

CargillAg.ca Online Account Management Service – Terms and Conditions

Use of the cargillag.ca website is governed by the conditions of the Customer's initial Registration Form, these terms and conditions and Cargill's Privacy Policy all as amended from time to time. Please bring any concerns regarding these terms to Cargill's attention promptly.

1. Definitions. As used in this Agreement, the following capitalized terms have the following meanings:

"Access Level" means the access rights assigned to a particular Authorized User. Access Levels include "e-Sign" access, which includes the right to approve and electronically sign Contracts on behalf of the Customer; "Non-E-sign" access, which excludes the right to approve and electronically sign Contracts on behalf of the Customer but receives all email notifications and "View Only" access.

"Account" means the CargillAg.ca account associated with the Customer.

"Account Information" means all of the documents, data, and other information that relate specifically to the Account and are made available to Authorized Users through the Service, whether such information was originally provided by an Authorized User or by Cargill or generated by the Service.

"Account Owner" means the individual identified on the applicable Registration Form as the "Account Owner" of the Account. If the Customer associated with the Account is a corporation or partnership, the Account Owner must be an officer, partner or employee of the Customer. If the Customer is a sole proprietorship, the Account Owner(s) must be the proprietor(s).

"Affiliate" means any entity that controls, is controlled by or is under common control with Cargill or the Customer.

"Agreement" means the Registration Form (including all Supplements thereto), Cargill's Privacy Policy and these Terms and Conditions.

"Authorized User(s)" means the Account Owner and any other individual(s) who have (a) been authorized by the Customer, acting through its Account Owner, to use the Service on behalf of the Customer and (b) signed the Registration Form or a Supplement thereto.

"Cargill" means Cargill Limited.

"Content" means all of the text, images, photographs, graphics, audio and/or video clips and other materials posted on the Restricted Site and all related metadata or otherwise made available by Cargill to the Customer through the Service. The term "Content" includes Account Information.

"Contract" means any agreement between Cargill and Customer made available by Cargill through the Service, including grain merchandising contracts, commodity production contracts (identity preserve or otherwise), fertilizer/crop input purchase contracts, grain declarations and/or bin sample result sheets and any other Cargill generated document, on the terms set forth therein. To be clear, the applicable Contract, not this Agreement, sets forth the terms on which the Customer agrees to conduct business or buy and sell products and services with Cargill; this Agreement sets forth the terms on which the Customer agrees to manage and bind the Customer to the Contract.

"Customer" means a sole proprietorship, partnership or corporation engaged in the business of selling or buying commodities such as grain or feed.

"Customer Information" means all of the documents, data, and other information that relate specifically to the Customer and are made available to Customer through the Service, whether such information was originally provided by a Customer or by Cargill or generated by the Service.

"Registration Form" means the applicable Registration Form for the Services, as from time to time supplemented or amended as provided herein.

"Restricted Site" means the password-protected Web site through which Cargill provides the Service, including all software, code, hardware and connectivity used by or on behalf of Cargill to operate and maintain the Restricted Site; all Content; and all Updates to any of the foregoing.

"Service" means the CargillAg™ Online Account Management Service and the Cargill Electronic Device Signature program.

"Supplement" means a document that supplements or amends the initial Registration Form.

"Terms and Conditions" means these Terms and Conditions, as from time to time supplemented or amended as provided herein.

"Third Party" means any legal or natural person other than (a) Cargill or one of its Affiliates or (b) the Customer or one of its Authorized Users.

"Updates" means, collectively, any fixes, updates, additions, modifications, enhancements or new versions of or to any part of the Service.

"User Identity" means a unique user name and password.

2. Purpose and Scope. This Agreement sets forth the terms and conditions on which Cargill makes the Service available to Customers and their Authorized Users.

3. Changes to These Terms and Conditions. Cargill reserves the right to update or modify these Terms and Conditions, at any time and without prior notice, by posting the revised version on the Restricted Site or otherwise providing notice to the Customer. Unless otherwise expressly stated in the revised version, all changes shall be effective as of the date Cargill posts the revised version on the Restricted Site or provides a copy to the Customer. The Customer agrees that the continued use of the Service by any of its Authorized Users after the revised version has been posted or delivered shall constitute and evidence the Customer's agreement to be bound by the revised Terms and Conditions. Each Authorized User agrees that his or her continued use of the Service after the revised version has been posted shall constitute and evidence his or her agreement to be bound by the revised Terms and Conditions. Authorized Users may access the current version of these Terms and Conditions at any time by clicking on the link marked "Online Account Terms" at the bottom of each page of the Restricted Site. These Terms and Conditions were last revised on March 23, 2016.

