

UPDATED 01/2020



API AGREEMENT

FARMOBILE DATAFEED APPLICATION PROGRAMMING INTERFACE (API) LICENSE AGREEMENT – JANUARY 2020

The Farmobile DataFeed Application Programming Interface (“DataFeed API”) and Data License Agreement sets forth the terms governing use of and access to the DataFeed API, the related documentation and customer farm data. The DataFeed API is designed to permit the Licensee to receive data from Farmobile’s proprietary database and to assist Licensee in creating an application or service, or in enhancing an existing application or service, for use in connection with Farmobile’s customer data for the benefit of the parties’ mutual customers. Each time you access the DataFeed API, the then current version of the Agreement applies. Accordingly, when you use the DataFeed API, you should check the date of this Agreement, which appears above, and review any changes since the last version. **PLEASE READ ALL OF THE AGREEMENT TERMS BEFORE YOU SIGN THE DOCUMENT.** Contact us with any questions.

Farmobile LLC, a Kansas limited liability company ("**Farmobile**"), offers to farmers a unique data collection system ("**Services**") utilizing a simple, out- of-the-box plug-in device called the PUC device that automatically uploads machinery and field activity data to a farmer's unique, cloud-based Electronic Field Record ("**EFR**") as farm machinery passes over the farmer's field. This Equipment Lease and Data Upload Agreement ("**Agreement**") establishes the terms by which you, the User, lease the PUC device and transfer and store your EFRs with Farmobile. If you obtained the PUC device from a person other than Farmobile, such person is identified as a distributor ("**DISTRIBUTOR**") at the top of this page. Your relationship with your Distributor may be subject to additional terms and conditions not part of this Agreement.

This **FARMOBILE DATAFEED APPLICATION PROGRAMMING INTERFACE (API) AND DATA LICENSING AGREEMENT** (the "**Agreement**") is entered into on _____ ("**Execution Date**") between

- A. Farmobile LLC, a Kansas limited liability company having its principal place of business at 4001 W. 114th Street, Suite 300, Leawood, KS 66211 (**Farmobile** or "**Licensor**"), and

- B. _____, the DataFeed API connection party, with its business address at _____ [Company Address] [**You**", "**Your**" or "**Licensee**"].

You hereby agree to the terms of this Agreement and acknowledge the receipt and sufficiency of the consideration provided herein below:

1. DEFINITIONS (in alphabetical order).

- 1.1. **“Data”** means the agricultural agronomic and/or machine data, including information derived to field records, product applications, geologic, geographic, land and soil properties, crop yield and physical properties, dates, and other related data, which has been collected from Farmobile’s customers or their agents using a Farmobile PUC device and/or any other data collected and/or otherwise provided to Licensee by Farmobile via the DataFeed API.
- 1.2. **“DataFeed API”** means all versions, modifications, enhancements, and/or extensions of the Farmobile DataFeed API and any accompanying or related documentation, source code, executable applications, or other materials made available by Farmobile to the Licensee.
- 1.3. **“Designated Countries”** means the countries from which Licensee is authorized to access the DataFeed API and in which Data may be displayed, which as of the current date of this Agreement includes only the following countries: United States; Canada.
- 1.4. **“End Users”** means Licensee’s customers and/or their Trusted Advisor(s) who access Data through the Licensee Application.
- 1.5. **“Farmobile Application”** mean’s web or other software service or application adapted for use and/or developed by Licensor that interacts with the Licensee application through the DataFeed API.
- 1.6. **“Farmobile EULA”** means the Farmobile Subscription End User License Agreement, available at http://www.farmobile.com/wp-content/uploads/2018/06/Farmobile_PUC_Lease_and_Upload_Agmt.pdf, including as updated or amended from time to time.
- 1.7. **“Farmobile Marks”** means FARMOBILE® and Farmobile’s other product and service names, trademarks, service marks, branding, and/or logos made available for use in connection with the Farmobile API pursuant to this Agreement as described in the Farmobile Brand Guidelines. The Farmobile® Marks may only be used per the specific License terms set forth in section 9.2.
- 1.8. **“Farmobile Privacy Policy”** means the Privacy Policy related to any of the associated Licensor Websites, including <https://www.farmobile.com/privacy-policy/> or such other URL as Licensor may designate from time to time as the website where either the API or the Licensor Applications may be accessed.
- 1.9. **“Intellectual Property Rights”** means all rights in inventions, patents and patent applications, copyrights, database rights, design rights, trade secrets, know-how, classifications, and other intellectual property rights (whether registered or unregistered), anywhere in the world. Intellectual Property Rights, as used herein, shall not include trademarks or other indications of origin.
- 1.10. **“Licensee Application”** means any software application that is used and/or developed by Licensee that permits a third party to send and receive data between the Farmobile Applications and third-party devices in order to access the online applications and/or services available through Licensee websites,

along with any updates, enhancements, fixes, releases and/or versions of the program.

