

# MemberUpdate

UPDATE 33 OF 14 • 2 December 2014

**TOPIC: GTA Contract No.3 Contract Confirmation**

**DISTRIBUTION: GTA Members – primary contact list. Please circulate to all appropriate internal parties.**

## 1. Issue

Revised template GTA Contract No. 3 Contract Confirmation now available.

## 2. Background

The GTA Commerce Committee is responsible for the regular review of GTA Contracts to ensure they are fit for purpose and meet the needs of industry.

The Commerce Committee recently received a member submission requesting that the GTA Contract No.3 - Contract Confirmation be amended to allow the capture of a Sellers Contract Number in addition to the Buyers Contract Number, citing that GTA Members are often using this Contract to both buy and sell grain.

The GTA Commerce Committee met on 28 November 2014 and agreed to this amendment.

## 3. New Contract Template

The amended GTA Contract No.3 Contract Confirmation is now available to download from the GTA website via <http://www.graintrade.org.au/contracts>

A word version of the revised Contract is available to GTA Members. To request a copy email [admin@graintrade.org.au](mailto:admin@graintrade.org.au) and include "New No. 3 Contract" in the subject line.

A copy of the amended contract can be seen below for your reference.

# GTA Contract No.3

## CONTRACT CONFIRMATION

GTA Trade Rules and Dispute Resolution Rules apply to this contract

This Contract is confirmation between:



<b>BUYER</b>	
Contract No:	
Name:	
Company:	
Address:	
Buyer ABN:	
NGR No:	

<b>SELLER</b>	
Contract No:	
Name:	
Company:	
Address:	
Seller ABN:	
NGR No:	

The Buyer and Seller agree to transact this Contract subject to the following Terms and Conditions:

Commodity:		GTA Commodity Reference:		
Grade:		Inspection:		(Origin – Destination)
Quantity:		Tolerance:		(Refer over)
Packaging:		Weights:		(Origin – Destination)
Price:		Excl/Inc/Free GST		
Price Basis:				
Delivery/Shipment Period:				
	(Delivered, Shipped, Free In Store, Free On Board, Ex-Farm, etc.)			
Delivery Point and Conveyance:				
	(Road, Rail, Delivered Container Terminal, Freight, Rated Basing Point, Loading Weight requirements if applicable)			
Payment Terms: The buyer agrees to pay the seller within . In the absence of a declaration, payment will be 30 days end of week of delivery.				
Levies and Statutory Charges: Any industry, statutory or government levies which are not included in the price shall be deducted as required by law.				
Disclosures: Is any of the crop referred to in this contract subject to a mortgage, Encumbrance or lien and/or Plant Breeders Rights and/or EPR liabilities and/or registered or unregistered Security Interest? <input type="radio"/> NO <input type="radio"/> YES (Please <input type="checkbox"/> appropriate box) If "yes" please provide details:				
Other Special Terms and Conditions:				

All Contract Terms and Conditions as set out above and on the reverse of this page form part of this Contract. Terms and Conditions written on the face of this Contract Confirmation shall overrule all printed Terms and Conditions on the reverse with which they conflict to the extent of the inconsistency. This Contract comprises the entire agreement between Buyer and Seller with respect to the subject matter of this Contract.

### Recipient Created Tax Invoice (RCTI).

To assist with the processing of the Goods and Services Tax compliance, the buyer may prepare, for the seller, a Recipient Created Tax Invoice (RCTI). If the seller requires this service they are required to sign this authorisation.

☐ Please issue a RCTI (Please ☐)

### Incorporation of GTA Trade & Dispute Resolution Rules:

This contract expressly incorporates the GTA Trade Rules in force at the time of this contract and Dispute Resolution Rules in force at the commencement of the arbitration, under which any dispute, controversy or claim arising out of, relating to or in connection with this contract, including any question regarding its existence, validity or termination, shall be resolved by arbitration.

Buyer's Name:	
	PRINT NAME
Buyer's Signature:	
Date:	

Seller's Name:	
	PRINT NAME
Seller's Signature:	
Date:	

This Contract has been executed and this form serves as confirmation and should be signed and a copy returned to the buyer/seller immediately.

2014 Edition

# Grain Trade Australia Limited (GTA)

## Standard Terms and Conditions – Contract No. 3

**TRADE RULES:** This Contract is subject to the Trade Rules of GTA currently in effect, except to the extent the same are in conflict with the Terms and Conditions expressed herein, with such Rules forming an integral part of the Contract and of which both parties hereto shall be deemed to be cognisant.

**TIME:** All stipulations set forth in the Terms of Trade as to "TIME" are of the essence.

**QUANTITY:** Unless otherwise stated, all quantities shall be expressed metrically and to the nearest one/one-hundredth [1/100] of a tonne.

