



PGG Wrightson Seeds Terms of Trade

Our customer monthly terms of trade have recently been updated effective as of 1 May 2023.

View our terms of trade online at www.pggwrightsonseeds.com/terms

These terms of trade as amended from time to time (*Terms*) apply to all Products transactions with us where you have agreed to be bound by these Terms and/or where you use your Account.

1 DEFINITIONS

Account means a monthly charge account provided by us to buy Products from us with deferred payment.

Application means your application to open an Account.

CCLA means the Contract and Commercial Law Act 2017.

Customer or you means you as the purchaser of Products from PGWS.

Default Event has the meaning given to it in clause 7.1.

Interest Rate means a rate equal to [10]% above the average buying rate for 90 day bank bills published on Reuters page BKBM (or if that page is not available the closest substitute for that page) as fixed on the 20th day of each calendar month (to apply until the 20th day of the next calendar month), calculated on a daily basis.

PGWS, we or us or our means PGG Wrightson Seeds Limited and each of its subsidiaries and trading divisions including PGG Wrightson Grain, PGG Wrightson Turf, Agricom, Corson Maize and DLF Turf.

PPSA means the Personal Property Securities Act 1999.

Products means all products, merchandise, seeds, grains and services (including services and advice provided for no fee, and including agency products and services) supplied or to be supplied by or through us to you from time to time, including:

- a. the products, merchandise, seeds, grains or services described or referred to (whether by item, product category, brand, kind or otherwise) in the delivery docket, invoice or like equivalent document that we give you; and
- b. solely for the purposes of the application of clauses 5 and 6:
 - i. where any products, merchandise, seeds or grain purchased by you from us are your inventory (as defined in the PPSA), then also inventory for so long as you hold it as such; and
 - ii. any objects, products or mass which the products, merchandise, seeds or grain subsequently become a part of or an accession or accessory to; and
 - iii. in the case of products which are used up or consumed all resulting crops and plant products, whether harvested or not, and all livestock, which are grown or improved by the use or consumption of such products or crops resulting from such products.

Protected Cultivar means a cultivar for which plant variety rights have been applied for or granted under the Plant Variety Rights Act 1987 (or any successor legislation), or which are otherwise the subject of intellectual property rights held by us or a third party.

Warranty and Warranties means warranties, representations, conditions, guarantees, duties or liabilities, or customer rights.

2 APPLICATION AND ACCOUNT

2.1 You must tell us of any changes to your contact details or to any of the other information given to us on your Application. We will assign a Customer number to your Account. Invoices, statements and other information directly relating to your dealings with us will be sent to you by email unless you request otherwise. We may impose a credit limit on your Account and alter that credit limit without notice to you. If you exceed your credit limit we may refuse to supply Products to you.

2.2 On request by us you will:

- a. arrange for a personal guarantee to be provided in respect of your obligations to us by a person or entity satisfactory to us; and
- b. provide, or arrange for another person or entity satisfactory to us to provide, a bond or other surety in an amount we specify to secure your obligations to us.

Any such guarantee, bond or other surety must be on such terms as we consider appropriate.

2.3 We may close your Account or suspend your right to purchase, or receive Products purchased, through your Account, at any time. On closure of your Account:

- a. all your rights under these Terms terminate, except for any rights that have accrued to you prior to the closure of your Account; and
- b. all your obligations to us continue under these Terms until all of your obligations to us have been satisfied in full to our satisfaction.

3 ORDERS

3.1 A contract will come into existence between us once your Product order has been accepted by us. We will accept your order by giving you a delivery docket or invoice, or electronic confirmation of acceptance for online purchases. Any additional terms we include on a delivery docket, invoice or electronic confirmation will form part of the contract between us for the relevant Product. You cannot cancel an order for Product after we accept it.

3.2 We will use our reasonable endeavours to source all Products ordered by you and quoted by us. You acknowledge that your placing an order with us and/or our acceptance of your order does not guarantee our supply of the Products or supply by any date. If we cannot provide the agreed quantity of Products for any reason, we will not be liable for that shortfall and you must take delivery of and pay for such lesser quantity as we are able to supply.

3.3 Products can be purchased from our online websites using the payment mechanisms that we make available. By ordering online you agree to these Terms and that you are 18 or over. Certain products may not be available online. Delivery will be to your nominated delivery address however some Products must be collected.

4 TERMS OF PAYMENT

4.1 You will pay us the price plus GST for the Products stated in the delivery docket or invoice plus any applicable freight or incidental charges. Unless we specify otherwise, the price must be paid by you to us by the 20th day of the month following purchase. We may choose to pass on to you external and internal costs of payment processing such as bank processing fees and credit card surcharges for payments you make to us and payments we make to you. We may write off small credit balances on your Account for administration efficiency.

4.2 Interest will be charged on amounts not paid within the period set out in clause 4.1 at the Interest Rate from the due date until the date of payment. Interest will be payable on demand. Any prompt payment or other discounts may be reversed for overdue payments at our discretion.

4.3 All amounts payable by you to us must be paid when due, in full in cleared funds, and without any set-off, counterclaim or deduction. We may deduct (without prior notice) any money that

you owe to us from any money that we owe to you or that we hold on your behalf. You authorise any moneys:

- a. held by PGWS or any subsidiary or related company of PGWS on your behalf on any account to be applied in or towards payment of any amount owing to us; and
- b. received by us from you or on your account to be applied in payment of any amount owing to us.

4.4 We may at any time (including when amounts are owing in respect of more than one transaction) apply or appropriate any moneys received from you in any manner (and in any order and to any amounts owing to us or any vendor) we think fit (despite any direction to the contrary and whether before or after any default by you).

4.5 A payment will not be treated as received until the date on which that payment is credited to the Account in the ordinary course of business. You must pay any costs associated with the method of payment and those costs may be added to (and form part of) the price. We may at any time specify the method of payment you must use. If we are required by law to repay any amount on account of the price, that amount will be deemed not to have been received by us and we will be restored to the position we would have been in had no payment been made. We are not obliged to deliver any Products if any moneys due and payable by you are outstanding.

5 DELIVERY, TITLE AND RISK

5.1 We will not be liable for any delay in delivery of any Products to you. You will accept delivery of any Product when we are able to supply the Products. If you do not take delivery by the delivery date specified, you will pay reasonable storage costs until you take delivery.

5.2 All Products are at your risk from the point of loading onto the carrier or being made available for unloading by you, whether or not you take delivery of the Products at that time.

5.3 Ownership of and title to all Products remains with us and only passes to you once all money you owe us in respect of the Products supplied under these Terms, on any account, is paid for in full, (even if you incorporate the Products with other items, including without limitation those items described in the definition of Products in clause 1). You acknowledge and agree that the retention of title is a security interest for the purposes of the PPSA.

5.4 Until title in the Products passes to you:

- a. you hold the Products as our bailee;
- b. you must store the Products in a manner which will protect them from damage or deterioration, and separately from your own goods or otherwise ensure that the Products are separately identified or identifiable. We authorise you in the ordinary course of your business, to use the Products or sell them for full consideration. This authority is revoked immediately and automatically on the occurrence of a Default Event and may also be revoked by notice in writing to you at any time if we determine in good faith that the revocation is necessary or desirable to protect our interests;
- c. you must insure the Products for their full insurable value and, if we require, have our or the vendor's interest in the Products noted on your insurance policy; and
- d. regardless of section 109 of the PPSA, we may repossess the Products and dispose of them for our own benefit, if a Default Event occurs. For this purpose, we, and/or our agents may at any time without prior notice to you, enter any place where we or they believe the Products may be kept and remain there to take whatever action may be required to repossess the Products. You indemnify us and our agents for all costs and liabilities (including our legal costs and disbursements on a solicitor/client basis) in connection with the repossession, storage or resale of the Products (including any shortfall arising from resale at a lower price).

5.5 If you sell or use any Products before the transfer of ownership and title in accordance with clause 5.3, the proceeds of sale or use (in whatever form) are our property, and you must pay all of the proceeds to us or otherwise deal with the proceeds as we direct. Nothing in this clause can be construed as authorising any dealing by you with the Products, unless we permit or as otherwise set out in these Terms. We may take any action to obtain payment of the purchase price even where ownership of the Products has not passed to you.

