



Australian Grain Growers Co-operative

AGG Co-op App Terms and Conditions

1. Terms and Conditions

- (a) These terms and condition govern the relationship between the user (**you**) and the Australian Grain Growers Co-operative (ABN 33 719 186 591) (**AGG**) in respect of your use of the Application and Services.
- (b) Permission to use the Application and Services is conditional upon you agreeing to the terms set out in this document. The Application and Services are offered to you on condition that you read and accept this document and agree to be bound by its terms.
- (c) By installing, using or accessing the Application or Services you are considered to have accepted the terms set out in this document. If you do not agree with or otherwise wish to accept the terms set out in this document, do not install, use or access the Application and/or the Services.
- (d) If you are a minor, you must get your parent or guardian's permission before installing, using or accessing the Application or Services.

2. Definitions

In this document, unless the context otherwise requires, the following words have the following meanings:

- (a) "**Apple**" means Apple Inc. of 1 Infinite Loop, Cupertino CA 95014, United States of America.
- (b) "**Application**" means the mobile application licensed by AGG to which this document applies.
- (c) "**Claim**" means any action, claim, proceeding or demand whatsoever, whether presently existing or arising at any time in the future and whether referable to events or circumstances which have already occurred or which may occur in the future.
- (d) "**Device**" means a single device owned or controlled by you.
- (e) "**Intellectual Property**" includes all rights throughout the world in relation to patents, copyright (including moral rights), designs, registered and unregistered trade marks, trade secrets, know-how and confidential information and all other

intellectual property and any right to register those rights, whether created before or after the date of this document, and in all cases for the duration of those rights and any renewal.

- (f) "**iOS App Store**" means the App Store operated by Apple in respect of its devices running the iOS operating system.
- (g) "**Loss**" means all losses, costs, expenses and damages (including legal costs and disbursements) sustained or incurred, whether directly or indirectly or consequentially or in any other way.
- (h) "**Pricing Information**" means any prices, currency, exchange rates, quotes and payment information contained within the Application and/or Services;
- (i) "**Provider**" means a third party provider that provides you with access to the Application. Examples of potential Providers include Apple, Facebook Inc., and Google Inc.
- (j) "**Services**" means services offered by AGG for use in conjunction with the Application.
- (k) "**Update**" means an update supplied by AGG that replaces or supplements the original Application.

3. Interpretation

- (a) In this document, unless the contrary intention appears:
 - (i) words denoting the singular include the plural and vice versa;
 - (ii) a reference to any gender includes all genders;
 - (iii) a reference to a person or entity includes a natural person, a partnership, corporation, trust, association, unincorporated body, authority or other entity;
 - (iv) headings are for convenience only and do not affect interpretation;
 - (v) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
 - (vi) a reference to any document is a reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
 - (vii) a reference to a party to this document includes that party's executors, administrators, successors and permitted assigns;
 - (viii) a reference to **(\$)** or **(Dollars)** is a reference to Australian currency;

- (ix) a reference to a recital, clause, schedule or annexure is to a recital, clause (including sub-clause, paragraph, sub-paragraph or further subdivision of a clause), schedule or annexure of or to this document and a reference to a paragraph is to a paragraph in a schedule;
 - (x) a reference to any books or records or writing includes a reference to such documents or writing in all formats including electronic, disk, magnetic or written format;
 - (xi) a reference to any legislation or legislative provision includes any regulations or other delegated legislation or instruments made or issued under it and any consolidations, amendments, re-enactments or replacements of it and them and any of them;
 - (xii) the word (**including**) is not to be treated as a word of limitation; and
 - (xiii) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document.
- (b) A term which purports to bind or benefit two or more persons binds or benefits them jointly and severally.

4. Application Licence

- (a) Subject to the terms of this document, AGG grants you a non-exclusive, non-transferable licence to:
- (i) use the Application on a single Device, as permitted by the Usage Rules set forth in the iOS App Store Terms of Service (which can be viewed at <http://www.apple.com/legal/itunes/us/terms.html>), if the Application was acquired from the iOS App Store; or
 - (ii) use the Application on a single Device, in all other cases.
- (b) You must not rent, lease, lend, sell, transfer, redistribute or sublicense the Application, or make the Application available over a network where it could be used by multiple Devices at the same time. If you sell or otherwise dispose of, transfer or assign any Devices containing the Application, you must remove any copies of the Application before doing so.
- (c) Other than as expressly provided in this document or otherwise permitted by law, you must not copy, decompile, reverse-engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Application, or any part thereof.
- (d) AGG retains all right, title and interest to all Intellectual Property rights subsisting in the Application or any part thereof.

