

## Customer Agreement

This Customer Agreement is part of the legally binding Agreement between AgriWebb and any person that registers for the Software (**Customer**). Please read the terms and conditions of the Agreement carefully. The Agreement is binding on any use of the Software and applies from the time Customer registers for the Software.

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### 1. Registration and trial

**1.1. Registration.** In order to access and use the Software, Customer must first register for the Software. Customer must provide accurate, complete and current information during registration and keep that information up to date. Customer's registration constitutes an offer to trial and/or purchase the Software from AgriWebb.

**1.2. Trial use.** For the duration of any free trial:

- (a) the rights in clause 2.1 are limited to access and use of the Software for Customer's internal evaluation purposes only; and
- (b) AgriWebb provides the Software "as is" and excludes all warranties, indemnities, obligations and liabilities under the Agreement for the duration of the free trial.

**1.3. Expiry of trial.** Upon expiry of any free trial, Customer's access and use of the Software and the Agreement will terminate automatically, with immediate effect, unless Customer purchases a subscription to the Software.

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### 2. Software and Services

**2.1. Access and use.** AgriWebb grants Customer a non-exclusive and non-transferable right to:

- (a) install the Software on supported devices; and
- (b) permit licensed Users to access and use the functionality of the Software available under Customer's free trial or subscription plan,

in each case, during the Term, for the Approved Purposes, subject to and in accordance with the terms of the Agreement.

**2.2. Usage restrictions.** Customer must not, and must ensure that Users do not:

- (a) install, access or use the Software except as contemplated by clause 2.1;
- (b) rent, lease, sub-license, loan, translate, copy, merge, combine with other programs, adapt, vary or modify the Software;
- (c) disassemble, decompile, reverse-engineer, view or gain access to the source code for, or create derivative works based on the whole or any part of the Software or attempt to do any such thing;
- (d) make the Software available in whole or in part in any form (whether object code, source code, by API or otherwise) to any person other than licensed Users without prior written consent from AgriWebb or use the Software to provide any product or service that is an alternative, substitute or competitor to the Software;

- (e) share user credentials or permit any person other than a licensed User to access and use the Software with user credentials issued to that User;
- (f) use the Software in any unlawful manner, for any unlawful purpose, fraudulently or maliciously, including by hacking or inserting malicious code, viruses, or harmful data, into the Software or any of AgriWebb's systems;
- (g) infringe AgriWebb's Intellectual Property Rights or those of any third party in accessing or using of the Software;
- (h) upload or transmit using the Software any material that is unlawful, defamatory, offensive, harmful or otherwise objectionable;
- (i) access or use the Software by any unauthorised means (including using any bot, script, spider, crawler, scraper or automated device) or in a way that could damage, disable, overburden, impair or compromise AgriWebb's systems or security or interfere with other users; or
- (j) collect or harvest any information or data (other than Data) from, or attempt to decipher any transmissions to or from, the servers used by AgriWebb.

**2.3. Usage responsibilities.** Customer uses the Software at its own risk and is solely responsible for ensuring that:

- (a) Users access and use the Service strictly in accordance with the Agreement and Customer remains responsible for each act and omission of its Users as though it were an act or omission of Customer;
- (b) access and use of the Software and Data by Customer and Users complies with all applicable Laws and contractual obligations and obtaining all Consents necessary to Process that Data; and
- (c) all user credentials issued to Customer and its Users are kept secure, confidential and not shared.

**2.4. Updates.** Customer must install Updates to the Software on Customer's devices as soon as reasonably practicable following the Updates becoming available. AgriWebb is not liable for any failure of the Software to comply with the Agreement or any conditions, warranties or guarantees conferred by Law, unless Customer has installed all Updates to the Software under this clause.

**2.5. Services.** Any Services to be provided by AgriWebb to Customer must be documented in an Order Form.

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### 3. Fees, invoicing and payment

**3.1. Fees.** The Fees are payable for AgriWebb's supply of the Software and any Services. AgriWebb may adjust the Fees at its discretion, including upon:

- (a) renewal of Customer's subscription;
- (b) a change to Customer's subscription plan;
- (c) a request for new Services.



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**3.2. Free trials and promotions.** Free trials, promotional pricing and other AgriWebb offers are available for a limited time only and may not be combined.