6 PERSONAL PROPERTY SECURITIES ACT 1999

6.1 Because of the retention of title held by us under clause 5.3, we hold a specific security interest in all Products (and all proceeds) supplied or to be supplied by us under these Terms and in any objects, products or mass which the Products subsequently become a part of or an accession or accessory to, under the PPSA. You will do all things necessary to enable us to register financing statements on the Personal Property Securities Register (PPSR), and to ensure the specific security interest is a first ranking perfected security interest over the Products and any proceeds. We may register a security interest on the PPSR in our name as secured party even where we are acting as an agent.

6.2 You agree (to the extent permitted by law):

- a. If the Products the subject of the security interest subsequently become part of some other product or mass, then nothing in these Terms can be construed as limiting the application of sections 82 to 86 of the PPSA;
- b. nothing in sections 114(1)(a), 120(1), 122, 133 or 134 of the PPSA applies, and your rights in sections 116, 120(2), 121, 125 to 127, 129 and 131 of the PPSA do not apply, to these Terms, and accordingly to contract out of these sections; and
- c. you waive your right under section 148 of the PPSA to be given a copy of any verification statement in relation to any financing statement or financing change statement relating to our security interest.

6.3 The security interest granted by you takes effect as a transfer of any accounts receivable or chattel paper, which are the proceeds of Products.

6.4 We may use the benefit of any security interest, security agreement, encumbrance, charge or mortgage given by you or any guarantor or other grantor of surety to us to secure payment and performance of your obligations under these Terms.

6.5 You will not without our prior written consent grant any lien or security interest over the Products to any other party whatsoever nor commit any act or omission that would give any other party a security interest over those Products until all such Products are paid for in full.

7 DEFAULT EVENT

7.1 Default Event means the occurrence of one of the following events, as determined by us in good faith, without our prior written consent:

- a. you fail to comply with these Terms, or any other contract with us, including failing to pay us on time or exceeding your approved credit limit;