5. Updates

- (a) The terms of this document (as amended pursuant to clause 17.1), will govern any Updates, unless such an Update is accompanied by a separate licence supplied by AGG in which case the terms of that licence will govern.
- (b) You acknowledge and agree that AGG:
 - (i) is under no obligation to provide any Updates;
 - (ii) can offer optional paid Updates;
 - (iii) can use Updates to add, remove, modify or otherwise alter features of the Application at its sole discretion, and that such changes will not be a breach of this document;
 - (iv) can require you to install Updates to the Application in order to continue using the Services; and
 - (v) can provide Updates in such a manner that the Application is unable to be reverted to its previous state.
- (c) In order to obtain, install, update, access, use, or continue to access or use the Application and/or Services, you may also be required update third party software on your Device.
- (d) You acknowledge and agree that:
 - (i) AGG is not responsible for such third party updates;
 - (ii) such third party updates may be subject to their own terms and conditions, which AGG strongly recommends you review prior to implementing the third party update; and
 - (iii) if you are unable or unwilling to obtain or install such third party updates, you may be unable to obtain, install, update, access, use, or continue to access or use the Application and/or Services.

6. Services

- (a) Subject to the terms of this document, AGG grants you a non-exclusive, non-transferable licence to use the Services. You can only use the Services in connection with Application offered by AGG.
- (b) You acknowledge and agree that you use the Services at your own risk.
- (c) AGG can modify or cease to offer the Services, or any part thereof, at any time without prior notice to you.

- (d) To the fullest extent permitted by applicable law, AGG does not accept liability for any Claims or Losses arising directly or indirectly from:
 - (i) a failure to provide any Application or Service, or any part thereof;
 - (ii) corruptions to or loss of data, errors or interruptions occurring in the course of using, or as part of, any Service or Application;
 - (iii) any suspension or discontinuance of any Service, or any part thereof; or
 - (iv) any use of the Services by other users, including any use of the Services by other users in a manner which contravenes this document.

7. Your Obligations

- (a) You can only use the Application and/or Services if the requirements set out below are met. You warrant and represent that the following statements are true and correct:
 - (i) you are not located in a country that is subject to an embargo by the government of the United State of America; and
 - (ii) you are not included on any list of prohibited or restricted parties by the government of the United State of America.
- (b) Access to the Application and/or Services, or parts thereof, may require your Device to be connected to the internet or require other third party services.
- (c) You must comply with any applicable third party terms of agreement when using the Application and/or Services. You are responsible for ensuring that your installation and use of the Application and/or Services does not cause you to exceed any data usage quotas or other limitations that may apply to your internet service or other services acquired from third parties.
- (d) You agree that you will not:
 - (i) attempt to disrupt the normal operation of the Application or Services, or any infrastructure operated by AGG or other business activities of AGG;
 - (ii) attempt to gain unauthorised access to the Application and/or the Services;
 - (iii) make any automated use of the Application and/or the Services;
 - (iv) impersonate any other person in your use of the Application and/or Services; or

- (v) use the Application and/or the Services in connection with the actual or attempted contravention of any applicable laws.

8. Disclaimers

- (a) You acknowledge and agree that:
 - (i) any part of the Application and/or Services may be updated or withdrawn by AGG at any time without notice to you;
 - (ii) AGG is not liable to you or any third party for any reliance by you on the Application and/or Services, and that it is your responsibility to verify the information contained in the Application and/or Services and seek your own advice;
 - (iii) all Pricing Information is subject to change or withdrawal at any time without notice to you;
 - (iv) all Pricing Information is provided for your information only. AGG is not liable to you for any reliance by you on the Pricing Information, and that it is your responsibility to verify the Pricing Information contained in the Application and/or Services and seek your own advice;
 - (v) AGG does not warrant or represent that Pricing Information or a particular result or outcome is guaranteed;
- (b) AGG should be contacted directly using the contact details provided within the Application or this document to make queries or confirm Pricing Information.

