

Monsanto Canada Inc.

End User License Agreement

Last Updated: December 15, 2016

This End User License Agreement (this “**Agreement**”) is a legal agreement between (i) you (either as an individual, or a single legal or contractual entity), and (ii) Monsanto Canada Inc. and its Affiliates (including The Climate Corporation) (“**we**”, “**us**” or “**Monsanto**”). By downloading, installing, activating or otherwise using the Climate Products, you represent and warrant (a) that you are at least 18 years of age or the age of majority where you reside, (b) that you are acting for business purposes, and (c) that you have the power and authority to enter into this Agreement; and, you agree to be bound by these terms and conditions, including The Climate Corporation’s [Privacy Policy](#). If you are entering into this Agreement on behalf of a company or other legal or contractual entity, you represent that you can bind such entity, in which case “**you**” or “**your**” shall refer to such entity. **YOU SHOULD READ THIS ENTIRE AGREEMENT BEFORE DOWNLOADING, INSTALLING, ACTIVATING OR USING ANY CLIMATE PRODUCT.**

The Climate Products provide information, estimates, prescriptions or other recommendations based on models and third party sources, as well as Data provided by you or your equipment. Our services, models, data and recommendations may change over time. Individual results may vary, as weather, growing conditions and farming practices differ across growers, locations and years. We do not guarantee any results, and none of the Climate Products or Generated Data should be used as a substitute for sound farming practices, including diligent field monitoring, or as a sole means for making farming, risk management or financial decisions. We recommend that you consult your agronomist, commodities broker and other service professionals before making financial, risk management and farming decisions.

Scope of this Agreement

This Agreement sets out how you can and cannot use the Climate Products provided or licensed to you by us, and what we will and will not do in connection with your use, as well as other important legal restrictions and obligations. While some Climate Products may be provided or licensed to you for free, you or your Sales Representative will need to submit an order for certain fee-based Climate Products. Your order will become effective only if we accept the order.

Your Use of the Climate Products

What you can do:

- As long as you comply with the terms of this Agreement, you and the individuals who work for you can use the Climate Products for your internal use only in connection with your farming operations.
 - The Climate Products are licensed, not sold, to you.
- If you have placed an order for a fee-based Climate Product, you can use that Climate Product only until your subscription for that Climate Product ends.
 - Please see the Section below entitled “Subscription Auto-Renewal, Subscription Fees and Payment” for more information on fees, payment, and automatic renewal of your subscriptions.
- We encourage you to let us know how we are doing or how you feel about the Climate Products.

What you agree to do:

- provide accurate, reliable and appropriate Data
- ensure that those individuals working for you comply with this Agreement
- keep your account and payment information up to date
- manage all passwords for your authorized users and immediately notify us if you believe that your account is no longer secure

What you cannot do:

- assign, transfer or sublicense this Agreement or the rights granted by us in this Agreement
- sell, lease, lend, license, distribute, re-distribute, copy, publicly perform or display, transmit or publish any Climate Products or Generated Data
- modify, edit, adapt, alter, translate, adopt, transfer, enhance, disassemble, scrape (through spidering, crawling or the like), reverse engineer or decompile the Climate Products or any code, script, or software forming any part of the Climate Products
- use the Climate Products on land or equipment that you do not own or have a right to use or operate
- use the Climate Products or Generated Data on behalf of any third party, including in any “service bureau” or similar capacity
- use the Climate Products or Generated Data other than as permitted under this Agreement, including but not limited to using them to:
 - develop, evaluate, validate or enhance any competitive product or service
 - create derivative works
 - make competitive comparisons
 - harass, abuse, stalk, threaten, defame or otherwise infringe or violate the rights of anyone or to publish material that is false, defamatory, harassing or obscene
- remove or modify any markings or notices of our or our licensors’ proprietary rights
- violate or circumvent, or attempt to do so, any Climate Product security feature, including attempting to access or use any portion of the Climate Products for which you have not paid all due and applicable amounts
- use, or otherwise import, export or re-export the Climate Products or Generated Data in any way that violates any applicable local, provincial or federal laws or regulations, or security programs, or fail to comply with same
 - In particular, but without limitation, you acknowledge that the Climate Products are subject to restrictions and controls imposed by the *Exports and Permits Act* (Canada) and regulations enacted thereunder and that the Climate Products may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the Climate Product, you represent and warrant that you are not located in any such country or on any such list.