4. Permission to Use Service. Cargill hereby grants the Customer and its Authorized Users permission to use the Service subject to the terms of this Agreement.

5. Delegation of Authority to Account Owner. The Customer hereby represents and warrants to Cargill that its Account

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Owner (or each of them, separately, if a Customer has more than one Account Owner) is duly authorized to act as its agent on all matters relating to its and its Authorized Users' access and use of the Service. Without limiting the generality of the foregoing, the Customer represents and warrants to Cargill each Account Owner is duly authorized to enter into binding Contracts, designate other Authorized Users, assign Access Levels, and receive notices on its behalf. If the Customer wishes to replace or add an Account Owner, a representative of the Customer must contact the Customer's local Cargill office for assistance. The Customer will be required to execute a Supplement to the Registration Form naming the new Account Owner.

6. Designation of Authorized Users and Access Levels.

The Customer, acting through its Account Owner(s), shall be solely responsible for designating Authorized Users and assigning Access Levels. Whenever the Customer wishes to designate a new Authorized User, the Account Owner shall submit an executed Supplement to the Customer's local Cargill office, designating the new Authorized User and assigning him or her an Access Level. Each Supplement must be signed on behalf of the Customer by an Account Owner. Upon receipt of a properly executed Supplement, Cargill shall provide a User Identity for the Authorized User and shall set the Authorized User's access rights as set forth in the Supplement. The Customer authorizes Cargill to provide each Authorized User's User Identity directly to that Authorized User using the email address provided on the Supplement. A Supplement may also be used to remove an Authorized User or change an Authorized User's Access Level. The Supplement form may be downloaded from the Restricted Site.

7. **Responsibility for Password Security.** The Customer shall implement commercially reasonable administrative, contractual, physical and technical measures to ensure the security and confidentiality of its Authorized Users' User Identities. The Authorized Users also agree that they shall take commercially reasonable measures to safeguard the confidentiality and security of their User Identities. If the Customer or any Authorized User uses or permits the use of the Service under a User Identity not actually assigned to that particular individual, the Customer shall be deemed to be in material breach of this Agreement, and Cargill may, at its sole and absolute discretion, deny the Customer and its Authorized Users further access to the Service.

8. **Responsibility for Activities of Individuals Accessing the Service.** Cargill shall have the right to assume that any individual accessing or using the Service under a given User Identity is the individual associated with that User Identity in its records and shall grant access to Account Information and other capabilities accordingly. The Customer is entirely responsible for the activities of anyone using a User Identity issued to one of its Authorized Users, whether or not the activities or the use of User Identity were authorized by the Customer. Without limiting the generality of the foregoing, if an individual accesses the Service and executes a Contract using a User Identity issued to one of the Customer's Authorized Users, the Customer shall be legally bound by the terms of that Contract even if that individual was not actually authorized to do so.

9. Breach of Password Security.

9.1 **Customer's Responsibilities.** The Customer, acting through an Account Owner, shall notify Cargill (by telephoning their local Cargill office) as soon as reasonably possible during normal business hours of any known or suspected unauthorized use of a

User Identity registered to the Customer or any other threat to or breach of security. Cargill shall use commercially reasonable efforts to respond to any notice of a security incident on the same business day if such notice is provided before 4:00 PM local time. Cargill shall use commercially reasonable efforts to respond to notices provided at or after 4:00 PM local time on the next business day by 9:00 AM local time. Depending on the nature of the security incident reported to Cargill, Cargill's response may include temporarily or permanently deactivating all User Identities associated with the Customer. Customer and each Authorized User understand and acknowledge that Cargill does not provide 7x24 hour support for the Service; Cargill provides support for the Service only during normal business hours. Cargill shall have no obligation to respond to any notice of a security incident except as expressly set forth in this Section 9.1. In the event of a known, suspected, or threatened breach of security, the Customer shall take all commercially reasonable steps to mitigate any harm that that may result, to assist Cargill in its investigation of the incident, and to prevent future occurrences.

9.2 **Authorized Users' Responsibilities.** Authorized Users shall notify the Customer or an Account Owner immediately of any known or suspected unauthorized use of a User Identity registered to the Customer or any other threat to or breach of security. If an Authorized User's own User Identity is compromised, that Authorized User shall immediately access the Service and change his or her password.