- 1.11. **“Licensor Terms and Conditions of Use”** means the Terms and Conditions of Use related to any of the associated Licensor Websites, including, https://www.farmobile.com/wp-content/uploads/2018/06/Terms_Of_Use.pdf, Farmobile’s Privacy Policy and such other URL(s) as Licensor may designate from time to time as the website where either the API or the Licensor Applications may be accessed.
- 1.12. **“Open Source License”** means a software license that includes, but is not limited to, terms that: (a) permit distribution/redistribution of the software by others without royalty or fee; (b) allows for such distribution/redistribution to include source code and compiled code; (c) permits modifications, compilations, and derived works to be created from the software and distributed under the same terms as the original software; or (d) attach to the software and applies to all persons, entities, groups, organizations and institutions (the “Recipients”) to whom the software is distributed and/or whom redistribute the software without the need for the Recipients to execute or otherwise acquire an additional license.
- 1.13. **“Open Source Software”** means software, including source code and compiled code, made available to others under the terms of an Open Source License.
- 1.14. **“Personally Identifiable Information” (“PII”)** means any information that identifies or can be used to identify, contact or locate the person to whom that information pertains, including, without limitation, names, addresses, phone numbers, fax numbers, email addresses, social security numbers or other government-issues identifiers, and credit card information. For purposes of this Agreement, geotagged and/or geolocation data does not constitute PII.
- 1.15. **“Tax(es)”** means all government-imposed taxes that may be levied as a result of accessing and/or using the DataFeed API and/or Farmobile customer Data.
- 1.16. **“Trusted Advisor”** means persons designated by the Data owner, including agronomists, crop consultants, seed dealer representatives, employees, family members, landowners, and others involved with the farming operation. A Trusted Advisor relationship can be created either directly with an individual or through their employer. Trusted Advisors or their representatives must agree to the appropriate Farmobile agreements specific to Trusted Advisors to protect the Data prior to obtaining access to it. The Data owner may stop sharing Data with Trusted Advisors at any time by revoking their permission.
- 1.17. **“Work Product”** shall include any works, report, plan, process, product, graphical representation, or deliverable that is generated using the DataFeed API.

2. ACCEPTANCE.

- 2.1. By clicking to accept this Agreement, or by using the DataFeed API and its website, you individually, as the party executing this Agreement on behalf of Licensee (the “Executing Party”), accept and agree, on Licensee’s behalf, that Licensee shall be bound by the Licensor Terms and Conditions of Use. If Licensee does not agree with any terms of this Agreement, including the Licensor Terms and Conditions of Use, Licensee must discontinue and refrain from all access to

and use of the DataFeed API, and all Data and tools made available through the DataFeed API.

- 2.2. The “Executing Party” hereby acknowledges on Licensee’s behalf that this Agreement applies to Licensee, Licensee’s employees, and the Executing Party. The Executing Party represents that he/she over eighteen (18) years of age and is legally authorized by Licensee to enter into this Agreement on Licensee’s behalf and to legally bind Licensee to the terms and obligations under this Agreement.

3. LICENSES AND RESTRICTIONS.

- 3.1. **DataFeed API License.** Subject to Your compliance with these DataFeed API terms, Farmobile grants to You a limited, non-exclusive, non-assignable, non-transferable, non-sublicensable, revocable license during the term of this agreement in the Designated Countries to:
 - 3.1.1. access and/or use the DataFeed API documentation;
 - 3.1.2. use and make calls to the DataFeed API to develop, test, implement, support and/or integrate Data into applications and/or services;
 - 3.1.3. receive, use, reproduce, distribute, transmit and/or display Data in Licensee’s applications and/or services; and
 - 3.1.4. use and display the Farmobile Marks only to identify that the Data originates from Farmobile Applications and to show that the Farmobile Applications interoperate with Your Applications, subject to the licensing terms set forth in Section 9.2 below.
- 3.2. DataFeed API Access and/or Use Restrictions. When using the DataFeed APIs, You may not:
 - 3.2.1. use the Data for any other purpose other than to allow Licensee’s users who are Farmobile customers and their authorized Trusted Advisors to use the Data in the Licensee Application;
 - 3.2.2. use the DataFeed API in a way that could impair harm or damage Farmobile, any Farmobile service or application, or anyone’s use of a DataFeed API, service or application;
 - 3.2.3. use the DataFeed API to disrupt, interfere with, or attempt to gain unauthorized access to services, servers, or networks connected to or which can be accessed via the DataFeed API;
 - 3.2.4. use the API in connection with any product or software other than the Licensee Application or beyond the defined scope of use for the Licensee Application without written permission of Licensor;
 - 3.2.5. use the DataFeed API to create Work Product for any party who is not a Farmobile customer, including using the DataFeed API to generate aggregate or collective reports that include parties/entities that are not Farmobile customers unless the reports are generated for Farmobile customers;

