








# **GENERAL CODE OF CONDUCT**

## **Section Forage Plants and Amenity Grasses (SFG)**






Plant varieties are the result of extensive and costly research efforts. Protection of germplasm and varieties is of utmost importance to remain innovative and competitive in the market. Professional operators and in particular companies active in breeding varieties of forage crops and amenity grasses therefore acknowledge the importance of intellectual property rights (“IP rights”) and are of the opinion that actions to protect their germplasm, inventions and varieties should be pursued actively.

‘Professional operator’ means any person, governed by public or private law, involved professionally in, and legally responsible for, one or more of the following activities concerning seeds:

-  breeding;
-  production, including growing, multiplying and maintaining;
-  introduction into, and movement within and out of, the Union territory;
-  making available on the market;
-  storage, collection, dispatching and processing;

The protection of plant varieties is subject to the provisions of Council regulation (EC) 2100/94 on Community plant variety rights. The marketing of seed of varieties of forage plants and amenity grasses is subject to the provisions of Council Directive 2002/53/EC on the common catalogue of varieties of agricultural species and Council Directive 66/401/EEC on the marketing of fodder plant seed. In view of the above, this Code of Conduct contains recommendations and best practices to prevent misappropriation of germplasm and infringement of IP rights.

Professional operators for forage plants and amenity grasses, signatories of this code of conduct, agree:

-  to respect this Code of Conduct;
-  to protect their varieties whenever needed and wherever this is practically possible;
-  to respect IP rights
-  to comply with the relevant legislation and in particular EU Seed Marketing Directives and the Plant Health Regulation;
-  to share information on suspected illegal activities;

- ✿ to continue to inform and train their employees in order to respect IP rights, applicable legislation in relation to Intellectual Property Rights, Seed marketing, plant health and this code of conduct;
- ✿ to maintain accurate records, including breeding records, that demonstrate the origin of the material;
- ✿ Professional operators for forage plants and amenity grasses, signatories of this code of conduct, are recommended:
- ✿ to subcontract seed production and research trials committed to a third party only with an agreement stipulating the ownership of the material. This agreement should further address:
  - o Confidentiality;
  - o Acknowledgement and respect of the exclusive ownership of the material, including stock seed and seed produced;
  - o Visits and collection of material by any third party are allowed only with the explicit agreement of the professional operator;
  - o the interdiction to use the material for any other purpose as stated in the said agreement without explicit permission of the professional operator;
- ✿ to pay attention to the following aspects in contracts with both permanent as well as temporary employees and other relevant third parties:
  - o confidentiality in relation to sensitive information;
  - o handling of germplasm;
  - o acknowledgement and respect of the ownership of germplasm of the respective professional operator; in the case that the contract between the professional operator; and the employee is terminated
- ✿ to pay more attention to protection by IP rights of their germplasm including but not limited to varieties;
- ✿ to enforce their IP rights and to take the appropriate legal action in case of infringements of these rights.

By signing this Code of Conduct companies agree that the Code of Conduct including the list of signees will be published on the open part of the ESA website. In case one of the signees does not respect this Code of Conduct, the SFG Board will be informed and may take the decision of deleting the name and signature of the respective company from the list of signees to the Code of Conduct.