



## **AWB Terms of Use**

General Terms of Use for Website , Customer Portals and Applications

Version Date: 23 September 2020

### **OUR WEBSITE AND APPLICATION**

Welcome to the Cargill.com.au, awb.com.au, grainflow.com.au websites ("**Sites**"), Customer Portals and mobile applications ("**Apps**") operated by Cargill Australia Limited (ABN 42 004 684 173), ("**Cargill**", "**we**", "**our**" or "**us**"). This notice sets out certain conditions governing Your use of all parts of our Sites and Apps. By using our Sites and Apps, You agree to all of the matters set out in this notice ("**Terms of Use**"). There are other conditions governing Your use of our Sites and Apps (or parts of them) that are accessible from our Sites including the [Online Privacy Policy](#) and [Australia-specific "Summary of Cargill's Privacy Policy"](#) (together our "**Privacy Policy**"). By using our Sites and Apps, You similarly agree to those conditions as amended from time to time.

As used herein, "**You**" and "**Your**" refers to any individual, company or legal entity that accesses or otherwise uses our Sites and Apps.

Website and Applications means all websites ("**Sites**") owned and operated by us, any information derived from them, as well as from any tools, transactions or other systems or applications ("**Apps**") made available to You by us whether accessed through a handheld, static or other device. Your use of all of the text, information (including without limitation storage or warehouse information), photographs, images, illustrations, graphics, audio, video and audio-video clips, and other materials provided through Sites and Apps (collectively, "**Content**") is governed by these Terms of Use (as amended from time to time) as well as any specific terms on the Sites or any Apps which form part of the Terms of Use and govern Your use of (and access to any Content on Your handheld or other devices), and access to, certain sections of our Sites or Apps. Since You are also bound by these additional terms, You should review them wherever they are accessible to You on our Sites or via or on any Apps.

Our Sites and Apps include areas that are open to all visitors and password-protected areas, such as the secured financial and transactional information areas (the "**Service**"), that may be accessed only by Cargill Australia "account owners" and other authorised users (collectively, "**Authorised Users**"). These Terms of Use apply to both the public areas of this Site and Apps and the password-protected areas of this Site and Apps.

### **CONSENT**

#### **Eligibility to access the Site and Apps**

Our Site and Apps are directed to users who are at least 18 years old and are residing in and using the Site and Apps within Australia. We do not represent that Content available on or through our Site and Apps is appropriate for use or available in other locations. If You access our Site or Apps from outside Australia, You do at Your risk and You are responsible for compliance with laws applicable to Your accessing the Site and Apps from Your location.

#### **Your consent**

Please review these Terms of Use carefully. By accessing or using our Sites and Apps, You are agreeing to comply with and be bound by these Terms of Use. If You do not agree to these Terms of Use, You may not access or use our Sites and Apps.

You are responsible for ensuring all persons who access our Site or Apps through Your internet connection are aware of the Terms of Use and that they comply with them.

### **Agreements governing Your use of password-protected areas of our Sites and Apps**

When You register to use the Service or any other password-protected area of our Sites or Apps, You will be asked to agree (by checking a box or clicking on a button) to special terms governing Your use of the password-protected area. This type of agreement is referred to as a "click-through agreement." If any of the terms of the click-through agreement are different to the terms of these Terms of Use, the terms of the click-through agreement will prevail, to the extent of any inconsistency, and are intended to supplement or amend these Terms of Use but only with respect to the matters governed by the click-through agreement.

Additional terms and conditions may also apply to specific portions, services or features of the Site or Apps. All such additional terms and conditions are incorporated by reference in these Terms of Use.

### **CHANGES TO THESE TERMS OF USE**

As we add new features and functionality to our Sites and Apps, we may need to update or revise these Terms of Use. We therefore reserve the right to update or revise these Terms of Use, at any time and without prior notice, by posting the revised version on [www.cargill.com.au](http://www.cargill.com.au)

These changes will be effective as of the date we post the revised version on [www.cargill.com.au](http://www.cargill.com.au). Your use of our Sites or Apps following any such change constitutes Your consent to the terms of the revised Terms of Use. For this reason, it is important to review these Terms of Use each time You use our Sites or Apps.

You may access the current version of these Terms of Use by clicking on the link marked "Terms of Use" at the bottom of each page of our Sites or within the "more information" section within our Apps.

For Your convenience, we will post the effective date of the Terms of Use at the top of the Terms of Use, so that You can see at a glance whether our Terms of Use have changed since Your last visit.