If you do any of the above, we may suspend or terminate your access to the Climate Products, and we will not be responsible in any way for your actions.

Monsanto’s Rights and Obligations

What we may do:

- We will make the Climate Products available for ordering, subscription, or licensing through our own sales staff or through authorized third party dealers or representatives.
- We may provide updates, upgrades, releases and fixes to the Climate Products.
 - You must install or use the most recent version of the Climate Products and abide by any additional requirements.
 - We will try to notify you of any changes we make to the Climate Products, though this may not

always be possible.

- We will not be responsible in any way for use of an outdated version of a Climate Product.
- An update may result in a change, or discontinuation, of features of the Climate Products.
- We may use your feedback for any purpose without restriction.

Your information and Data:

- By uploading, inputting, transmitting, storing or otherwise making Data available to the Climate Products, you agree that we may use, display, perform, reproduce, modify and distribute such Data in connection with the Climate Products, and without any compensation paid to you.
 - We will collect, use and share your information in accordance with The Climate Corporation's [Privacy Policy](#) (as may be amended from time to time), which is incorporated by reference into, and made a part of, this Agreement.
 - We encourage you to read The Climate Corporation's [Privacy Policy](#) at <http://www.climatefieldview.ca/privacy-policy/>. We can also mail you a copy if you wish.
- If you proactively choose to, you can give your Sales Representative and other third parties access to certain Data and Generated Data in your account.
 - You can provide or revoke such access at any time in your account settings or by sending an e-mail to support@climate.com or a written Notice to us as set forth in the section entitled "Notice and Electronic Communications" below.

Digital Millennium Copyright Act:

- We comply with the provisions of the United States Digital Millennium Copyright Act applicable to Internet service providers (17 U.S.C. §512, as amended). We encourage you to read our Digital Millennium Copyright Act Policy at www.climate.com/digital-millennium-copyright-act/.

Ownership

- As between Monsanto and you, we are the sole owner of the Climate Products and Generated Data, and all associated technology and intellectual property rights, and we reserve all rights in and to the Climate Products and Generated Data. We do not grant you any rights or licenses under any of our technology or intellectual property rights, except as expressly granted in this Agreement.

Subscription Auto-Renewal, Subscription Fees and Payment

Subscription Auto-Renewal and Cancellation:

- Unless otherwise provided in the applicable order, your use and/or access to Climate Products is licensed as a subscription.
- ***UNLESS YOU RESIDE IN THE PROVINCE OF QUÉBEC***, and except as otherwise specified in the applicable order, each fee-based Climate Product subscription ordered on or after December 15, 2016, will **automatically renew** at the end of its initial term and each year thereafter.
 - You can choose to cancel the automatic renewal of your subscription at any time until 5 business days before your current subscription term is set to renew. Please contact Customer Support at (888) 924-7475 during regular business hours (7 a.m. to 6 p.m. Central time) to cancel the automatic renewal of your subscription.
 - If you cancel the automatic renewal of your subscription at least 5 business days before the end of the then-current subscription term, your subscription will end at the end of that term.
- ***FOR QUÉBEC RESIDENTS:*** If you reside in the Province of Québec, each fee-based Climate

Product subscription (regardless of purchase date) will be valid for the subscription term set forth in the applicable order and will not be auto-renewed. You will need to renew your subscription each year. We will email you with a reminder to renew your subscription at least sixty (60) days prior to the expiration of your subscription with instructions on how to renew.

Subscription Fees:

- Prices for fee-based Climate Product subscriptions may change in the future.
- *UNLESS YOU RESIDE IN THE PROVINCE OF QUEBEC*, and unless otherwise provided in the applicable order, the subscription fees for any renewed subscription will be the applicable list price for such Climate Product in effect when the subscription renews.
- *FOR QUÉBEC RESIDENTS*: If you reside in the Province of Québec and unless otherwise provided in the applicable order, the subscription fees for any renewed subscription will be the applicable list price for such Climate Product in effect when you choose to renew your subscription.
 - Except as expressly provided in the applicable order, renewal, if any, of promotional or one-time priced subscriptions will be at our applicable list price in effect at the time of the applicable renewal.
 - Notwithstanding anything to the contrary, any renewal in which the subscribed services or acres has changed from the prior subscription term may result in re-pricing at the time of renewal without regard to the prior subscription term's pricing.
- For subscriptions that automatically renew, if the price for your fee-based Climate Product subscription changes for the renewal term, we will notify you in advance of the applicable renewal term.
 - If you do not agree to the fee change, your sole and exclusive remedy is to cancel the automatic renewal of your subscription by contacting Customer Support at (888) 924-7475 during regular business hours (7 a.m. to 6 p.m. Central time) within 30 days of the notice of any fee change.

Payment:

- You agree to pay: (i) when due, all amounts set forth in the applicable order for any fee-based Climate Product and, (ii) at the time of renewal, the applicable subscription fees for any renewed Climate Product subscription.
 - Subscription fees and prices for Climate Products listed in an order and for any renewed Climate Product subscriptions are exclusive of taxes, and you will be responsible for all applicable taxes, except for taxes based on Monsanto's income. If we have the legal obligation to pay or collect any taxes for which you are responsible, you will be required to pay us that amount unless you provide us with a valid tax exemption certification authorized by the appropriate taxing authority.
 - Unless otherwise specified, overdue amounts will accrue interest at the lesser of 1.5% per month or the highest rate allowed by law.
- If you have provided us with your payment information (including credit-card, debit-card or bank-account information), you authorize us to charge your payment method for the fees due for your use of the Climate Products.
 - We will notify you of the applicable subscription fees before charging your payment method.
 - We may provide your payment information and related personal data to third parties for payment processing and fraud prevention purposes.
 - You will provide us with valid and up to date payment information.
 - We may seek pre-authorization of your credit-card or debit-card account to verify that the card is valid and has the necessary funds or credit available to cover your payment.
 - If a payment is not successfully settled for any reason, you remain responsible for any uncollected amounts.
 - You may edit your payment information at any time in your account settings or by sending an e-mail to support@climate.com or a written Notice to us as set forth in the section entitled "Notice and Electronic Communications" below.

- You may withhold payment for fees that you reasonably and in good faith dispute as owing, but you must pay any undisputed fees.
 - You must notify us in writing of any such disputed fees within 15 days of the invoice date and provide us with written details about why you dispute the invoice.
 - After we receive notice of the dispute, we will work with you in good faith to resolve the dispute.
- If your subscription fee payment is 30 or more days overdue (or 10 or more days if paying by credit or debit card), we may suspend your access until such amounts are paid in full.

Other important legal information

Disclaimers, and Limitations on Liability and Damages for Use of Climate Products:

To the greatest extent permissible by applicable law:

