement.