

IGRAIN.COM.AU PTY LTD
WEBSITE TERMS OF USE - 2012

Welcome to www.igrain.com.au (**Website**), an online marketplace where registered sellers can advertise grain and registered buyers can offer to purchase grain by contacting the seller via the Website, and the parties can negotiate a private deal using the website and igrain's SMS notification system. We also publish related information and links that may be of interest to you.

The Website is the property of igrain.com.au Pty Ltd ABN 97 139 099 951 (**igrain, us, we**).

Your acceptance of these terms

By registering as a user, or by using the Website, you agree to be bound by our terms and conditions (as amended from time to time). If you do not accept our terms, you must not use the Website. Your continued use of the Website confirms your agreement to be bound.

igrain reserves the right to vary these terms and conditions without notice to you by publishing revised terms on the Website. When you transact through the Website you will be bound by the version of the terms and conditions current at the date of that transaction.

How igrain works

The Website is an online medium that introduces grain sellers and grain buyers and allows them to negotiate a private deal to purchase grain.

This is how it works:

1. Seller submits Listing

Registered sellers advertise grain for sale on the Website, specifying the terms of sale including the maximum quantity of grain available and a starting price (**Listing**). Listings do not constitute an offer to sell but rather an invitation to treat directed to the public at large.

2. Buyer makes Offer

Registered buyers may submit an offer over the Website to buy the seller's grain on the terms specified in the seller's Listing, except that the buyer may select the quantity of grain the buyer wants to purchase; its desired price per metric tonne, and the pickup/delivery timeframe (**Bid**). The seller will be notified of the Bid via igrain's SMS notification system to their mobile phone. The Bid constitutes an offer to purchase the grain on those terms. The buyer may retract this Bid at any time before it is accepted by following the prompts on the Website (or, if and when available, via igrain's SMS notification system).

3. Seller and buyer negotiate

If the seller is satisfied with the Bid, the seller can accept it using the prompts via igrain's SMS notification system or on the Website (an **Acceptance**).

If the seller is not satisfied with the Bid, the seller can refuse the Bid or (if and when available) make a counter-offer to the buyer via the Website or igrain's SMS notification system to sell the grain to the buyer on the terms specified in the Listing except that the seller may again change the quantity, price, and/or the Pickup/delivery timeframe for the grain. The counter-offer constitutes an offer to sell the grain on those terms. The seller may retract this offer at any time before it is accepted by following the prompts on the Website (or, if and when available, via igrain's SMS notification system). The buyer may accept the

counter-offer on the Website using the prompts via igrain's SMS notification system (an **Acceptance**), refuse the offer or make a counter-offer of its own.

There is no limit to the number of counter-offers that can be made between buyer and seller.

Any Bid or counter-offer may be retracted by the person who placed it at any time by following the prompts via igrain's SMS system, however if an offer has been made and it is not retracted at the time that it is accepted by the other party then a binding Acceptance has been made. Offers and counter-offers are automatically retracted if they are not accepted within 24 hours.

Once an Acceptance is made:

- (a) a binding and enforceable contract is formed for the seller to sell and the buyer to buy the grain on the terms specified in the Listing except that the quantity and price will be those most recently agreed in the bidding process;
- (b) igrain will notify the seller and buyer of the other party's contact details by email; and
- (c) the seller must pay igrain's fee for the introduction.

We do not guarantee the success of any Listing, Offer or counter-offer, or the performance of any contract.

Contracts between buyers and sellers

The Website is simply a forum for introducing buyers and sellers of grain and for facilitating their independent negotiations. We are not a clearing-house or party to any contract for the sale and purchase of grain negotiated via the Website. We are not a broker or an agent for either party.

Terms of sale must be identified by sellers as part of their Listing. Subject to any terms which change by SMS or Website negotiation, these terms and the Listing itself form the contract between sellers and buyers who agree to a deal via the Website or igrain's SMS system.

The seller may use any contract provided it is attached to their Listing.