- b. you are unlikely to be able to immediately pay any sums owing to us or a vendor of Products;
- c. information you have given to us, or which is given to us on your behalf, is untrue, misleading or deceptive in a material respect or otherwise in a way that is material to us;
- d. you no longer carry on business or threaten to cease carrying on business;
- e. where you are a company, trust or other organisation, your ownership or effective control is transferred;
- f. the nature of your business is materially altered;
- g. any guarantor or other grantor of surety of your obligations under these Terms is in default with us, or the events in this clause apply to them; or
- h. if at any time in our view any Products are at risk.
- 7.2 If a Default Event occurs then without prejudice to our other remedies:
- a. we will be entitled to suspend or cancel all or any part of any contract that we have with you which remains unperformed;
- b. we may suspend or terminate the supply of Products to you and any of our other obligations to you under these Terms;
- c. all amounts outstanding by you under any contract between us and under your Account, will, whether or not due for payment, immediately become due and payable;
- d. we and our agents may enter any place or premises where we or they believe the Products may be kept without prior notice and take any action to repossess the Products. You indemnify us and our agents for all costs and liabilities (including our legal costs and disbursements on a solicitor/client basis) in connection with the repossession, storage or resale of those Products (including any shortfall arising from resale at a lower price);
- e. we may enforce any security interest or other security granted to us under these Terms which secures your obligations to us;
- f. we may (without your consent) appoint a receiver in respect of any Products and any receiver is authorised to do anything referred to in these Terms and otherwise to exercise all rights and powers conferred on a receiver by law;
- g. we may sell or dispose of any Products in such a manner and on such terms and conditions as we think fit and apply the proceeds derived in or towards payment of the moneys owed to us, and in each case, otherwise do anything you could do in relation to those Products; and
- h. charge interest on any amount outstanding, whether or not such amount is overdue at the Interest Rate. Neither we nor the third party vendor of Products will be liable to you for any loss or damage you suffer because of our or their exercise of any rights, powers or remedies that are available to us or them after the occurrence of a Default Event, including under this clause.
- 7.3 Our rights, powers and remedies provided for in these Terms are in addition to, do not limit or exclude (or otherwise adversely affect), any right, power or remedy provided to us by law including under Part 3, subpart 4 of the CCLA unless expressly stated. We can elect whether these Terms or any law inconsistent with these Terms applies, to the extent such law may be contracted out of. You acknowledge that these Terms contain clauses that are for the benefit of any third party vendor of Products, and may for the purposes of Part 2, subpart 1 of the CCLA be enforced by that third party vendor.
- 8. PRIVACY**
- You authorise us to collect, use, and disclose personal information about you in accordance with the law (including the Privacy Act 2020) and our privacy policy (as may be amended from time to time and available at <https://www.pggwrightsonseeds.com/about-us/privacy-policy>), including for purposes relating to your dealings with us. You agree to us using your information to assess your credit worthiness and direct marketing, and you agree to us disclosing your information to be used by credit reporting agencies (for the purpose of assessing your credit worthiness). Where you are a company or trust we have the right to undertake credit assessment over your directors, shareholders or trustees. You authorise us to release your personal information to third parties for these purposes. You have a right of access and may request correction of your personal information held by us in accordance with the Privacy Act 2020. Where you provide personal information about another person to us, you warrant that you have all consents necessary to collect, use and disclose that personal information.
- 9. RETURNS**
- 9.1 Subject to clauses 9.2 and 9.3, if you are not satisfied with the Products provided by us for any reason, you can return the Products (other than services) to us within 30 days of your taking delivery of the Products.
- 9.2 Products (other than services) can only be returned to us if:
- a. they do not require refrigeration, and/or are not close to any expiry date (as determined by us).
- b. they are not custom-made or procured for you (seed that you have ordered to be supplied in a blended, coated or treated form will be deemed to be custom-made unless we agree otherwise) and form part of our usual stock-in-trade.
- c. they were supplied to you in packaged and sealed form and not in bulk, and are returned in that original packaging undamaged and unopened, and include all accessories.
- d. we are satisfied that their condition has not deteriorated and you pay for their return.
- e. you provide evidence of purchase from us, to our satisfaction.
- We may choose to either credit your Account or debit card depending on how you paid for the goods, or provide you with a credit voucher for a sum equal to the cost of the Product, less handling and delivery.
- 9.3 Clause 9 sets out your sole rights to return Products. If goods are defective, clause 10.1 applies. Products sold by us as agent for any other party may not under any circumstances be returned.
- 10. OUR WARRANTIES**
- 10.1 Notwithstanding any other provision of these Terms, if any Product is defective or does not materially conform to our description, we will at our option:
- a. repair or replace the Product; or
- b. refund the price for the Products paid by you, provided that our maximum liability to you (whether in contract, tort including negligence, or otherwise) for defective products supplied will not in any event exceed twice the purchase price (excluding GST) paid by you to us for the Products.