### **CONTENT**

#### **Ownership of Site and Content**

Except as expressly set forth in the terms and conditions governing Authorised Users' use of the Service, rights, title and interests in this Site, including all of the software and code that comprise and operate our Sites and Apps, and all of the Content provided through our Sites and Apps is owned by us or by third parties who have licensed or provided their Content to us. Our Sites and Apps are protected under trademark, service mark, trade dress, copyright, patent, trade secret and other intellectual property laws. In addition, all of the Content is a collective work under Australian and international copyright laws and treaties, and we own the copyright in the selection, coordination, arrangement and enhancement of the Content of our Sites and Apps.

We hereby grant You a limited, revocable licence to download and print copies of any portion of the Content on our Sites and Apps to which You have properly gained access, but only for Your internal business use or for Your own personal, non-commercial use, and only if You do not remove, modify or obscure any copyright, trademark, or other proprietary notices from the Content You download. The foregoing license is subject to these Terms of Use and does not include the right to use any data mining, robots or similar data gathering or extraction methods.

This license is revocable at any time without notice and with or without cause. You may

not permit others to copy, distribute, perform or display publicly, prepare derivative works based on, broadcast, exploit or use any part of the Content on our Sites or Apps except as expressly provided in these Terms of Use without our prior written permission. Nothing in these Terms of Use shall be construed as transferring any right, title or interest in our Sites and Apps or their Content to You or anyone else, except the limited licence to use our Sites and Apps and their Content on the terms expressly set forth herein.

### **Accuracy of Content**

The Content on our Site and Apps is provided for general information only. It is not intended to amount to advice on which You should rely.

Although we make reasonable efforts to update the information on our Site and Apps, to the extent permitted by law, including the Australian Consumer Law, we make no representations, warranties or guarantees, whether express or implied, that the Content on our Site or Apps is accurate, complete or up-to-date.

### **Price information**

Unless expressly stated otherwise, the following applies to all prices, pricing information, currency exchange rates, futures exchange quotes and related Content made available through our Sites and Apps ("**Prices**"). All Prices form part of the Content and are subject to these Terms of Use.

All commodity-related Prices are exclusive of storage and handling charges and are quoted at base grade quality (unless otherwise expressly specified on our Sites or Apps), exclusive of GST (as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth)).

All Prices are subject to variation or withdrawal without notice. Should You rely on any Prices, You do so entirely at Your own risk and You acknowledge that we do not represent or warrant that the Prices are accurate or that any particular result or outcome is guaranteed.

Prices and Content provided to You via our Sites and Apps do not constitute an offer to contract with us or any other party.

Please contact us via the contact details on our Sites or Apps to confirm any pricing.

### **User content**

This Site and Apps may contain functionality that permit data and information to be posted, submitted, published, displayed or transmitted by You to us, or to other users or to third parties ("**User Contributions**").

Any User Contribution You post to the Site or Apps will be considered non-confidential and non-proprietary. You retain all of Your ownership rights in Your content, however by providing any User Contribution on the Site or Apps, You grant us and our affiliates and service providers the right to use, reproduce, modify, perform, display, distribute and otherwise disclose to third parties any such material for any purpose, at any time.

We also have the right to disclose Your identity to any third party who is claiming that any content posted or uploaded by You to our Site or Apps constitutes a violation (actual or alleged) of their intellectual property rights, or of their right to privacy.

You represent and warrant that:

- All User Contributions are full, complete, accurate, able to be relied upon and non-infringing of third party rights.
- You are duly authorised to submit the User Contribution and You own or control all rights to grant the licence granted above to us;

- All of Your User Contributions do and will comply with the Terms of Use.
- You understand and acknowledge that You are responsible for any User Contributions You submit or contribute, and You (and not us) have full responsibility for such content, including its legality, reliability, accuracy and appropriateness.
- We are not responsible, or liable to any third party, for the content or accuracy of any User Contributions posted by You or any other user of the Site or Apps.

### **Third-Party content**

Some of the information, commodity prices, articles and other materials available through our Sites and Apps are provided to us by third parties ("**Third Party Content**"). Wherever practical, in our opinion, the source of these third-party commodity prices, information and materials is identified. We do not endorse the Third Party Content or the vendors who supply them to us, nor do we warrant or represent that these commodity prices, information, materials are current, accurate, complete or reliable. We do not have a practice of monitoring or making inquiries about Third Party Content. Third Party Content is provided for Your interest and convenience only. Third Party Content does not represent our views. You rely on Third Party Content completely at Your own risk.

### **Availability**

You acknowledge and agree that Content may be obtained by our Sites and Apps using the Internet or other communication networks which are not operated by us and which may be affected by factors outside of our control. We do not guarantee that our Site or Apps, or any Content, will always be available, secure, uninterrupted or be error-free. We may suspend or withdraw or restrict the availability of all or any part of our Site or Apps for business and operations reasons and numerous factors outside our control. We will try to give You reasonable notice of any suspension or withdrawal.

You acknowledge and agree that our Sites, Portals and Apps may use mobile data networks to acquire Content or may require You to download information and that this may involve charges for data imposed by Your carrier or service provider. It is Your responsibility to be aware of these charges and we are not responsible for any charges You may incur through the use of our Sites and Apps.

Device manufacturers and device software providers (including but not limited to Apple and Google) have no obligation whatsoever to furnish any maintenance or support services with respect to our Sites, Apps or any Content.

### **Privacy**

Our Privacy Policy explains how we store and use, and how You may access and correct Your Personal Information (as that term is used in the Privacy Policy), how You can lodge a complaint regarding the handling of Your Personal Information and how we will handle any complaint.

By providing Your Personal Information to us, You consent to the collection, use, storage and disclosure of that information as described in the Privacy Policy. This includes consent to the collection, use, storage and disclosure of Sensitive Information (as that term is defined in the *Privacy Act 1988* (Cth)) You provide to us whether or not the Sensitive Information is directly requested by us.

You must not use, or cause the Site or Apps to be used, in any manner or for any purpose prohibited by any applicable privacy laws.

### **Trademarks**

The trademarks and service marks used or displayed on our Sites and Apps

("Trademarks") are registered and unregistered trademarks of members of Cargill, its related bodies, its affiliates, or third parties. You may not use any Trademarks displayed on our Sites or Apps without the prior express written permission of Cargill or the trademark owner.

## **USE OF SITE**

### **Passwords**

If You choose, or You are provided with, a user identification code, password or any other piece of information as part of our security procedures, You must treat such information as confidential. You must not disclose it to any third party.

We have the right to disable any user identification code or password, whether chosen by You or allocated by us, at any time, if in our reasonable opinion You have failed to comply with any of the provisions of these Terms of Use or You (or a related body) are in unremedied breach of any other agreement between You (or a related body) and Us.

If You know or suspect that anyone other than You knows Your user identification code or password, You must promptly notify us at [ **Grower Service Centre: 1800 447 246 or growerservicecentre@awb.com.au**

### **Prohibited Uses of Sites and Apps**

You may use the Site and Apps only for lawful purposes and in accordance with the Terms of Use. You agree not to use the Site or Apps:

- in any way that violates any applicable federal, state, local or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from other countries);
- for the purpose of exploiting, harming or attempting to exploit or harm minors or vulnerable adults in any way by exposing them to inappropriate content, asking for personally identifiable information or otherwise;
- to transmit, or procure the sending of, any advertising or promotional material, including any "junk mail", "chain letter" or "spam" or any other similar solicitation;
- to impersonate or attempt to impersonate us, any of our employees, another user or any other person or entity (including, without limitation, by using email addresses associated with any of the foregoing); or
- to engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Site or Apps, or which, as determined by us, may harm us or users of the Site or Apps or expose them to liability.

You are prohibited from attempting unauthorised access to the AWB and GrainFlow Sites, systems, networks or Apps. Unauthorised access includes, without limitation:

- attempting to access Content for which You have no authorisation;
- attempting any breach of system or network security;
- attempting to introduce a virus, trojan horse, worm, logic bomb, spyware, computer code, file, program or material which is malicious or technologically harmful to the AWB or GrainFlow system or network;
- attacking the Site via a denial-of-service attack or a distributed denial-of-service attack;

- sending unsolicited e-mails through the AWB or GrainFlow system or network; or
- otherwise attempting to interfere with the proper working of the Site or Apps.

Any violations of the AWB or GrainFlow Sites, system, Apps or network security may result in civil or criminal liability.

### **Linking to our Site**

You may link to our home page, provided You do so in a way that is fair and legal and does not damage our reputation or take advantage of it.

You must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part where none exists.

Our Site or Apps must not be framed or mirrored on any other site, nor may You create a link to any part of our Site other than the home page.

We reserve the right to withdraw linking permission without notice.

### **Links to third-party websites services and applications**

Our Sites and Apps may contain links or services to/from other web sites owned by third parties (including but not limited to, advertisers, affiliate partners, strategic partners, mapping services, location finders). We are not responsible for examining or evaluating, and we do not warrant the products or offerings of, any of these businesses or individuals, or the accuracy of the content of their websites and applications.

We do not assume any responsibility or liability for the actions, product, and content of any such websites or application. Before You use any third party website or application, You should review the applicable terms of use and policies for such websites and applications.

The inclusion of a link or service on our Sites or Apps does not imply our endorsement of such third party. If You decide to access any such linked websites, application or service, You do so at Your own risk.

### **Links to other Cargill websites**

This Site may contain links to other web sites owned by Cargill, our related bodies or our affiliates. Different websites are used for different purposes and therefore may have different terms of use and privacy policies. Before You use any other website, You should review the applicable terms of use and policies for that website.

### **Disclaimer of warranties**

Your use of our Sites and Apps and all of the Content, products and services made available through our Sites and Apps, is at Your sole risk. Our Sites, Portals and Apps, and all of the content, products and services made available through our Sites and Apps, is provided on an "as is" and "as available" basis, without representations or warranties of any kind whatsoever. To the fullest extent permitted by law, Cargill, its related bodies, its affiliates and their respective directors, officers, employees, agents, licensors and service providers, expressly disclaim all representations and warranties of any kind whatsoever, whether express, implied, or statutory, with respect to our Sites and Apps; the Content, products and services made available through our Sites and Apps; Your use of our Sites or Apps; or any websites to which our Sites and Apps are linked.

Without limiting the generality of the foregoing, Cargill, its related bodies, its affiliates and their respective directors, officers, employees, agents, licensors and service providers disclaim all representations and warranties (A) of merchantability, acceptable quality, fitness for a particular purpose, title and non-infringement; (b) arising from course of dealing or course of performance; (c) regarding the security of our Site, Apps or our systems; (d) that the Content is accurate, complete, current, relevant or reliable;

or (e) that Your use of our Site, Portals and Apps will be uninterrupted or error-free.

Some jurisdictions do not allow the limitation of certain warranties, so some of these disclaimers may not apply to You.

## **LIMITATION OF LIABILITY**

### **Limitation of liability**

Under no circumstances, shall Cargill, its related bodies, its affiliates, or their respective, officers, directors, employees, agents, licensors and service providers, be liable to You or to any third party for any indirect, incidental, special, exemplary or consequential losses or damages, including loss of profits, revenues, savings, opportunity, data or goodwill, arising out of or in connection with the use of or inability to use Our Sites or Apps or in connection with the Content, products and services made available through Our Sites or Apps.

In no event shall Cargill, its related bodies, its affiliates or their respective directors, officers, employees, agents, licensors and service providers, aggregate liability hereunder to You or to any third party claiming through You for any cause whatsoever arising out of or in connection with Our Sites or Apps or Content exceed AUD 100.00.

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 authorised 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.

Some Australian jurisdictions do not allow the exclusion of liability for certain types of damages. Accordingly, some of the foregoing limitations of liability may not apply to You.

### **Viruses**

We do not guarantee that our Site or Apps will be secure or free from bugs or viruses or any other type of malicious code or software.

### **Modification and discontinuation**

We reserve the right to discontinue or modify our Sites and Apps at any time without prior notice.

## **MISCELLANEOUS**

### **Interpretation**

As used in these Terms of Use, the term "including" means "including, but not limited to" and the term "related bodies" means "related bodies corporate" as that term is defined in the *Corporations Act 2001* (Cth).

### **Waiver**

Our failure at any time to require performance of any provision of these Terms of Use 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 any of us of any breach of any provision of these Terms of Use 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 these Terms of Use.

### **Severability**

If any provision of these Terms of Use 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 these Terms of Use shall remain in full force and effect.

### **Governing law, jurisdiction and venue**

These Terms of Use shall be governed under the laws of the State of Victoria, Australia without regard to its conflicts of law provisions. All actions or proceedings arising out of or relating to these Terms of Use shall be venued exclusively in state or federal court in Victoria, Australia. You hereby irrevocably consent and submit to the personal jurisdiction of said courts for all such purposes.

### **Entire agreement**

These Terms of Use, as supplemented or amended by any applicable, Privacy Policy, privacy notices or click-through agreements, contain the entire understanding and agreement between You and us with respect to this Site and supersede all previous communications, negotiations and agreements, whether oral, written, or electronic between You and us with respect thereto.

### **Your feedback**

We welcome Your comments, feedback, suggestions, and other communications regarding our Sites, Apps and the information and services we make available through them (collectively, "**Feedback**"). The Feedback You provide to us through our Sites will be and remain our exclusive property.

Your submission of Feedback will constitute an assignment to us of all worldwide rights, title and interests in Your Feedback, including all copyrights and other intellectual property rights in Your Feedback. We will be entitled to reduce to practice, exploit, make, use, copy, disclose, display or perform publicly, distribute, improve and modify any Feedback You submit for any purpose whatsoever, without restriction and without compensating You in any way. For this reason, we ask that You not send us any Feedback that You do not wish to assign to us.

### **Questions about these Terms of Use**

If You have any questions regarding these Terms of Use, please

Send an e-mail to [growerservicecenter@awb.com.au](mailto:growerservicecenter@awb.com.au)

Write to us at:

Web Terms of Use Inquiries

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