Grain Trade Australia (GTA) provides a range of contracts that sellers may choose to use. We recommend that sellers seek legal advice about which contract best suits their purposes.

The seller may specify in their listing that the GTA Standard Terms and Conditions will constitute the terms of their contract. If no contract has been attached to a listing, you agree that the GTA Standard Terms and Conditions apply. We do not warrant that these terms are complete, reliable, accurate or appropriate for your individual circumstances. You agree that you enter into any contract negotiated via the Website relying entirely upon your own independent assessment of all relevant matters and do not rely upon any warranty, statement or representation made or given by us or on our behalf. We encourage you to seek independent legal advice particular to your circumstances before agreeing to be bound by any contract.

Exclusion of Warranties

All information accessed at or via the Website is provided 'as is' without any express or implied warranty by us. The content of Listings relies on data received from sellers by us in good faith on the basis of warranties made by them however we are unable to verify the accuracy of this information.

We cannot and do not warrant or represent that:

1. users are over 18 and otherwise have the capacity to enter into binding contractual relations; or
2. users have the capacity to perform their obligations under a contract between buyer and seller negotiated via the Website; or
3. any statement made by or attributed to a user of this Website is accurate or not misleading including (without limitation) the quantity, quality or type of grain listed. You may refer any inaccuracies or concerns to info@igrain.com.au, which we will deal with at our discretion.

You agree that negotiations, deals and all other contact between you and other users of the Website are conducted entirely at your own risk.

It is your responsibility to verify any information on the Website before relying on it. You agree that any purchases or other deals will be made solely in reliance on your own enquiries and inspections and that we have not made any warranties about the truth and accuracy of Listings or other advertisements, the suitability, quality or existence of listed items or the ability of users to actually enforce or complete a transaction. We do not warrant that sellers are the legal owners of grain listed.

You acknowledge that we are not liable for any direct, indirect and/or consequential loss or damage (including legal fees and other costs incurred) arising from or in any way connected with your use of the Website, the purchase, sale or other agreement between users of the Website and/or any inaccuracy or incompleteness of information contained on the Website or any related printed material.

Use of our Website

The Website is available for use by any member of the public who has agreed to be bound by our terms and conditions.

However, we do not represent or warrant that the content on the Website complies with the laws of any country outside Australia. If you access the Website from outside Australia, you do so at your own risk.

While care has been taken when compiling the Website, it uses information from a range of sources, including by third parties who place advertisements (e.g. banners) or allow us to publish information (e.g. live news feeds). We cannot and do not screen any material on the Website before it is posted.

We cannot and do not warrant or represent that:

1. the Website (including where advertisements are displayed) or any servers that store and transmit data to the user is secure and free from errors or omissions, technical inaccuracies, errors, programming bugs, viruses, harmful content or components, interference (including malfunction of equipment or software, Internet access difficulties, or delay or failure of transmission) or duplicate data; or
2. your or other's access to the Website will be uninterrupted, provided without delay or in a timely fashion.

The availability of content on the Website is subject to the limitations of the Internet including re-buffering, loss of connection and dropouts.

Registering as a seller or buyer

To advertise listings as a seller or make offers to buy grain as a buyer on the Website you must register and obtain a username and password.

Each user who registers or uploads material warrants that they are over 18 years of age and have provided us with complete, accurate and current personal information. You must update your personal information if it changes. You consent to us contacting you from time to time to ensure your personal information is current.

You are entirely responsible for maintaining the confidentiality of your account information, including your password, and for any and all activity that occurs under your account. You agree to notify us immediately of any unauthorised use of your account or password.

Uploading material

You may upload information to the Website, or instruct us to upload, adjust or edit information (including any Listing, Bid, acceptance, counter-offer or rejection) on your behalf. We will not be liable for any consequences of any errors, omissions or failures to comply with your instructions or for any delays in following your instructions.