- 10.2 To the extent permitted by any contract for supply entered into between us and a third party supplier of the relevant Products, we will pass through or assign to you the rights to, and benefit of, any supplier warranties, indemnities and associated remedies (whether contained in such contract of supply or any statute) provided by that third party supplier in relation to those Products that are able to be passed through or assigned. All other statutory and other implied Warranties to be given, made, performed or met by us, including those in Part 3 of the CCLA, are negated and excluded to the fullest extent that it is lawful for us to do so. Other than as required by law, we give no Warranty concerning any Product's description, condition, quality or fitness for any purpose. In particular, no Warranty is made concerning any sprays, chemicals or plant/seed matter. It is your responsibility to satisfy yourself as to the condition and quality and fitness for purpose of the Products and you accept the Products on this basis.
- 10.3 For the avoidance of doubt, no clause in these Terms excludes or limits any benefit of, any supplier warranties, indemnities and associated remedies (whether contained in such contract of supply or any statute) provided by a third party supplier in relation to those Products including under section 12 of the CCLA.
- 11. LIABILITY**
- 11.1 Clause 10.1 sets out your sole rights to a remedy from us for any matter covered by these Terms. Except as set out in clause 10.1, neither we nor our agents will be liable in any way (whether in contract, tort including negligence, or otherwise) to you or to any other person in connection with these Terms or the supply or failure to supply any Products or the purported exercise of our rights under these Terms for any:
- a. loss whatsoever, including loss of income, profits, savings or goodwill or for any indirect or consequential loss or special or exemplary damages;
- b. in relation to any claim or series of related claims, any amount exceeding twice the purchase price (excluding GST) paid by you to us for the Products; or
- c. amount not claimed within 7 days of you becoming aware of the circumstances giving rise to the claim.
- 11.2 You must use all Products strictly in accordance with any directions, instructions and terms contained on Product labels, packaging and any other product information supplied with the Products.
- 12. CUSTOMER'S LIABILITY**
- 12.1 You are deemed to be bound by all transactions undertaken with us, whether or not any person undertaking a transaction has actual or ostensible authority from you to do so. If the Customer includes two or more persons, those persons' liability is joint and several. If the Customer is a trust, these Terms bind each trustee in his or her capacity as trustee and personally. You warrant that any person signing an Application, order form or any other document, or giving any notice, instruction or other communication, purporting to be for or on behalf of you has the necessary authority to do so and we shall be entitled to rely on such signature, notice, instruction or other communication, without investigation or further inquiry and without any liability on our part (and, you will have no right to dispute such authority).
- 12.2 If we have given our prior written consent to a trustee being noted as an independent trustee, that trustee's liability to us will be limited to the assets of the trust as at the time of any default, except for wilful negligence, deliberate default or other breach of trust by the trustee or if the trustee has provided a guarantee personally in respect of your obligations pursuant to these Terms or any other contract.
- 12.3 For the avoidance of doubt, nothing in these Terms will have the effect of contracting out of any provision of the Credit (Repossession) Act 1997 or the Credit Contracts and Consumer Finance Act 2003, if either applies.
- 12.4 You indemnify us from and against any liabilities, losses, damages, costs (including legal costs and disbursements on a solicitor/client basis) or claims which we incur or suffer in the course of our dealings with you under these Terms and in respect of any breach by you of these Terms except if we are fraudulent or negligent.
- 13. OUR ROLE AS AGENT**
- 13.1 We may be a representative advising (and where we determine, we may act as agent for) either or both the supplier and/or purchaser in respect of the sale and purchase of any Products.
- 13.2 If we elect to credit any amount on account of the purchase price to the supplier for whom we are agent and/or debit your account on account of the purchase price before you have paid the purchase price to us (which we are not obliged to do), you agree that:
- a. the purchase price payable by you under that contract of sale will not be reduced and the purchase price will be payable to us immediately; and
- b. all the supplier's rights under that contract including those relating to the payment of the price for those Products and the Products themselves (including the right to enforce any security interest) shall then be subrogated in favour of and enforceable by us.
- 13.3 We are not responsible or liable in any way for anything done or not done by or on behalf of either party to a contract arranged by us (including by us as agent), including non-payment of any amount owed by any party. We give no assurance as to the ability of our supplier to supply any Products or perform any obligations, including the obligation to pay any money.
- 13.4 Each person dealing with us as agent, or in respect of the sale and purchase of Products not supplied by us, agrees that it will not make or support any claim or proceeding against us.
- 13.5 Unless otherwise specified, where we as agent for the supplier arrange a contract for the supply of Products not supplied by us, you will pay all amounts owed to the supplier to us, and we will then account to the supplier for that amount, subject to any right of set-off or right to deduct commission or other amounts.
- 13.6 Commission may be payable by both parties when we have acted for both parties to a transaction. Where we act as agent for supplier vendor, we give no Warranties to the purchaser. Clauses 10 and 11 apply to our services as agent. The CCLA (and not clauses 10 and 11) applies direct between the supplier and purchaser unless the supplier's terms of sale have been incorporated into the sale and state that they prevail over any inconsistent provision of the CCLA.
- 13.7 Where we are acting as your agent, you acknowledge that we may disclose your name and contact details, and any other details relevant to the transaction to the other party to the transaction.
- 13.8 We may register a security interest as agent for a supplier but have no obligation to do so.
- 13.9 Where we as agent for a supplier pay them for goods or services you have purchased, we may receive and retain a rebate, commission or fee from the supplier for providing marketing and credit services.