**QUANTITY TOLERANCE:** The Seller shall have the option of delivering five percent [5%] or twelve [12.00] tonnes, whichever is the lesser quantity, more or less than the contractual quantity at the Contract price. This variation of five percent [5%] or twelve [12.00] tonnes is hereinafter referred to as the "Tolerance".

**CONVEYANCE AND DELIVERY INSTRUCTIONS:** Unless otherwise agreed, the Seller shall have the right of conveyance.

**INTEREST:** If any payment is not made on or before the due date for payment, interest shall be payable at the rate selected. If there is no due date for payment, interest shall be payable if there has been an unreasonable delay in payment. Interest payable shall be appropriate to the currency involved. If the amount of interest is not mutually agreed, interest will be payable at a rate of 1.5% per calendar month, calculated daily.

**OWNERSHIP AND PASSING OF TITLE:** The risk of loss and/or damage shall remain with the Seller until the goods have been conveyed to the Buyer at the designated point of conveyance:

1) On FOB Origin, Ex-Farm, Ex-Store, or FOB Basing Point contracts; risk passes at the time when the goods are accepted by the carrier via the appropriate shipping document.

2) On Delivered or Delivered Basing Point contracts; risk passes at the time when goods are constructively placed, or presented for unloading, or otherwise made available at the Buyer's original destination.

3) On In-Store contracts; risk passes at time of transfer and/or filing of documents (if required), unless and to the extent warehouse tariff, warehouse receipt, and/or storage contract assumes the risk of loss and/or damage.

Unless otherwise agreed, title to goods as well as property in the goods remains with the Seller until all amounts payable under this Contract have been received in cleared funds in specified bank account. This clause creates a Purchase Money Security Interest for the purposes of the Personal Property Securities Act 2009 (Cth) ("PPSA"). Where permitted by the PPSA, the parties contract out of the provisions listed in sub-clauses 115(1)(a)-(r) of the PPSA. The parties agree and undertake (including for the purposes of section 275(6) of the PPSA) that the terms of this contract shall be kept confidential to the parties at all times. Neither party may disclose any information pertaining to this contract except as otherwise required by law.

**FAILURE TO PERFORM:** Failure to perform in keeping with the Terms and Conditions of a Contract shall be grounds for the refusal only of such Delivery(ies) or Shipment(s) in default, and not for the rescission of the entire Contract or any other Contract between the Buyer and Seller.

**DISPUTES:** Any party or parties who have entered into Terms of Trade subject to GTA Trade Rules shall be entitled to refer any disputes arising out of such contract, and which cannot be resolved between the parties, to GTA for Arbitration.

**ARBITRATION:** If any dispute arises out of or relates to this Contract or the breach, termination or subject matter thereof, the dispute shall be submitted to and settled by Arbitration in accordance with GTA Dispute Resolution Rules in the edition current at the commencement date of arbitration, such rules forming an integral part of the Contract and of which both parties hereto shall be deemed to be cognisant. Any dispute, controversy or claim arising out of, relating to or in connection with a contract incorporating the GTA Trade Rules, including any question regarding its existence, validity or termination shall be resolved by arbitration in accordance with the Dispute Resolution Rules in force at the commencement of the arbitration.

**RCTI:** Recipient Created Tax Invoice - Reference on the front of this form provides for the seller to authorise the buyer to issue the RCTI on his behalf. This request also requires the seller's signature.

**ENCUMBRANCES:** The Seller must notify the Buyer if an Encumbrance exists over the Commodity. The Seller unconditionally and irrevocably directs the Buyer to deduct from any payments due to the Seller:

1. the amount secured by any Encumbrance over a Commodity and pay the amount deducted to the holder of the Encumbrance before paying any amount to the Seller; and
2. all reasonable costs and expenses incurred by the Buyer in dealing with any Encumbrances.

At the direction of the Buyer, the Seller will procure the release of any Encumbrance over the Commodity and will do all things requested by the Buyer to evidence and record such release in any relevant security register (including procuring the execution of any documentation requested by the Buyer for such purpose) by no later than the time of payment to that Encumbrance holder of the secured amount as contemplated under this Encumbrances clause.

The Seller will notify the Buyer in writing immediately of any change to the amount secured under any Encumbrance over a Commodity. The Seller agrees to the Buyer charging an encumbrance processing fee of \$200 per Encumbrance, which to the extent not paid by Encumbrance holder, will be a debt.

The Seller indemnifies the Buyer and its related entities against any claim or demand by any person claiming any interest in the Commodity, regardless of whether the Seller has notified the Buyer of that interest.

### DEFINITIONS:

**Encumbrance** - means any security for the payment of money or the performance of obligations including a Crop Lien, mortgage, charge, lien, pledge or trust, or any other security interest as defined in the Personal Properties Securities Act 2009 (Cth).

**NOTE:** The GTA Trade Rules are available on the GTA website, [www.graintrade.org.au](http://www.graintrade.org.au)