You warrant that you own or have the authority to supply all text, trademarks, artworks and other material given or uploaded to the website. You grant us a non-exclusive perpetual, worldwide, royalty-free licence to copy, display and modify that material by any means (including in both electronic and printed form).

If you upload data onto the Website you indemnify us and will keep us indemnified against all claims, costs, expenses, damages, liability or loss arising from any claims made against us arising out of the inaccuracy or misleading content.

We reserve the right to decide whether, where and how Listings are displayed on the Website.

Any and all press releases or other public announcements related to your advertisement on the Website, including their method and timing, must first be approved in advance by us in writing. You may not claim any association with igrain.com.au without our written permission.

Warranties about content and sale of grain

If you upload any content to the Website or otherwise submit material to be published by us, you warrant that:

1. if you are a seller, you have the right to sell the grain specified in your Listing on the terms of sale specified in that Listing and those negotiated over the Website and/or using igrain's SMS system;
2. all Listings (and goods and services listed) conform to current laws and regulations in Australia;
3. you have the lawful right to distribute and reproduce that content and that it does not infringe any patent, trademark, trade secret, copyright or other intellectual or proprietary right of any party;
4. it is true and correct;
5. it is not misleading or deceptive;

6. it is not unlawful, libellous, defamatory, obscene, pornographic, indecent, lewd, harassing, threatening, invasive of privacy or publicity rights, abusive, inflammatory or otherwise objectionable; and
7. can be lawfully published on the Website or otherwise by us.

You indemnify us and will keep us indemnified against all claims, costs, expenses, damages, liability or loss arising from a breach of any warranty made by you in these terms.

Without prejudice to other terms, to protect the integrity of the Website we reserve the right (but are not required) to verify the accuracy of any information uploaded by you including the availability of any goods or services offered for sale or accuracy of uploaded material. You agree that we can contact you and you will provide us with accurate information or clarification of matters related to material uploaded by you.

Licences and approvals

Before any seller puts a Listing on the Website, they must ensure they have any necessary licences, consents and approvals to sell the items listed.

Fees, payment and security

We charge sellers an Introduction Fee of \$2 per tonne of grain transacted through the Website for providing the seller and buyer with each other's contact details once they have negotiated a private deal via the Website and igrain's SMS system.

We do not charge fees to buyers.

Once a private deal has been negotiated and contact details of the seller and buyer have been sent to the other by igrain our service has been completed and our fees becomes due by the seller, even if the transaction is not completed for any reason.

Fees and the manner of payment we accept may be set and changed by us without notice to you by publishing details on the Website. Payment must be made in Australian dollars.

We will use all reasonable efforts to keep any payment information we have about you secure and ensure that our employees or agents who have access to this information do not make unauthorised use, modification, reproduction or disclosure of it. We may engage a third party to provide a secure payment transaction facility that allows you to pay online and, in this case, we will not receive your payment information. Your payment will be subject to the third party's terms of use.

Goods and Services Tax (GST)

Fees for our services exclude GST (as defined in A New Tax System (Goods and Services Tax) Act 1999 (Cth)) unless otherwise stated.

Where the prevailing rate of GST changes, the new rate will be applied to the prices and the GST inclusive price for the service will be adjusted to account for the new rate of GST.

We will issue a tax invoice to the payer for any supplies made by us to which GST applies.

No refunds

Subject to law, once you have paid our fee for an introduction, no money will be refunded except in our absolute discretion.

Intellectual Property

All software used in the Website, material on or comprising the Website (including photos, graphics, text, data, content of classifieds, advertisements, pictures, videos and other visual or audiovisual works) and the design, layout, look and appearance of the Website (**Intellectual Property**) is owned by or licensed to us and protected by copyright and all other intellectual property laws of Australia and other countries.