10. **Right to Deny Access.** Cargill reserves the right to (a) deactivate any User Identity; (b) require Authorized Users to change their User Identities; and (c) deny, limit or terminate access to the Service or any portion thereof, at any time, as necessary or advisable to protect the security and integrity of the Service. Whenever Cargill is able to do so without compromising the security or integrity of the Service (or any criminal or civil investigation), Cargill shall notify the Account Owner(s) by email before taking such action. If Cargill determines, in its reasonable business judgment, that it is advisable to take immediate action, without prior notice to the Account Owner(s), Cargill shall notify the Account Owner(s) by email as soon as reasonably practicable of its action and the reason for the action.

11. **Permitted Use of the Service.** The Customer agrees that it will not use, and will take commercially reasonable measures to ensure that neither its Authorized Users nor any Third Party use, the Service for any purpose except for the Customer's internal business use. The Authorized Users agree that they will not use, and will not permit any Third Party to use, the Service for any purpose except to perform services on behalf of and at the instruction of the Customer and only in connection with the internal operations of the Customer's business.

12. **Prohibited Activities.** The following are "Prohibited Activities": (a) using, copying, modifying, or preparing derivative works of any part of the Service, except as expressly authorized in this Agreement; (b) disclosing, distributing, leasing, sublicensing, lending, giving, transferring, assigning or otherwise making all or any part of the Service available to any Third Party, except as expressly authorized in this Agreement; (c) reverse engineering, translating, disassembling, decompiling, or causing or allowing discovery of the source code of any software used to provide the Service, or attempting to do so; (d) removing, obscuring or altering the copyright, trademark or other proprietary notices affixed to or contained in the Service; (e) using the Service in any manner that (i) infringes upon or violates any patent, copyright, trade secret, trademark or other

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intellectual property right of any Third Party, or (ii) violates any applicable international, federal, provincial or local law, rule, regulation or ordinance; (f) knowingly introducing to the Service any viruses, worms, or other malicious code or computer programming routines; and (g) accessing, tampering with, or using areas of the Restricted Site that exceed the scope of the Authorized User's authorization. The Customer agrees to implement commercially reasonable measures to ensure that neither its Authorized Users nor any Third Party engage in Prohibited Activities. The Authorized Users agree that they will not and will not permit Third Parties to engage in any Prohibited Activities.

13. Electronic Execution of Contracts.

13.1 Election to Execute Contracts Electronically.

Online through CargillAg.ca

The online Service at CargillAg.ca may not be used to initiate Contracts, but may, where permitted by provincial law, be used to review, approve and execute Contracts.

Signature via Electronic Device

The Customer consents to executing Contracts via electronic signature on an electronic device – handheld or otherwise. Upon receipt of electronic signature in such manner, Cargill and any other party may rely on the receipt of such document so executed and delivered by electronic means as if the hand-written original signature had been received.

13.2 Legal Effect of Electronic Signature. The electronic signature of the Customer or any Account Owner whether through the online CargillAg.ca program or on an electronic device (handheld or otherwise) or any other Authorized User who has been assigned "E-sign" access level shall be as legally binding on the Customer as the hand-written signature of a duly authorized representative of the Customer.

13.3 Original and Duplicate Originals. The electronic version of each Contract executed electronically through the Service shall be considered the original executed Contract. All printed copies of that electronic version shall be considered "duplicate originals" of the executed Contract.

14. Ownership.

14.1 Ownership of Service. The Customer and each Authorized User acknowledge and agree that the Service is the exclusive property and contains the valuable trade secrets of Cargill and its licensors, who individually or jointly own all right, title and interest in and to the Service including all copyrights, patent rights, know-how, trade secret rights, trademark rights and associated goodwill, and all other intellectual property rights. Neither the Customer nor any of its Authorized Users shall acquire any right, title or interest in the Service or any portion or component of the Service pursuant to this Agreement, other than the right to access and use the Service as expressly granted in this Agreement, subject to the terms of this Agreement.

14.2 Ownership of Feedback. Cargill welcomes the Customer and its Authorized Users' comments, suggestions, and other feedback ("Feedback") regarding the Service. By providing Feedback to Cargill, the Customer and/or the Authorized User, as the case may be, grant to Cargill a perpetual, non-revocable, worldwide, fully-paid up, royalty free license to use, reduce to practice, make, exploit, reproduce, display and perform publicly, sublicense, distribute, and

prepare derivative works based on such Feedback (and all know-how related thereto) for any purpose whatsoever, including improving and enhancing this Service.