- Use of the Climate Products and Generated Data is at your sole risk.
- We do not promise that your use of the Climate Products will be uninterrupted or that the Climate Products or Generated Data will meet your requirements, be accurate or be error-free.
- **THE CLIMATE PRODUCTS AND ANY SERVICES PERFORMED OR GENERATED DATA PROVIDED BY OR THROUGH THE CLIMATE PRODUCTS ARE PROVIDED "AS IS" AND "AS AVAILABLE", WITH ALL FAULTS.**
- **MONSANTO AND OUR AFFILIATES AND PARENT COMPANY, AND EACH OF OUR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS, SUCCESSORS, LICENSORS OR SUBCONTRACTORS, DO NOT MAKE ANY REPRESENTATIONS, WARRANTIES, TERMS, CONDITIONS OR ENDORSEMENTS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR ARISING OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE AS TO ANY MATTER UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF YIELD RESPONSE, MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, TITLE, ACCURACY, SUITABILITY, RELIABILITY, FREEDOM FROM VIRUSES, OR COMPLETENESS, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED.**
 - No oral or written information or advice given by us or our authorized third party representatives will create a warranty or condition.
 - The disclaimers and exclusions in this Agreement will apply notwithstanding any failure of essential purpose of any limited remedy.
 - Some jurisdictions do not allow the exclusion of implied warranties or limitations on applicable statutory rights of a consumer, so the above exclusion and limitations may not apply to you; however, such limitations and exclusions will apply to the maximum extent possible wherever applicable law permits.
- **MONSANTO AND OUR AFFILIATES AND PARENT COMPANY, AND EACH OF OUR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS, SUCCESSORS, LICENSORS OR SUBCONTRACTORS, WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY CLAIM, LOSS OR DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS, LOSS OF CROPS OR YIELD, LOSS OF DATA, OR BUSINESS INTERRUPTION, UNDER OR BY VIRTUE OF THIS AGREEMENT, ARISING OUT OF OR RELATED TO ANY CLIMATE PRODUCT, DATA OR GENERATED DATA OR FOR ANY CLAIM BY ANY THIRD PARTY, OR INCURRED AS A RESULT OF YOUR USE OR INABILITY TO USE THE CLIMATE PRODUCTS OR A DECISION MADE OR ANY ACTION TAKEN BY YOU IN RELIANCE ON THE CLIMATE PRODUCTS, GENERATED DATA OR ANY RESULTS OBTAINED FROM THEIR USE, REGARDLESS OF WHETHER MONSANTO OR OUR AFFILIATES OR PARENT COMPANY HAD BEEN ADVISED OF OR COULD HAVE FORESEEN**

THE POSSIBILITY OF SUCH CLAIM, DAMAGE OR LOSS.

- **YOU WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES UNDER OR BY VIRTUE OF THIS AGREEMENT, ARISING OUT OF OR RELATED TO ANY CLIMATE PRODUCT, DATA OR GENERATED DATA OR FOR ANY CLAIM BY ANY THIRD PARTY.**
- Certain features of the Climate Products may permit you to upload or otherwise make Data available to the Climate Products. You are solely responsible for your Data and the consequences of uploading or otherwise making Data available to the Climate Products.
- We have no responsibility, and will incur no liability whatsoever, arising from or related to Data not owned by you or any disclosure or use of your Data or Generated Data by a third party that you have granted access to your Climate Product or information.
- We are not responsible for any delays, limitations, delivery failures, losses or damages resulting from the transfer and transmission of data over communications facilities, including the internet.
- **IF, NOTWITHSTANDING THE ABOVE LIMITATIONS, WE ARE FOUND LIABLE FOR ANY LOSS OR DAMAGES, OUR MAXIMUM LIABILITY ARISING OUT OF OR IN THE CONNECTION WITH THIS AGREEMENT OR ANY CLIMATE PRODUCT OR GENERATED DATA WILL BE THE ACTUAL AMOUNTS YOU PAID TO US FOR SUCH CLIMATE PRODUCT DURING THE 12 MONTHS PRIOR TO THE DATE ON WHICH THE RELEVANT CLAIM ARISES.**
- **UNLESS OTHERWISE PROHIBITED BY APPLICABLE LAW, IF AN ACTION OR LAWSUIT ARISING OUT OF OR RELATED TO THIS AGREEMENT OR A CLIMATE PRODUCT OR GENERATED DATA IS NOT COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.**
- **SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY BY SERVICE PROVIDERS, AND AS SUCH, YOU MAY HAVE ADDITIONAL RIGHTS BY LAW WHICH MAY VARY FROM ONE JURISDICTION TO ANOTHER. IF SUCH EXCLUSIONS OR LIMITATIONS ARE SPECIFICALLY PROHIBITED BY APPLICABLE LAW, SOME OF THE EXCLUSIONS OR LIMITATIONS SET OUT ABOVE MAY NOT APPLY TO YOU. THESE LIMITATIONS OF WARRANTY AND LIABILITY SHALL APPLY WHEREVER AND TO THE EXTENT PERMITTED BY APPLICABLE LAWS.**

Indemnity:

- You agree to defend, hold harmless and indemnify Monsanto and our Affiliates and parent company, and each of our respective employees, officers, directors, shareholders, agents, successors, licensors and subcontractors, from and against any claim, liability, damage, loss, or expense, including reasonable attorneys' fees, arising out of or connected with:
 - Your access to, or use of, the Climate Products or Generated Data
 - Your violation of any portion of this Agreement or any applicable law or regulation
 - Your violation of any third party right, including any intellectual property right
 - Any dispute or issue between you and any third party
- We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of that claim.