Except to the extent necessary for your ordinary use of the Website on your Internet browser, or as permitted under the Copyright Act 1968 (Cth) or other applicable laws, this Intellectual Property may not be used, adapted, reproduced, uploaded to a third party Website, framed, linked to, published, transmitted or distributed in any way or in any form or medium without our prior written consent. This means you cannot download, copy or reproduce any material from the Website without our or the owner's written permission unless you are acting in the ordinary and proper course of using the Website's services.

The Website may contain multimedia works and still images licensed to us from third parties. These works are provided purely for your private, non-commercial use, and you may not (directly or indirectly) distribute, modify, translate, publish, rebroadcast, transmit or communicate these works or create derivative works from them.

Links to third party information and sites

The Website contains information provided by third parties as well as links to third party websites and resources. Third party websites are not part of the Website. These links are provided solely for your interest and convenience.

We and our contractors, employees or agents take no responsibility for the content, resources or sites that link from, or to, the Website or any associated products and services. Responsibility for the content of any classified and other advertisements appearing on the Website (including banner advertisements and hyperlinks to advertisers' own websites) rests solely with the advertisers.

We do not endorse and make no representations either expressly or impliedly concerning third party resources, their content or any products or services which they offer.

Prohibitions

You must not abuse the use of the Website or its facilities, systems, resources, accounts, servers, networks or affiliated or linked websites for a purpose other than which the Website service is provided or use the Website to engage in any activity that we (in our absolute discretion) think is inappropriate.

Without limiting this you agree not to (and not to attempt to):

1. include your name or other contact details in a Listing, Offer or counter-offer;
2. facilitate or participate in any illegal activity via the Website;
3. upload or otherwise transmit any computer worms, viruses or other disruptive or destructive files or malicious or harmful code through or on the Website;
4. obtain unauthorised access to the Website or parts of the Website that are restricted from general access;
5. damage, modify, interfere with, disrupt or destroy any files, data, passwords, devices or resources that belong to us;

6. do anything that compromises the security or stability of the Website;
7. disrupt or interfere with any other user's enjoyment of the Website or affiliated or linked websites;
8. use or attempt to use another's account, service or system without authorisation from that user or us;
9. mirror the Website, data or content from the Website, or results pages on any other website or medium;
10. data mine or send automated queries of any kind to the Website without the our prior written permission;
11. harvest or otherwise collect information about other users (including email addresses and phone numbers) without their consent except in the ordinary course of using the Website's services;
12. create or use a false identity on the Website; and/or
13. transmit through or on the Website spam, chain letters, junk mail or any other type of flooding techniques or mass distribution of unsolicited email to people or entities who have not agreed to be part of such mailings.

Editorial policy

You agree to comply with any editorial policies we create from time to time.

We require that:

1. uploaded content be in Australian Standard English;
2. trademarks are used correctly and strictly in accordance with IP Australia guidelines;
3. text and links are kept up-to-date and accurate; and
4. descriptions accurately reflect the listed grain including quantity available and grade/quality.

You must not upload or submit content that:

1. is illegal in nature (including encouraging conduct that might constitute a criminal offence);
2. violates any intellectual property rights (including, without limitation, patents, trade marks, trade names, copyright and design rights and whether registrable, registered or unregistered) or other rights of any person in any jurisdiction in the world;
3. is defamatory, threatening, harassing, abusive, discriminatory, unlawful, obscene, offensive, profane, indecent or otherwise objectionable;
4. is misleading or deceptive or likely to mislead or deceive other users;
5. contains universal call-to-action phrases such as "click here", "link here", "visit this business", or other similar phrases that could apply to any ad, listing or business, regardless of content, the type of business or its location;
6. refers to unapproved, banned, illicit or otherwise illegal drugs or pharmaceuticals;

7. contains information that features or advertises or otherwise lists off-shore or online casinos or gambling services;
8. is unclear or contains unacceptable levels of spelling, punctuation or grammatical errors or over use of exclamation marks or capital letters;
9. opens a pop-up when entering or leaving a linked website's landing page; and/or
10. contains links to sites featuring any of the above.