**3.3. Invoicing and payment.** AgriWebb will issue a tax invoice to Customer in respect of the Fees. Customer must provide debit or credit card information to purchase a subscription to the Software. Customer's debit or credit card will be automatically charged to pay each tax invoice unless AgriWebb has approved payment on receipt of invoice (in which case, Customer must pay the tax invoice within 14 days of receipt without set off or deduction and in immediately available funds).

**3.4. Late payment.** If Customer fails to pay any Fees (not disputed in accordance with clause 13.1) by the due date for payment, AgriWebb may:

- (a) suspend access to and use of the Software; and
- (b) charge interest at a rate equal to LIBOR + 5% per annum,

in each case, from the due date for payment until payment is received in full by AgriWebb.

**3.5. Verification.** AgriWebb may on 14 days' notice conduct an audit of Customer's use of the Software and compliance with the Agreement. Customer must provide all access to devices, systems, Users, records, and premises reasonably requested by AgriWebb in connection with any such audit. AgriWebb must bear the costs of any such audit unless the audit reveals that Customer has used, or permitted the use of, the Software in breach of the Agreement, in which case, Customer must immediately:

- (a) purchase any additional User licences required for Customer's actual use of the Software;
- (b) take all other steps required to remedy the breach of the Agreement and prevent its recurrence at its own cost; and
- (c) reimburse AgriWebb its reasonable audit costs.

**3.6. Taxes.** The Fees are exclusive of all Taxes. Customer must pay any applicable Taxes in addition to the Fees.

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## 4. Intellectual Property Rights

**4.1. Ownership.** All Intellectual Property Rights in and to the Software, Services, and Derivative Materials including in any copy, modification, enhancement, configuration, derivative work or improvement of the Software, vests or remains vested with AgriWebb or its licensors at all times. If any such Intellectual Property Right vests in Customer or Users, Customer hereby assigns and must procure that each User assigns, that Intellectual Property Right to AgriWebb with immediate effect.

**4.2. No other rights.** Neither Customer nor any User receives any right, title or interest in or to the Software other than the express right to install, access and use the Software under clause 2.1.

**4.3. Notice of infringement.** Customer must immediately notify AgriWebb in writing upon becoming aware of any:

- (a) infringement or unauthorised use of the Software by any person, including any User; or
- (b) Claim by any person that use of the Software by Customer in accordance with the Agreement infringes any Intellectual Property Right owned by that person.

**4.4. Remediation.** If the Software is the subject of an IP Claim, AgriWebb may (at its cost and option) either:

- (a) procure the right for Customer to continue using the Software;
- (b) modify the Software such that it no longer infringes the relevant Intellectual Property Rights; or
- (c) terminate the Agreement with immediate effect if neither 4.4(a) or 4.4(b) are practicable.

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## 5. Data and Derivative Materials

**5.1. Rights.** As between AgriWebb and Customer, all right, title and interest in the Data remains vested in Customer.

**5.2. Licence.** Customer:

- (a) grants AgriWebb, its sub-processors and their respective Personnel, the right to Process the Data; and
- (b) warrants that it has obtained all Consents from individuals, Users and other third parties necessary to enable AgriWebb, its sub-processors and their respective Personnel to Process the Data,

in each case, as contemplated by the Agreement.

**5.3. Other data.** Customer must access, use and disclose the data of other AgriWebb customers stored in the Software:

- (a) only with the prior written consent of such other AgriWebb customers; and
- (b) as though that data is the Confidential Information of AgriWebb under clause 7.

**5.4. Derivative Materials.** Customer acknowledges that AgriWebb may at its discretion:

- (a) create Derivative Materials, including by compiling, combining with other information, conducting data analytics, developing and manipulating the Data;
- (b) use and disclose Derivative Materials provided that AgriWebb does not disclose Derivative Materials which incorporate the Data in a form that could reasonably identify Customer or any individual without Customer's prior consent; and/or

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- (c) use information about Customer, Users and their use of the Software, for the purposes of billing, capacity planning, compliance, improving the Software, detecting and addressing threats to the functionality, security, integrity and availability of the Software, detecting and addressing breaches of the Agreement, AgriWebb policies and to resolve Customer's service requests.