15. Right to Modify or Discontinue Service. Cargill reserves the right, in its sole and absolute discretion, (a) to modify the features, functionality and performance of the Service at any time and without notice, and (b) to discontinue the Service at any time by giving the Customer at least thirty (30) days written notice.

16. Disclaimer of Warranties. THE SERVICE IS PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER. TO THE FULLEST EXTENT PERMITTED BY LAW, CARGILL, ITS AFFILIATES, AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, WITH RESPECT TO THE SERVICE, INCLUDING WITH RESPECT TO THE RESTRICTED SITE AND ITS CONTENT, AND ANY INFORMATION, PRODUCTS AND SERVICES MADE AVAILABLE THROUGH THE RESTRICTED SITE, INCLUDING THE ACCOUNT INFORMATION. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, CARGILL, ITS AFFILIATES, AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, (A) OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; (B) ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE; (C) RELATING TO THE SECURITY OF THE SERVICE; (D) THAT THE CONTENT OR OTHER INFORMATION ON THE RESTRICTED SITE IS ACCURATE, COMPLETE, CURRENT, RELEVANT OR RELIABLE; OR (E) THAT THE SERVICE WILL OPERATE WITHOUT INTERRUPTION OR ERROR.

17. Limitations on Liability. The Customer acknowledges that the Internet is not an inherently secure means of data communication and that data processing entails the likelihood of some human and machine errors, omissions, delays, and losses, including inadvertent loss or corruption of data, which may give rise to loss or damage. The Customer consents to receiving Contracts and other electronic communication via e-mail and over the internet. Cargill cannot guarantee the security and confidentiality of e-mail communication. The Customer accepts responsibility for adopting reasonable measures to limit its exposure with respect to such potential losses and damages, including, without limitation, preparation and storage of backup copies of Account Information. IN NO EVENT SHALL CARGILL OR ITS AFFILIATES, OR ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, LICENSORS OR SERVICE PROVIDERS, BE LIABLE TO THE CUSTOMER, ITS AUTHORIZED USERS OR ANY THIRD PARTY ON ACCOUNT OF ANY SUCH ERRORS, OMISSIONS, DELAYS OR LOSSES, EXCEPT, EACH RESPECTIVELY, TO THE EXTENT CAUSED BY ITS OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

UNDER NO CIRCUMSTANCES, SHALL CARGILL OR ITS AFFILIATES, OR ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, LICENSORS OR SERVICE PROVIDERS, BE LIABLE TO THE CUSTOMER, ITS AUTHORIZED USERS OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL LOSSES OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE SERVICE, OR THE CUSTOMER'S OR ITS AUTHORIZED USERS' USE OF OR INABILITY TO USE THE SERVICE, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, REVENUES, SAVINGS, DATA OR GOODWILL.

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EACH OF THE FOREGOING LIMITATIONS OF LIABILITY APPLY TO THE FULLEST EXTENT PERMITTED BY LAW, WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, NEGLIGENCE OR OTHER TORT, STRICT LIABILITY OR ANY OTHER BASIS; EVEN IF AN AUTHORIZED REPRESENTATIVE OF CARGILL OR ONE OF ITS AFFILIATES, LICENSORS OR SERVICE PROVIDERS HAS BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES; AND WITHOUT REGARD TO THE SUCCESS OR EFFECTIVENESS OF OTHER REMEDIES. THE CUSTOMER AND ITS AUTHORIZED USERS ACKNOWLEDGE AND AGREE THAT CARGILL COULD NOT PROVIDE THE SERVICE AT NO COST TO THE CUSTOMER AND ITS AUTHORIZED USERS IF CARGILL'S LIABILITY AND THAT OF ITS AFFILIATES, LICENSORS AND SERVICE PROVIDERS WERE NOT LIMITED AS SET FORTH IN THIS AGREEMENT.

18. Indemnification. The Customer shall indemnify, defend, and hold Cargill and its Affiliates, and its and their respective directors, officers, employees and agents, licensors and service providers, harmless from and against any claims, demands, causes of action, damages, losses, liabilities, costs or expenses, including, without limitation, reasonable attorneys' fees and costs of suit, arising out of or in connection with the Customer's and/or its Authorized User's use or misuse of the Service or breach of this Agreement.