Third party services:

- You are solely responsible for all requirements for access to or use of the Climate Products through your mobile device, internet or telecommunications provider, or the terms related to the use of any required additional software.
- The Climate Products may contain certain third party software provided under separate licenses, as described at www.climate.com/open-source/, or enable access to third party websites, services, content or materials.
 - The terms and conditions of the applicable license control use of any third party software,

websites, services, content or materials.

- You bear all risk, and will be solely responsible for obtaining any necessary rights and licenses, for any use of or access to any third party software, websites, services, content or materials.

Effective date and termination:

- This Agreement will become effective when you first indicate your acceptance of this Agreement or on the effective date set out on your applicable order, whichever is earlier.
- Either you or Monsanto may terminate this Agreement if the other party materially breaches this Agreement and fails to remedy the breach within 30 days of notice of such breach.
- We may terminate this Agreement with respect to any Climate Product if: (i) we no longer offer the Climate Product; (ii) you do not pay your applicable amounts on time; (iii) your continued use of the Climate Product violates this Agreement or any applicable law or regulation; or (iv) we believe that your account has been accessed without your authorization.
- If we or you terminate this Agreement with respect to any Climate Product:
 - your right to use or access such Climate Product will be terminated immediately, and you must immediately stop using the software, or you will no longer be able to access or use the service, as applicable; and
 - you must immediately pay a pro-rated portion of any then unpaid subscription fees, or your sole right and remedy will be a pro-rated refund of amounts already paid by you, each based on the number of days remaining in your order and the total number of days in the order.

Entire agreement:

- This Agreement, together with The Climate Corporation's [Privacy Policy](#), all orders for any Climate Products and all other related documents and schedules, constitutes the entire agreement between you and Monsanto pertaining to your use of the Climate Products and supersedes all other agreements previously existing between you and Monsanto regarding your use of the Climate Products.
- The terms of an order for a Climate Product will control over conflicting terms in this Agreement, but only with respect to the Climate Products in such order. You and Monsanto may also enter into a separate signed contract governing your use of a Climate Product. In that case, the order of precedence, with respect to that Climate Product only, will be: (1) the signed contract, (2) the applicable order and (3) this Agreement.

Other terms:

- The parties will perform under this Agreement as independent contractors. This Agreement does not create a joint venture, partnership, or formal business organization of any kind. This Agreement is binding upon, inures to the benefit of, and is enforceable by the parties and their respective heirs, executors, successors and assigns. The unenforceability of any provision will not affect any other provision in this Agreement, and any unenforceable provisions will be limited or eliminated to the minimum extent necessary. Failure to insist upon the performance of, or to exercise any rights under, this Agreement will not be construed as a waiver of any future performance or the future exercise of any such right. All rights and remedies under this Agreement are cumulative and in addition to any other rights and remedies available at law. Those provision(s) whose context indicates that it is intended to survive will survive termination or expiration of this Agreement.

Governing Law; Dispute Resolution and Arbitration

Governing Law:

- *UNLESS YOU RESIDE IN THE PROVINCE OF QUÉBEC*, this Agreement and all conduct, disputes and causes of action related to this Agreement will be governed by the laws of the Province of Manitoba and the laws of Canada applicable therein.
 - The Uniform Computer Information Transactions Act and UN Convention on Contracts for the International Sale of Goods are explicitly disclaimed.
- *FOR QUÉBEC RESIDENTS*: If you reside in the Province of Québec, this Agreement and all conduct, disputes and causes of action related to this Agreement will be governed by the laws of the Province of Québec and the laws of Canada applicable therein.
 - The Uniform Computer Information Transactions Act and UN Convention on Contracts for the International Sale of Goods are explicitly disclaimed.

Dispute Resolution and Arbitration:

- Except where prohibited by applicable law, you and Monsanto agree that every dispute arising by virtue of or in connection with this Agreement which cannot be amicably resolved will be referred to, and finally resolved and settled (to the exclusion of the courts) by private and confidential binding arbitration, before a single arbitrator held in Winnipeg, Manitoba, subject to the exceptions below.
 - Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and is subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award.
 - This agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of this Agreement, regardless of whether a claim arises during or after the termination of this Agreement. **YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THIS AGREEMENT, YOU AND MONSANTO ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.**
 - Exceptions. Despite the provisions above, either party may: (a) bring an individual action in small claims court; (b) pursue an enforcement action through the applicable agency if that action is available; (c) seek injunctive relief in a court of law; or (d) file suit in a court of law to address an intellectual property infringement claim.
 - Arbitrator. Any arbitration between you and Monsanto will be governed by the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes as updated from time to time (collectively, “AAA Rules”) of the American Arbitration Association (“AAA”), as modified by this Agreement, and will be administered by the AAA. The AAA Rules and filing forms are available online at www.adr.org, by calling the AAA at 1-800-778-7879, or by contacting Monsanto. To the extent that there is no conflict or inconsistency between the AAA Rules and the provisions of *The Arbitration Act of Manitoba*, as amended (the “Act”), the provisions of the Act will apply to such arbitration, provided always that in the event of any such conflict or inconsistency, the provisions of the AAA Rules will govern.
 - Notice; Process. A party who intends to seek arbitration must first send a written Notice of the dispute to the other party as set forth in the section entitled “Notice and Electronic Communications” below. The Notice must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought (“Demand”). The parties will use good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within 30 days after the Notice is received, you or Monsanto may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by you or Monsanto must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any. If the dispute is finally resolved through arbitration in your favor, Monsanto will pay you the highest of the following: (i) the amount awarded by the arbitrator, if any; (ii) the last written settlement amount offered by Monsanto in settlement of the dispute prior to the arbitrator’s award; or (iii) \$1,000.
 - Fees. If you commence arbitration in accordance with this Agreement, Monsanto will reimburse you for your payment of the filing fee, unless your claim is for more than \$10,000, in which case the payment of any fees will be decided by the AAA Rules. If the claim is for \$10,000 or less,

you may choose whether the arbitration will be conducted: (a) solely on the basis of documents submitted to the arbitrator; (b) through a non-appearance based telephone hearing; or (c) by an in-person hearing as established by the AAA Rules. Any arbitral hearing will be conducted in the county (or parish) of your billing address. If the arbitrator finds that either the substance of a claim or the relief sought by either party is frivolous or brought for an improper purpose (as measured by the standards set forth in the Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules and you agree to reimburse Monsanto for all monies previously disbursed by us that are otherwise your obligation to pay under the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rules and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

- **No Class Actions.** **YOU AND MONSANTO AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER PARTY ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. YOU ARE GIVING UP YOUR RIGHT TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY LAWSUIT INVOLVING ANY SUCH DISPUTE.** Further, unless both you and Monsanto agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative class or proceeding.
- **Modifications.** If Monsanto makes any future changes to this arbitration provision (other than a change to Monsanto's address for Notice), you may reject the change by sending us written notice within 30 days of the change, in which case your subscription and access to the Climate Products will be immediately terminated and this arbitration provision, as in effect immediately prior to the changes you reject, will survive.
- **Enforceability.** The arbitrator has exclusive authority to resolve any dispute relating to the interpretation, applicability, or enforceability of this binding agreement to arbitrate. If the subsection entitled "No Class Actions" above is found to be unenforceable, then the entirety of this section entitled "Dispute Resolution and Arbitration" will be null and void and, in that case, the parties agree that the exclusive jurisdiction and venue described separately in this Agreement will govern any action arising out of or related to this Agreement. Except for the subsection entitled "No Class Actions" above, if any provision of this section entitled "Dispute Resolution and Arbitration" shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full force and effect.
- **UNLESS YOU RESIDE IN THE PROVINCE OF QUÉBEC, IF A LAWSUIT OR COURT PROCEEDING IS PERMITTED UNDER THIS AGREEMENT, THEN YOU AND MONSANTO AGREE TO SUBMIT TO THE PERSONAL AND EXCLUSIVE JURISDICTION OF THE COURT OF QUEEN'S BENCH FOR THE PROVINCE OF MANITOBA LOCATED IN WINNIPEG, MANITOBA FOR THE PURPOSE OF LITIGATING THE DISPUTE.**
- **FOR QUÉBEC RESIDENTS: IF YOU RESIDE IN THE PROVINCE OF QUÉBEC, AND IF A LAWSUIT OR COURT PROCEEDING IS PERMITTED UNDER THIS AGREEMENT, THEN YOU AND MONSANTO AGREE TO SUBMIT TO THE PERSONAL AND EXCLUSIVE JURISDICTION OF THE COURT THAT IS DESIGNATED BY THE LAWS OF QUÉBEC FOR THE PURPOSE OF LITIGATING THE DISPUTE.**