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### 6. Privacy and Data security

- 6.1. Privacy.** Each party must comply with all applicable Privacy Laws in Processing any Personal Data in connection with the Agreement. Without limiting the foregoing, AgriWebb will Process all Personal Data comprised in the Data, or provided by Customer or Users, in accordance with the Privacy Policy.
- 6.2. Data Security.** AgriWebb implement appropriate technical and organisational security measures to protect the Data stored on the servers of AgriWebb and its sub-processors against loss, unauthorised access, modification and disclosure (**Data Breach**), including by:
- (a) not disclosing the Data except to its sub-processors, API partners, and their respective Personnel for purposes contemplated by the Agreement; and
  - (b) maintaining appropriate business continuity and disaster recovery measures for the Software.
- Customer is responsible for the security of Data stored on its devices and regularly backing up that Data.
- 6.3. Data Breaches.** If either party becomes aware of any actual or suspected Data Breach affecting the Data:
- (a) that party must promptly notify the other party in writing, including in such notice all known details of the actual or suspected Data Breach;
  - (b) AgriWebb must provide Customer with information and assistance reasonably required by Customer to investigate and assess the actual or suspected Data Breach;
  - (c) Customer is solely responsible for determining whether the actual or suspected Data Breach is notifiable under Privacy Laws, subject to clause 6.3(e);
  - (d) Customer must not mention AgriWebb in any subsequent notification or communication relating to the actual or suspected Data Breach without AgriWebb's prior written approval; and
  - (e) AgriWebb may make a notification or communication about the Data Breach if Customer fails to do so and AgriWebb is required to do so under applicable Privacy Laws.
- 6.4. DPA.** The DPA applies in addition to this clause 6 if Customer is domiciled in the European Union.

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### 7. Confidential Information

- 7.1. Confidentiality.** Each party (**Recipient**) must keep confidential and must not use, copy or disclose any Confidential Information of the other party (**Discloser**) except as permitted by this clause 7.
- 7.2. Permitted use.** The Recipient may use Confidential Information of the Discloser to the extent necessary to exercise its rights and perform its obligations under the Agreement.
- 7.3. Permitted disclosures.** The Recipient may disclose Confidential Information of the Discloser:
- (a) to the Affiliates, Personnel, subcontractors and professional advisors of the Recipient who need to know the Confidential Information for the purposes of the Agreement and who are bound by obligations of confidence as stringent as those in this clause;
  - (b) in enforcing the Agreement or in a proceeding arising out of or in connection with the Agreement;
  - (c) if required under any Law;
  - (d) as required or permitted by the Agreement; or
  - (e) with the Discloser's prior written consent.
- 7.4. Publicity.** Customer agrees that AgriWebb may:
- (a) disclose to third parties the fact that Customer has entered into the Agreement with, and is a customer of, AgriWebb; and
  - (b) use other information about Customer and its use of the Software (subject to obtaining Customer's prior consent),
- in any marketing or other material used by AgriWebb, including case studies.

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### 8. Disclaimer and non-excludable terms

- 8.1. Disclaimer.** To the extent permitted by Law, AgriWebb excludes all conditions, warranties and guarantees other than those expressly set out in the Agreement. Without limitation, AgriWebb does not represent or warrant:
- (a) the accuracy, currency, reliability or quality of the Software or any advice, suggestions, recommendations or other information contained within the Software;
  - (b) that the Software, or any advice, suggestions, recommendations or other information contained within the Software, are continuous, free from errors or omissions, security risks or exhaustive; or
  - (c) that the Software, or any advice, suggestions, recommendations or other information contained within the Software, are fit for a particular purpose or meet the requirements of Customer or Users.
- 8.2. Non-excludable terms.** If any condition, warranty or guarantee cannot be excluded at Law, then to the extent permitted by Law, AgriWebb's liability for breach of such condition, warranty or guarantee is limited (at AgriWebb's option) in the case of:

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- (a) Software, to the repair or replacement of the Software, supply of equivalent software or payment of the cost of the same; and
- (b) Services, to resupply of the Services or payment of the cost of the same.