9. iOS App Store

If you obtained the Application from the iOS App Store, you and AGG acknowledge and agree that:

- (a) this document is concluded between you and AGG only, and not with Apple, and AGG, not Apple, is solely responsible for the Application and the content thereof;
- (b) Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Application, either under this document or applicable law;
- (c) AGG, not Apple, is responsible for addressing any Claims of you or any third party relating to the Application or your possession and/or use of the Application, including but not limited to:
 - (i) product liability Claims;

- (ii) any Claim that the Application fails to conform to any applicable legal or regulatory requirement; and
 - (iii) Claims arising under consumer protection or similar legislation;
- (d) in the event of any third party Claim that the Application or your possession and/or use of the Application infringes that third party's Intellectual Property rights, AGG, not Apple, will be solely responsible for the investigation, defence, settlement and discharge of any such claim;
- (e) Apple, and Apple's subsidiaries, are third party beneficiaries of this document; and
- (f) upon your acceptance of this document, Apple will have the right (and will be deemed to have accepted the right) to enforce this document against you as a third party beneficiary thereof.

10. Support

Unless otherwise specified or agreed pursuant to a separate written agreement between you and AGG, AGG will not be obliged to support the Application or the Service, whether by providing advice, training, error-correction, modifications, updates (including Updates), new releases or enhancements or otherwise, or to provide any hosting, telecommunication, internet or other services in relation to the use of the Application or the Service by you.

11. Third Party Services

- (a) You can use third party services:
 - (i) to obtain the Application and/or Services (for example, from a Provider's software marketplace); and/or
 - (ii) in conjunction with the Application and/or Services (for example, a social networking website).
- (b) Further, in order to obtain, install, update, access, use, or continue to access or use the Application and/or Services, you may be required to use certain third party services.
- (c) Your use of third party services may be subject to fees and separate terms and conditions, and you acknowledge that AGG is not liable for the activities of any such third parties.
- (d) The Application and Services may contain links (including via advertisements) to third party websites or other third party content or services. Those links are provided for convenience only and may not remain current or be maintained.

You acknowledge that such links should not be construed as an endorsement, approval or recommendation by us of the third parties, or of any content or services provided by them, and that your use of any third party content or services may be subject to separate terms and conditions.

12. Duration of Application Licence

- (a) Subject to the remainder of this clause, the licence granted to you in clause 4 is granted in perpetuity. This licence can be immediately terminated by AGG in the following circumstances:
 - (i) you are in breach of any term of this document, or threaten to breach any term of this document;
 - (ii) you, being a corporation, become the subject of insolvency proceedings, or threaten to do so;
 - (iii) you, being a firm or partnership, are dissolved, or threaten to be dissolved;
 - (iv) you destroy the Application for any reason, or threaten to do so; or
 - (v) you so elect in writing.
- (b) Upon termination, you or your representative will destroy any remaining copies of the Application and any associated documentation or otherwise return or dispose of such material in the manner directed by AGG.
- (c) Termination pursuant to this clause will not affect any rights or remedies which AGG may have otherwise under this document or at law.
- (d) Nothing in this clause limits any right AGG may have pursuant to this document to modify the Application by way of Update, including by removing any features from the Application, or to modify or cease offering the Services or any part thereof.

13. Warranty and Indemnity

- (a) AGG endeavours to ensure all features, including the Pricing Information, available in the Application and Services are error free, accurate, up-to-date and complete. However, you acknowledge that the Pricing Information, Application and Services cannot be guaranteed to be error free, accurate, up-to-date and complete and further acknowledge that the existence of any such errors will not constitute a breach of this document.
- (b) Except as expressly provided to the contrary in this document, and to the full extent permitted by applicable law, AGG will not be liable to you for any Loss,

including special, indirect or consequential damages (such as loss of profits), or Claim, arising out of breach of this document or arising out of the supply of defective Application or Services.

- (c) Without limiting the preceding paragraph, to the full extent permitted by applicable law, AGG's liability for any term, condition, guarantee or warranty that is implied by law and cannot lawfully be excluded by AGG, including the consumer guarantees set out in the Australian Consumer Law contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and all similar or equivalent legislation, rules and regulations is limited to (at AGG's option):
 - (i) in the case of goods, including the Application (to the extent the Application is considered a good under applicable law) – repairing, replacing or supplying equivalent goods, or paying the cost of any of those remedies to the you; or
 - (ii) in the case of services, including the Services – supplying the services again or paying the cost of having the services supplied again.
- (d) Without limiting or affecting any other provision of this document, to the full extent permitted by applicable law, our maximum aggregate liability to you for any Losses you incur or Claims you make against us is limited to the sum of AUD\$10.
- (e) You acknowledge that you have exercised your independent judgment in acquiring the Application and the Services and have not relied on any representation made by AGG which has not been stated expressly in this document or upon descriptions or illustrations or specifications contained in any document including catalogues or publicity material produced by AGG.
- (f) If you purchased the Application from the iOS App Store, in the event of any failure of the Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price to you. You acknowledge that, to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Application, and any other Claims, Losses, damages, costs or expenses attributable to any failure to conform to any warranty will be dealt with by AGG in accordance with this document.
- (g) You will indemnify AGG fully against all liabilities, costs, Losses, Claims and expenses which AGG may incur as a result of your breach of any of the provisions of this document.