Force Majeure

- Except for payment obligations, neither you nor Monsanto will be in breach of this Agreement or responsible for damages caused by delay or failure to perform any of its obligations under this Agreement due to circumstances beyond the control of the claiming party.

Updates to this Agreement

- We may change this Agreement, in whole or in part, at any time, and we will try to let you know as soon as possible when we have made any changes, such as by sending an e-mail to you, by posting a notification on or within the Climate Products, or other similar mechanism. You can view the most current version of this Agreement at: www.climatefieldview.ca/eula/. The “Last Updated” legend at the top of this page indicates when this Agreement was last revised.
 - Unless otherwise stipulated by applicable law, any changes to this Agreement will become effective upon the earlier of: (a) when you first indicate your acceptance of the changes, including, without limitation, your first use of the Climate Products with actual notice of such changes, or (b) 30 days after we post or distribute the revised Agreement, and such changes will apply to your use of the Climate Products after the effective date of the revised Agreement. If you do not wish to accept the new Agreement, you must stop using the Climate Products.
 - If required by applicable law, we will send you a notice setting out the new language (or the original language and proposed changes), the effective date of such changes and your rights to refuse the changes, at least 30 days before the changes will become effective. If you do not agree to the changes, you must stop using the Climate Products, and you may cancel your subscription without cost, penalty or cancellation indemnity, by sending us a notice to that effect no later than 30 days after the changes become effective.

Additional Requirements for Apple App

- If you are using the Climate Products through mobile application software on an Apple Inc. (“Apple”) device, including any iPhone, iPod touch or iPad devices (“Apple App”), you further acknowledge and agree to the following: (i) this Agreement is between you and Monsanto only, not with Apple, and Apple is not responsible for the Apple App or Climate Products; (ii) Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Apple App; (iii) you may use the Apple App on any Apple device you own or control and as permitted by the Usage Rules set forth in the Apple App Store Terms of Service; (iv) in the event of any failure of the Apple App to conform to any applicable warranty, you may notify Apple and Apple will refund any applicable purchase price for the Apple App to you; and, to the maximum extent permitted by applicable law, Apple has no other warranty obligation whatsoever with respect to the Apple App; (v) Monsanto (and not Apple) is responsible for addressing any claims by you or any third party relating to the Apple App or your possession and/or use of the Apple App, including: (1) product liability claims; (2) any claim that the Apple App fails to conform to any applicable legal or regulatory requirement; and (3) claims arising under consumer protection or similar legislation; (vi) in the event of a third party claim that the Apple App and/or your possession and use of the Apple App infringes that third party’s intellectual property rights, Monsanto (and not Apple) is responsible for the investigation, defense, settlement and discharge of any such claim to the extent any such obligation exists; (vii) Apple, and Apple’s subsidiaries, are third party beneficiaries of this Agreement, and upon your acceptance of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against you as a third party beneficiary of this Agreement solely with respect to this paragraph; (viii) you represent and warrant that (1) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country; and (2) you are not listed on any U.S. Government list of prohibited or restricted parties.