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### 9. Indemnities

9.1. **AgriWebb indemnity.** AgriWebb indemnifies Customer against any Loss suffered or incurred by Customer arising out of or in connection with:

- (a) a Claim by any person that use of the Software by Customer in accordance with the Agreement infringes any copyright or patent owned by that person in Australia or the United Kingdom (**IP Claim**); or
- (b) any breach by AgriWebb of clause 7,

in each case, except to the extent that the IP Claim, breach or Loss is caused or contributed to by Customer, Users or any third party content, product or service.

9.2. **Customer indemnity.** Customer indemnifies AgriWebb and its Affiliates against and must pay on demand any Loss suffered or incurred by any of them arising out of or in connection with:

- (a) any Claim relating to access to, use of, uploading Data to, use or reliance on any output of, the Software by Customer or Users, including any third party Claim; or
- (b) any breach by Customer of clause 2.2, 5.2(b), 6.1 or 7;

in each case, except to the extent that the Claim or breach is caused or contributed to by AgriWebb.

9.3. **Conduct of claims.** The indemnification obligation of a party (**indemnifying party**) under clause 9.1 or 9.2 in respect of any third party Claim is subject to the other party:

- (a) promptly notifying the indemnifying party of the third party Claim;
- (b) permitting the indemnifying party to control the defence of the third party Claim; and
- (c) providing (at the indemnifying party's cost) all information and assistance reasonably requested by the indemnifying party in connection with the defence of the third party Claim.

9.4. **Sole and exclusive remedy.** Without prejudice to the termination rights of each party:

- (a) clause 9.1 sets out Customer's sole and exclusive remedy in respect of the matters indemnified by AgriWebb; and
- (b) clause 9.2 sets out AgriWebb's sole and exclusive remedy in respect of the matters indemnified by Customer.

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### 10. Limitations and exclusions of liability

10.1. **Force Majeure Events.** A party is not liable for any delay in, nor any failure to perform, its obligations under the Agreement to the extent the delay or failure is caused by a Force Majeure Event.

10.2. **Third party content.** The Software or Services may contain, integrate with, receive from, or provide links to content (including data and advice), products or services owned or controlled by third parties. Customer agrees that:

- (a) it accesses, uses and relies upon any such third party content, products or services at its own risk; and
- (b) AgriWebb excludes all liability for Claims and Losses arising out of or in connection with such third party content, products or services.

10.3. **Limitation of liability.** In no event will the aggregate liability of a party for all Claims and Losses, arising out of or in connection with the Agreement in any Year, exceed an amount equal to 50 percent of the Fees paid or payable by Customer in that Year.

10.4. **Exclusion of liability.** In no event will either party be liable for any Consequential Loss arising out of or in connection with the Agreement.

10.5. **Unlimited liabilities.** Clause 10.3 does not apply to, and shall not limit, a party's liability:

- (a) under any indemnity given by that party in the Agreement;
- (b) to pay Fees that are due and payable; or
- (c) for any matter in respect of which liability may not be limited at Law.

10.6. **Operation.** The limitations and exclusions of liability in the Agreement apply to the maximum extent permitted by Law and whether Claims arise from breach of contract, tort (including negligence) or under any other theory of liability.

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### 11. Term, suspension and termination

11.1. **Term.** The Agreement commences on the date of Customer's registration and continues in force until terminated in accordance with its terms.

11.2. **Auto-renewal.** If Customer purchases a subscription to the Software, on expiry of the subscription term, Customer's subscription will automatically renew (at Fees calculated under clause 3.1) for successive further subscription terms unless Customer provides notice of termination under clause 11.4 at least 30 days prior to expiry of the then current subscription term.

11.3. **Suspension.** AgriWebb may suspend access and use of the Software:

- (a) during any period in which Customer is in breach of the Agreement;

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- (b) to conduct scheduled and emergency maintenance of the Software; or
- (c) to protect the integrity and security of the Software.

**11.4. Termination for convenience.** Either party may terminate the Agreement for convenience by giving at least 30 days' written notice to the other party.

**11.5. Termination for cause.** Either party may terminate the Agreement with immediate effect by giving written notice to the other party if the other party:

- (a) commits a material breach of the Agreement which is irremediable or not remedied within 14 days after receiving written notice requiring it to be remedied. Any breach by Customer of clause 2.1, 2.2, 3.3, 5.2(b), 6.1 or 7 is a material breach for the purposes of this clause; or
- (b) suffers an Insolvency Event.