14. SIGNING, NOTICES AND INSTRUCTIONS

- 14.1 You agree that any person signing the Application, any order form, and any other document (as applicable), for you has full authority to sign for you and has the authority to bind you. Both you and us may:
- sign the Application, any order form and any other document (as applicable) by way of the application of your or our electronic signature in accordance with Part 4 of the CCLA; and
 - give any instructions or written communication to the other via electronic means, including to an email address the other has provided.
- 14.2 Where you or we apply an electronic signature to the Application, any order form or any other document (including a deed) in accordance with this clause 14:
- that party confirms that the method of signing is reliable and conclusive evidence of that party's intention to be legally bound by that document;
 - we and you are able to rely on the electronic signature as if that party had signed the relevant document by manuscript signature in accordance with all legal requirements; and
 - we and you acknowledge that by accepting or acknowledging receipt of copies of the relevant document with the other party's electronic signature, we or you are consenting to the use of that party's electronic signature.

15. GENERAL

- 15.1 Assignment: You may not transfer any right, benefit or obligation under these Terms. We may transfer our rights and obligations under these Terms by notifying you in writing.
- 15.2 Enforcement: You will pay us on demand all costs (including legal costs and disbursements on a solicitor/client basis) incurred by us in connection with any default by you or enforcement action taken by us.
- 15.3 Entire Agreement: Except as set out in this clause, together the Application and these Terms are the entire agreement between us, you and the guarantor(s), and supersede all representations, agreements and other communications made by us. Certain Terms of Sale in respect of specific Products that may appear on the reverse of any of our invoices/ statements or other specific terms may apply in conjunction with or in place of these Terms if we specify. For Products purchased from our online websites, these Terms, the Application and the website Terms of Use apply in the order determined by us. If any part of these Terms is inconsistent with the CCLA, that part prevails over the relevant provision of the CCLA.
- 15.4 Our Decisions and No Waiver:
- subject to any limitation expressly provided for in these Terms any power, right or discretion conferred on us by these Terms may be exercised by us, or we may refrain from exercising that power, right or discretion, in our absolute, sole and unfettered discretion.
 - if we delay or do not exercise any of our powers, rights or remedies, that will not be a waiver of those powers, rights or remedies. Any waiver we give must be in writing.
- 15.5 Severability: If any part of these Terms is illegal, unenforceable or invalid, the remaining Terms are not affected.
- 15.6 Variation: We may change these Terms at any time by publication on our Group website www.pggwrightsonseeds.co.nz. The change will take effect from the time loaded or any later date we specify. Your transactions with us are covered by the then current Terms at the time of the transaction.
- 15.7 Typographical Errors: We reserve the right to correct any typographical or clerical errors in any prices quoted or contained in an order or quotation, or in any invoice, statement or other document.
- 15.8 Inconsistency: If there is any inconsistency between these Terms and the terms of any order that may be lodged by you or with any delivery docket or invoices or other communication by or to us or you, these Terms will prevail subject to clause 15.3 and/or unless we specify otherwise.
- 15.9 Consumer Guarantees Act/Fair Trading Act: You agree: that where the Products are both supplied and acquired under these Terms for the purposes of trade, having regard to all relevant circumstances of these transactions, it is fair and reasonable that (i) the Consumer Guarantees Act 1993 and (ii) sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986, do not apply to these transactions to the extent permitted by law.
- 15.10 Disputes: Any dispute between us and you will be discussed between us in the spirit of goodwill.
- 15.11 Governing Law: New Zealand law governs these Terms and any transactions under these Terms and you submit to the jurisdiction of the New Zealand courts.
- 15.12 Relationship: The relationship between you and us is as independent purchaser and seller. There is no partnership, joint venture, employment or agency relationship unless we specify. An agent or representative of us is not authorised to make any representations, warranties or agreements that we have not confirmed in writing. We are not bound by unauthorised statements.
- ## 16. PROTECTED CULTIVARS
- 16.1 Protected Cultivars are marketed or sold by us under conditions stipulated by the breeder or holder of any other intellectual property rights in the Protected Cultivar (in this clause 16 referred to together as a breeder). Such conditions may include protection granted under the Plant Variety Rights Act 1987 (or any successor legislation). The Protected Cultivar may also be sold subject to trademark or other protection.
- 16.2 You must not grow, trade or transfer any Protected Cultivar or the progeny of any Protected Cultivar, for further multiplication, without the written authority of the relevant breeder or its agent. You will not transport or supply the seed of any Protected Cultivar we sell to you to be planted outside New Zealand or to any person you know or suspect may use or supply the seed to be planted outside New Zealand.
- 16.3 If you fail to comply with clause 16.2, then legal action may be taken by us and/or the relevant breeder or its agent to protect their interest in the Protected Cultivar. You acknowledge that this provision is also for the benefit of the breeder or its agent of any Protected Cultivar and may be enforced by that breeder or its agent.
- 16.4 Registered trademarks of Protected Cultivar must not be reproduced without our prior written authority.