14. Intellectual Property

- (a) Entry into this document does not constitute a transfer or conveyance of any Intellectual Property owned by AGG as at the date of this document, including but not limited to all Intellectual Property associated with the Application and the Services.

- (b) You acknowledge that the Application and materials provided in the course of the Services are protected by copyright and may also be protected as other forms of Intellectual Property owned by AGG. You will not during or at any time after the termination of this document undertake or permit any act which infringes or attempts to infringe those Intellectual Property rights and, without limiting the generality of the foregoing, you specifically acknowledge that you must not copy the Application except as otherwise expressly authorised or acknowledged by this document.
- (c) You must not reverse assemble or reverse compile or directly or indirectly allow or cause a third party to reverse assemble or reverse compile the whole or any part of the Application or the Services, or any output from the Application or any files related to the Application or the Services.

15. Security

- (a) Unfortunately, no data transmission over the internet can be guaranteed as totally secure. Whilst AGG strives to protect such information, it does not warrant and cannot ensure the security of any information you transmit to it. Accordingly, any information which you transmit to AGG is transmitted at your own risk. Nevertheless, once AGG receives your transmission, it will take reasonable steps to preserve the security of such information.
- (b) You must take your own precautions to ensure that the process which you employ for accessing the Application and/or the Services does not expose you to the risk of viruses, malicious computer code or other forms of interference which may damage your Devices. For the removal of doubt, AGG does not accept responsibility for any interference or damage to your Devices which arises in connection with your use of the Application and/or the Services.

16. Privacy

- (a) You consent to AGG collecting, holding, using and disclosing personal information collected via the Application and/or Services for the purposes of providing you with the Application and Services, and AGG contacting you in relation to the Application and Services. You expressly consent to disclosures to and from the National Grower Register (National Grower Register Pty Ltd ACN 095 857 266), and individuals associated with your National Grower Register registration.
- (b) AGG otherwise undertakes to comply with the terms of its Privacy Policy in respect of the Application and the Services. This can be viewed at www.aggcoop.com.au, and this Privacy Policy is incorporated into, and forms part of, the terms of this document.

17. General

17.1 Amendment

AGG reserves the right to amend, revise or replace this document from time to time. Amendments, revisions and replacements will be effective immediately upon posting at www.aggcoop.com.au. Your continued use of the Application or Services following such notification represents your agreement to be bound by the terms of this document as amended, revised or replaced, and your understanding and acceptance of the amended, revised or replaced document.

17.2 Waiver

No waiver by a party of any breach or default by any other party is effective unless reduced to writing and signed by the party making such waiver, and any such waiver does not constitute a waiver of any other continuing breach or default under this document.

17.3 Severance

If any provision of this document is prohibited, invalid or unenforceable in any jurisdiction, that provision will, as to that jurisdiction, be ineffective to the extent of the prohibition, invalidity or unenforceability without invalidating the remaining provisions of this document or affecting the validity or enforceability of that provision in any other jurisdiction.

17.4 Governing Law

This document is governed exclusively by the law in force in South Australia, Australia. The parties submit to the non-exclusive jurisdiction of the courts of that State and the Registry of the Federal Court of Australia in that State in respect of all proceedings arising in connection with this document.

17.5 Assignment

- (a) You cannot assign, novate or otherwise transfer any of your rights or obligations under this document without the prior written consent of AGG which consent can be granted or withheld in the absolute discretion of AGG.
- (b) AGG can assign, novate or otherwise transfer any of its rights or obligations under this document at its sole discretion, without notice to you.

17.6 Force Majeure

Notwithstanding anything else contained in this document, AGG will not be liable for any delay in or failure to comply with this document if such delay or failure is caused by circumstances beyond that party's reasonable control, including without limitation, fire,

flood, act of God, strikes, lock outs, stoppage of work, trade disputes or any act of war or terrorism.

18. Contact

In the event that you need to contact AGG regarding this document, the Application and/or the Services, please use the following details.

Australia Grain Growers Co-operative (ABN 33 719 186 591)

Address: 128 Fullarton Road, Norwood SA 5067, Australia
Telephone: 1300 943 244
Email: info@aggcoop.com.au