**11.6. Termination for variation.** If any amendment to the Agreement made under clause 14.3 adversely affects Customer, then Customer may terminate the Agreement with immediate effect by giving written notice to AgriWebb within 30 days of notice of the amendment.

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## 12. Consequences of termination

**12.1. General consequences.** On termination of the Agreement for any reason:

- (a) all rights granted to Customer under the Agreement cease;
- (b) Customer must delete from its devices, cease accessing and using the Software, including destruction of all Documents in its possession;
- (c) AgriWebb may remotely access, remove and cease providing you with the Software; and
- (d) Customer must, within 30 days of termination, pay to AgriWebb all Fees due and payable as at the date of termination.

**12.2. Refunds.** Customer is not entitled to any refunds of Fees already paid or payable as at the date of termination of the Agreement except where:

- (a) Customer terminates under clause 11.5 or 11.6; or
- (b) AgriWebb terminates under clause 4.4(c) or 11.4,

in which case, AgriWebb will refund any Fees prepaid by Customer in respect of the period following the date of termination on a pro rata basis.

**12.3. Data export.** For up to 30 days following termination of the Agreement, Customer is entitled (following a written request to AgriWebb) to export any Data that remains in the Software. Thereafter, AgriWebb has no obligation to retain any information relating to Customer (including Data) and all such information may be irretrievably deleted by AgriWebb.

**12.4. Survival.** Clauses 2.2, 3.5, 4.1, 5.4, 7, 12, 8, 9, 10, 12 to 15 and any other clauses which should by their nature survive termination of the Agreement, survive termination of the Agreement for any reason.

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## 13. Disputes and notices

**13.1. Disputes.** Neither party may commence any court or arbitration proceedings relating to a Dispute (except to seek urgent interlocutory relief) unless it has first complied with clause 13.2.

**13.2. Notice and resolution.** A party claiming that a Dispute has arisen must promptly notify the other party in writing giving details of the Dispute. The parties must:

- (a) use reasonable endeavours to resolve any Dispute for a period of 14 days following notification; and
- (b) if the parties are not able to resolve the Dispute in accordance with clause 13.2(a), the parties may agree to refer the Dispute to alternative dispute resolution (the costs of which will be borne by the parties equally).

**13.3. Provision of notices.** Any notice, demand, consent or other communication (**Notice**) given or made under the Agreement:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender;
- (b) must be addressed and delivered to the address or email address last notified by the intended recipient to the sender after the date of the Agreement; and
- (c) will be conclusively taken to be duly given or made when delivered, received or left at the above address or email address. If delivery or receipt occurs on a day that is not a business day in the place to which the Notice is sent or is later than 4pm (local time) at that place, it will be conclusively taken to have been duly given or made at the commencement of business on the next business day in that place.

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## 14. General

**14.1. Entire agreement.** The Agreement contains the entire agreement between the parties with respect to its subject matter. It sets out the only conduct, representations, warranties, covenants, conditions, agreements or understandings (collectively **Conduct**) relied on by the parties and supersedes all earlier Conduct by or between the parties in connection with its subject matter. None of the parties has relied on or is relying on any other Conduct in entering into the Agreement and completing the transactions contemplated by it.

**14.2. Inconsistency.** In the event of any inconsistency between the terms of any Order Form, the DPA (if applicable) and this Customer Agreement, the terms of the document listed first prevails to the extent of the inconsistency.

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**14.3. Amendment.** AgriWebb may unilaterally amend the terms of the Agreement (including Fees) from time to time, including to reflect changes in market conditions, the Software, Services, technologies, payment methods or Law. AgriWebb will provide notice of any such amendment by:

- (a) posting the amended version of this Customer Agreement at <https://www.agriwebb.com/customer-agreement>; or
- (b) notice in writing to Customer at least 30 days prior to the amendment coming into effect where the amendment relates to the Fees or a provision of an Order Form.

Customer's continued use of the Software or Services constitutes acceptance by Customer of any such amendment to the Agreement, subject to clause 11.6. The parties may also agree amendments to the Agreement in writing.