We may remove, revise or refuse to publish any material uploaded to the Website or otherwise supplied by you to us at our absolute discretion and without consulting or notifying you.

We may also refuse or remove content in our absolute discretion.

Refusal of use

Use of the website is a privilege. We may decline to register you as a user, terminate your registration and/or restrict your access to the Website (including via any other aliases you use) at any time at our complete discretion without consulting with or notifying you. Without limiting this, we consider the following as grounds for refusal of use:

1. if a serious complaint or multiple complaints are received about you; or
2. you breach these terms or our other policies.

Limitation of our liability

You agree not to hold us responsible for things you, we or other users of the Website do. Except as expressly stated in these terms, we and our contractors, employees and agents exclude all:

1. warranties whether express, implied, statutory or otherwise, relating in any way to the Website including information accessed at the Website, other than those warranties implied by law; and
2. liability to you or anyone else in respect of any loss or damage (including special, indirect or consequential loss or damage such as loss of revenue, unavailability of systems or loss or corruption of data) arising from, or in connection with, any use of the Website (including the information on, or accessed through the Website), or any place where your or other users' data is displayed, for any reason whatsoever and regardless of whether such liability arises in contract, tort (including negligence), equity, breach of statutory duty or otherwise.

Certain rights and remedies may be implied by law and may not be permitted to be excluded, restricted or modified. To the extent permitted by law, our and our partners, contractors', employees' or agents' liability for any breach of an implied warranty or condition that cannot be excluded is limited to the re-supply of listing space, information, links or associated Website services or a refund of fees paid by you.

Your indemnity

You indemnify us and agree to keep us and our officers, employees, agents and subsidiaries indemnified against any loss or damage, direct, indirect or consequential (including legal fees and other costs incurred) by any third party arising out of or in any way connected to:

1. your use of the Website;

2. your breach of these terms including any act, neglect or default by you or your employees, licensees or clients; and
3. the content of your uploaded material and/or the negotiation, enforcement of deals or transfer of grain or money between you and another user.

Privacy

We may collect personal information about you when you use the Website or otherwise communicate with us.

You acknowledge and agree to our Privacy Statement (as amended from time to time) which is available at <http://www.igrain.com.au/privacy.php> and consent to the collection, use and disclosure of personal information in accordance with that statement.

We will only collect, use and disclose any personal information in accordance with our Privacy Statement, to the extent specifically required by law, or where reasonably contemplated by these terms (including disclosing information in connection with any query or claim).

We do not agree to withhold any information about you that is already in the public domain or that you upload onto the Website.

Disputes

If a dispute arises between us in relation to these terms or any other matter related to the Website, before commencing legal proceedings (other than in urgent circumstances where an injunction is sought) the aggrieved party must notify the other in writing (which may be by email) and we must both attempt to resolve the dispute promptly and in good faith.

If a dispute arises between you and another user of the Website, that is a matter for you privately. We may in our discretion provide parties to the dispute with any assistance that we believe is reasonable in the circumstances to help resolve the dispute, however we cannot take sides or bring an action on your behalf.

Other provisions

These terms (together with any policies we publish) constitute the entire agreement between you and us relating to the subject matter of these terms and supersede all prior understandings or agreements, written or oral, on that subject matter.

You may not assign your rights or obligations under these terms to third parties.

If any part of these terms is unenforceable the remainder will not be affected.

A waiver of any of these terms will only be effective if it is in writing and signed by us.

No matter where you are located, these terms are governed by the laws of New South Wales, Australia, and we each submit to the non-exclusive jurisdiction of those courts of that State and courts able to hear appeals from them.

Contact

If you have any questions or comments about these terms, please contact:

The Chief Operating Officer
igrain.com.au Pty Ltd

PO Box 9286
Bathurst NSW 2795
Australia
Phone: (02) 6329 4800
Email: info@igrain.com.au

These terms were last updated on 18 January 2012.

© igrain.com.au Pty Ltd. All rights reserved.