Notice and Electronic Communications

- Any applicable notice, disclosure, authorization, acknowledgement or other document required to be given or made available (“Notice”) will be in writing and delivered by mail or e-mail (where

permitted). The receiving party will be deemed to have received such Notice upon delivery or transmission or, in the case of mail, 48 hours after mailing.

- Notice to us must be sent to:
 - The Climate Corporation
 - Attn: Legal Department
 - 201 3rd Street, Suite 1100
 - San Francisco, CA 94103
 - E-mail: legal@climate.com
- By installing, downloading, activating or using a Climate Product, you expressly consent and agree that we may send you all Notices electronically to your primary e-mail address provided in your account.
- Any Notices, agreements, disclosures or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing.
- At any time, you may: (1) request a paper copy of any Notice provided or made available electronically to you by us, free of charge, and/or (2) withdraw your consent to receive future Notices electronically. Please send an e-mail to support@climate.com with such request(s) and provide your mailing address for the Notices.
- **It is your responsibility to keep your primary e-mail address up to date so that we can communicate with you electronically.**
 - If we send a Notice to your primary e-mail address on file and your primary e-mail address on file is incorrect, out of date, blocked by your service provider, or you are otherwise unable to receive electronic communications, we will be deemed to have provided the Notice to you.
 - You may need to add us to your contacts or e-mail address book so that you will be able to receive the Notices we send to you.
 - If electronic Notices sent to you by us are returned because of an invalid e-mail address, we may deem your account to be inactive, and you will not be able to transact any activity using your account until we receive a valid, working e-mail address from you.
- If you want to change your e-mail address where we should send electronic Notices, you can:
 - send an e-mail message to us at support@climate.com, and in the body of such request, state your previous e-mail address and your new e-mail address; or
 - update your primary e-mail address at any time in your account.

Electronic Contracting

- Your installation, downloading, activation or use of the Climate Products and internet sites for ordering such Climate Products includes the capacity and ability to enter into agreements and/or to make transactions electronically. YOU ACKNOWLEDGE THAT YOUR ELECTRONIC SUBMISSIONS CONSTITUTE YOUR AGREEMENT AND INTENT TO BE BOUND BY SUCH AGREEMENTS AND TO PAY FOR SUCH TRANSACTIONS. YOUR AGREEMENT AND INTENT TO BE BOUND BY ELECTRONIC SUBMISSIONS APPLIES TO ALL RECORDS RELATING TO ALL TRANSACTIONS YOU ENTER INTO RELATING TO YOUR CLIMATE PRODUCTS, INCLUDING NOTICES OF CANCELLATION, POLICIES, CONTRACTS, AND APPLICATIONS, SUBJECT TO YOUR RIGHT TO WITHDRAW CONSENT TO RECEIVE NOTICES ELECTRONICALLY AS PROVIDED IN THIS AGREEMENT. In order to access and retain your electronic records, you may be required to have certain hardware and software, which are your sole responsibility.

Definitions

- “Affiliate” means any subsidiary or other entity that directly or indirectly is controlled by, or is under common control of, an entity.
- “Climate Products” means the following items provided by us to you, regardless of naming or

branding, either alone or in combination with each other or with hardware: (i) farm management, agriculture decision support and precision agriculture software, in any form, or software as a service and similar products; (ii) farm management, agriculture decision support and precision agriculture services, including, for example, soil testing and field imaging; (iii) the websites, applications and technology platforms that deliver, or allow you to access, these software or software as a service products or services, including our website located at www.climatefieldview.ca; or (iv) all related documentation, updates, upgrades, releases and fixes.

- “Data” means the location, field map or boundary, weather, climate, agronomic, crop loss, crop yield, environmental, farming practice, account information and other information and data that is uploaded, inputted, transmitted or stored to or in your Climate Products, directly by you or your Sales Representative or through your equipment.
- “Generated Data” means data, features, functionality, tools, analyses, results, estimates, recommendations and other information generated, published, displayed, transmitted or made available in or by the Climate Products, whether or not related to Data.
- “Sales Representative” means your dealer that sold your Climate Product subscription(s) to you.