**14.4. Transfers.** Customer must not assign its rights or subcontract its obligations under the Agreement without AgriWebb's prior written consent. AgriWebb may assign its rights or subcontract its obligations under the Agreement without Customer's prior written consent. Without limiting the foregoing, Customer consents to AgriWebb assigning or novating the Agreement to:

- (a) to any Affiliate of AgriWebb; or
- (b) any purchaser of all, or substantially all, of the shares or assets of AgriWebb or its Affiliates.

**14.5. Further assurances.** Each party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of the Agreement and the transactions contemplated by it.

**14.6. Waiver.** No failure to exercise or delay in exercising any right, power or remedy under the Agreement operates as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

**14.7. Remedies cumulative.** The rights, powers and remedies provided to a party in the Agreement are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or any agreement.

**14.8. Severability.** Any provision of the Agreement which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of the Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.

**14.9. Third party rights.** No person other than AgriWebb and Customer:

- (a) has any right to enforce any term of the Agreement whether under Law or otherwise; or
- (b) must consent to any variation or rescission of the Agreement.

**14.10. Costs and duty.** Each party must bear its own costs arising out of the negotiation, preparation, execution and performance of the Agreement (unless expressly specified otherwise).

**14.11. Governing law and jurisdiction.** The Agreement is governed by the laws of:

- (a) England and Wales if Customer is domiciled in the European Union; and
- (b) New South Wales, Australia if Customer is domiciled in any other jurisdiction.

Each party irrevocably accepts the non-exclusive jurisdiction of courts with jurisdiction in the location determined by clauses 14.11(a) to 14.11(b) and waives any right to object to the venue on any ground.

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## 15. Definitions and Interpretation

**15.1. Definitions.** The following definitions apply unless the context requires otherwise.

**Affiliate** of a party means an entity that Controls, is Controlled by, or is under common Control with that party.

**Agreement** means this Customer Agreement, any Order Form and (if applicable) the DPA.

**AgriWebb** means, if Customer is domiciled in:

- (a) the European Union, AgriWebb UK Limited (company no. N1049264); and
- (b) any other jurisdiction, AgriWebb Pty Limited (ABN 56 163 515 900).

**Approved Purpose** means, if Customer is:

- (a) a manager or farmer of an agricultural property, the management of that agricultural property;
- (b) a professional advisor to a manager or farmer of an agricultural property, accessing the data of that manager or farmer stored in the Software (subject to obtaining all requisite Consents) in order to provide advisory services to that manager or farmer.

**Claim** means any demand, claim, action or proceeding, however arising and whether present, unascertained, immediate, future or contingent.

**Confidential Information** of a party means all information of a confidential nature relating to the business or affairs of that party or its Affiliates, including its, dealings, operations, products, services, customers, suppliers, Personnel and Intellectual Property Rights, in any form whether tangible or not and whether visible or not, disclosed or communicated by that party to the other, or learnt or accessed by, or to which the other party is exposed as a result of entering into the Agreement and:

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- (a) in the case of AgriWebb, includes the Fees, Software and Derivative Materials (subject to clause 5.4(b)); and
- (b) excludes any information that is in the public domain other than as a result of a breach of confidence.

**Consents** means any licences, clearances, permissions, certificates, permits, authorities, declarations, exemptions, waivers, approvals or consents.

**Consequential Loss** means any:

- (a) loss of profits, loss of revenue, loss of data, loss of use, loss of or damage to reputation, loss of or damage to goodwill, loss of business opportunity, loss of management time, or damage to credit rating; and
- (b) any loss that does not arise naturally or according to the usual course of things from a breach of the Agreement or other event giving rise to liability, whether or not such loss was in the contemplation of both parties, at the time they made the Agreement, as the probable result of the relevant breach or other event.

**Control**, in respect of a person, includes the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by agreement or otherwise, and includes the following:

- (a) direct or indirect ownership of more than 50% of the voting rights of such person; or
- (b) the right to appoint the majority of the members of the board of directors of such person (or similar governing body) or to manage on a discretionary basis the assets of such person.

**Data** means any data that is uploaded to, or Processed through, the Software, or otherwise provided to AgriWebb or its Personnel, by or on behalf of Customer or its Users.