19. Relationship of the Parties. Cargill, the Customer and the Authorized Users each agree that each of them is an independent contractor in the performance of each and every part of this Agreement. Nothing in this Agreement shall be construed to entitle either the Customer or any Authorized User to be a representative, agent, partner or joint venturer of Cargill.

20. Right to Subcontract Services. Cargill reserves the right to use third-party service providers to provide all or part of the Service. Cargill shall remain responsible, however, for the proper performance of all of its obligations under this Agreement, whether Cargill performs its obligations directly or through a subcontractor.

21. Parties Bound by Agreement; Assignment. The terms, conditions and obligations of this Agreement shall inure to the benefit of and be binding upon Cargill, the Customer, and the Authorized Users, and their permitted successors and assigns. The Customer and the Authorized Users shall not assign any part of this Agreement to any Third Party.

22. Force Majeure. Neither Cargill nor its Affiliates, nor its and their respective directors, officers, employees, agents, licensors or service providers, shall be liable to the Customer nor any Authorized User for any failure or delay in performance caused by reasons beyond their reasonable control, including, but not limited to, acts of God, acts of any governmental authority, strikes or labor disputes, acts of war or terrorism, fire, severe weather or natural disasters, or other similar events. Without limiting the foregoing, neither Cargill nor its Affiliates, nor its or their respective directors, officers, employees, agents, licensors or service providers, shall be liable for any loss or unavailability of the Service or any Account Information that results from a cause over which it does not have direct control, including, but not limited to, failure of electronic or mechanical equipment, computer viruses, unauthorized access, theft, operator errors, fiber optic cable cuts, interruption or failure of telecommunication or digital transmission links, Internet failures or delays, or other similar events.

23. Electronic Commercial Messages. The Customer hereby authorizes Cargill to send the Customer commercial electronic messages relating to the Account, all Cargill products and services, events, information, and special offers to the email address provided and by other electronic means until the Customer notifies Cargill that the Customer no longer wishes to receive such communications.

24. Personal Data. All personal data/Customer Information generated in relation to the Service or any other personal data of the Customer provided to Cargill will be handled in accordance with Cargill's Privacy Policy. Such personal data/Customer Information may be transmitted to Cargill data storage facilities managed by Cargill or Cargill appointed agents located in Canada or outside Canada.

25. Notices. Except as expressly stated in this Agreement, all notices required to be given under this Agreement shall be given in writing and delivered by national overnight courier, or by registered or certified mail, postage prepaid, or hand delivered. Notices shall be deemed received on the next business day if sent by national overnight courier, within three business days if sent by certified or registered mail, and upon receipt if hand delivered. Written notices, if to the Customer, shall be sent to the Customer at the address set forth on the Registration Form or the applicable Supplement. Notices, if to Cargill, shall be sent to the Customer's local Cargill office, or as directed on the applicable Supplement. Email notices to the Account Owner(s) shall be provided to the Customer at the email address set forth on the Registration Form or the applicable Supplement and will be deemed given when sent.

26. Miscellaneous. As used in this Agreement, the term "including" means "including, but not limited to." A party's failure at any time to require performance of any provision of this Agreement or to exercise any right provided for herein shall not be deemed a waiver of such provision or such right. All waivers must be in writing. Unless the written waiver contains an express statement to the contrary, no waiver by either party of any breach of any provision of this Agreement or of any right provided for herein shall be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right under this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and the remaining provisions of this Agreement shall remain in full force and effect. This Agreement shall be governed by and in

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accordance with the laws of the Province of Manitoba, without reference to its conflict of laws principles and the parties attorn to the jurisdiction the Province of Manitoba and the Manitoba Court of Queen's Bench for all actions or proceedings arising out of or relating to this Agreement, its validity, performance, enforcement, or breach, or the subject matter of this Agreement. All remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either party at law, in equity or otherwise. Sections 8-10, 13-19 and 21-26 of this Agreement shall survive the expiration or termination of this Agreement. This Agreement contains the entire understanding and agreement between Cargill and the Customer and Cargill and the Authorized User, as the case may be, with respect to the subject matter hereof and supersedes all previous communications, negotiations and agreements, whether oral or written, among any of them with respect to such subject matter. If any of the terms of this Agreement conflict with the CargillAg.ca Terms of Use, the conflicting terms of this Agreement shall govern, but only with respect to the subject matter hereof.