**Derivative Materials** means materials, data, insights, works or other things derived or created by or on behalf of AgriWebb from or by reference (wholly or partly) to the Data.

**Dispute** means a dispute between the parties arising in connection with the Agreement.

**Documents** means all online documents, together with their accompanying supplemental information, relating to the Software made available to Customer by AgriWebb.

**DPA** means the AgriWebb Data Processing Addendum available at <https://www.agriwebb.com/dpa>.

**Fees** means the fees for supply of:

- (a) the Software specified by AgriWebb; and
- (b) any Services specified in an Order Form.

**Force Majeure Event** means an event or cause beyond the reasonable control of the party claiming force majeure, including any act of God, natural disaster, strike, riot, war, fire, explosion, storm, failure of power, utilities or communications networks.

**Insolvency Event** means where:

- (a) a party ceases, suspends or threatens to cease or suspend the conduct of all or a substantial part of its business or disposes of or threatens to dispose of a substantial part of its assets;
- (b) a party becomes unable to pay its debts when they fall due, or stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
- (c) a party becomes or is (including under legislation) deemed or presumed to be insolvent;
- (d) a party has a receiver, manager, administrator, administrative receiver or similar officer appointed in respect of it or the whole or any part of its assets or business;
- (e) any composition or arrangement is made with any one or more classes of its creditors;
- (f) except for the purpose of solvent amalgamation or reconstruction, an order, application or resolution is made, proposed or passed for its winding up, dissolution, administration or liquidation;
- (g) a party enters into liquidation whether compulsorily or voluntarily; or
- (h) any analogous or comparable event takes place in any jurisdiction.

**Intellectual Property Rights** means all industrial and intellectual property rights of any kind including but not limited to copyright (including rights in computer software), trade marks, service mark, design, patent, semi-conductor or circuit layout rights, trade, (whether or not any of these are registered) and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world.

**Law** means all laws including rules of common law, principles of equity, statutes, regulations, proclamations, ordinances, by-laws, mandatory codes of conduct, writs, orders, injunctions and judgments.

**Order Form** means an AgriWebb Subscription Order Form for the Software executed by AgriWebb and Customer and any documents referenced therein.

**Personal Data** means information or an opinion about an identified individual or an individual who is reasonably identifiable comprised in the Data, including "personal information" and "personal data" as defined in applicable Privacy Laws.

**Personnel** means in respect of a person any individual who is an employee, contractor, servant, or agent under the person's direct or indirect control.

**Privacy Laws** means all applicable Laws governing the Processing of Personal Data, including (where applicable) the *Privacy Act 1988* (Cth) and *General Data Protection Regulation (EU) 2016/679*.

**Privacy Policy** means the privacy policy of AgriWebb available at <http://www.agriwebb.com/privacy-policy>.

**Process** means to collect, store, access, use, copy, adapt, modify, reformat, transform, disclose or perform any other set of operations on.

**Services** means any API, support, implementation, training, data migration or other service not forming part of the Software.

## Customer Agreement

**Software** means object code versions of the 'AgriWebb' applications software modules that are the subject of Customer's free trial or subscription, which may include:

- (a) 'Farm Management Software';
- (b) 'Supply Chain Manager Software'; or
- (c) 'Advisor Portal,

in each case, including any related functionality provided via the internet as a service, Documents and Updates.

**Tax** includes any tax, levy, impost, deduction, charge, rate, duty, compulsory loan or withholding that is levied or imposed by a governmental agency, including GST, VAT and any related interest, penalty, charge, fee or other amount.

**Update** means any update or upgrade to the Software or Documents issued by AgriWebb from time to time.

**User** means any person who accesses or uses the Software through Customer's subscription, including Personnel and professional advisors of Customer.

**Year** means a calendar year commencing on the date of Customer's registration or an anniversary of that date.

15.2. **Interpretation.** The following rules apply unless the context requires otherwise:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural, and the converse also applies;
- (c) nothing in the Agreement is to be interpreted against a party solely on the ground that the party put forward the Agreement or a relevant part of it;
- (d) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (e) a reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity;
- (f) a reference to an agreement or document (including a reference to the Agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by the Agreement or that other agreement or document;
- (g) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (h) a reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in visible or tangible form; and
- (i) mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included.