- 3.2.6. use the DataFeed API or allow any end user to use the Application in a way that violates applicable law or regulations, including:
 - 3.2.6.1. illegal activities, such as child pornography, gambling, piracy, or violating copyright, trademark or other intellectual property laws;
 - 3.2.6.2. accessing the DataFeed API from an embargoed country; and/or
 - 3.2.6.3. violating applicable law and/or regulations regarding privacy, collection of location data, computer program installation, electronic message creation and transmission.
- 3.2.7. copy, reproduce, distribute, reverse engineer, decompile, disassemble, or use any other means to attempt to discover any source code or underlying ideas, algorithms or organization of the DataFeed API, DataFeed documentation, or any of Farmobile's other software services, except and only to the extent expressly authorized by applicable law;
- 3.2.8. use the DataFeed API in any way that threatens the integrity, performance or reliability of DataFeed APIs or any Farmobile product or service, including performance or stress testing, or in any manner that works around any technical limitations in the DataFeed APIs;
- 3.2.9. request from the DataFeed API more than the minimum data than Licensee's Application needs to offer the customer the intended Application functionality;
- 3.2.10. use the DataFeed API or Data for any illegal purposes, or in any manner which would violate these this Agreement's terms, or breach any laws or regulations regarding privacy or data protection, or violate in any way the rights of Data owners;
- 3.2.11. request from the DataFeed API any information outside any permissions granted by the Licensee's customers as users of Licensee's Application;
- 3.2.12. redistribute, sell, lease, rent, syndicate, loan, transfer or sublicense, or otherwise monetize, without explicit written permission, any Farmobile service or Data, including collective and/or aggregate data, whether for direct commercial monetary gain or otherwise;
- 3.2.13. redistribute, sell, lease, rent, syndicate, loan, transfer or sublicense the DataFeed API or access codes thereto, whether for direct commercial monetary gain or otherwise;
- 3.2.14. falsify or alter any unique referral identifier in, or assigned to Licensee's Application, or otherwise obscure or alter the source of queries coming from an Application;
- 3.2.15. remove any legal, copyright, trademark or other proprietary rights notices contained in or on the DataFeed API documentation, content and or Data provided through the API;

- 3.2.16. violate any export control laws or regulations of the United States and You represent that you are not prohibited from receiving exports or services under any United States law or regulation;
- 3.2.17. disclose or provide access to the DataFeed API to any person or entity other than to Licensee's employees or independent contractors, provided
 - 3.2.17.1. such employees or independent contractors enter into an agreement with Licensee at least as protective of Farmobile's rights and the Data ownership rights of Farmobile's customers as this Agreement, and
 - 3.2.17.2. Licensee hereby agrees to be responsible for and liable to Farmobile for any breaches of such agreements by such employees or independent contractors; and
- 3.2.18. make any statements or use any API or Data in a manner that expresses or implies that Licensee, the Licensee Application or any of Licensee's software and/or services are sponsored, verified, endorsed, or in any way validated by Farmobile.
- 3.3. If Farmobile believes, in its sole discretion, that Licensee has violated or attempted to violate any term, condition or the spirit of this Agreement, the license afforded Licensee pursuant to this Agreement may be temporarily or permanently revoked, with or without notice to Licensee.

4. FEES.

- 4.1. Farmobile may, in its discretion, charge API access, usage and/or connection fees ("API Fees") as may be set forth in Addendum A to this Agreement, which is incorporated by reference herein. Farmobile also may, in its discretion, charge fees for support ("Support Fees"). You will be provided at least ninety (90) days advance written notice of the imposition of any API Fees or Support Fees. Farmobile reserves the right to amend Addendum A upon thirty (30) days written notice.
- 4.2. Payment terms: Any API or Support Fees due will be invoiced monthly. Payment is due upon receipt of the invoice and final payment must be received by Farmobile no later than twenty (20) days after the invoice date. Farmobile reserves the rights to charge interest on all payments still due after thirty (30) days from the date of invoice at the lesser of the rate of 1% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly for any late payments. Farmobile also reserves the right to discontinue services in the event of a failure to timely provide payment.

5. FARMOBILE API CONTROL.

- 5.1. Farmobile may limit or suspend Licensee's usage of or access to the API if, in Farmobile's reasonable discretion, Licensee or Licensee's Applications are adversely affecting the performance or operation of the Services. Farmobile shall provide notice to Licensee of any such actions as soon as reasonably practical.

- 5.2. Farmobile may, in its discretion, modify, amend, change, or terminate any or all of the Farmobile API at any time (an “**API Modification**”). Farmobile shall use commercially reasonable efforts to provide prior notice to Licensee of any such actions as soon as reasonably practical. Licensee shall, within thirty (30) days from the date of first notice of any API Modification(s) (or such shorter period of time specified in the notice of the API Modification(s)) (the “**Conformance Period**”) comply with such modification(s) by (i) implementing and using the most current version of the Farmobile API, (ii) making any changes to Licensee Applications that may be required as a result of such API Modification, (iii) using commercially reasonable efforts to stop distribution of all prior versions of the Licensee Applications, and/or (iv) using commercially reasonable efforts to upgrade all prior versions of the Licensee Applications then in use to the most recent version. Licensee’s continued access to and/or use of the Farmobile API following the Conformance Period shall constitute binding acceptance of the API Modifications.
- 5.3. An API Modification may have an adverse effect on the Licensee applications, including causing the Licensee Applications not to operate as originally designed. Farmobile shall have no liability whatsoever to Licensee or to any user of Licensee’s Applications in the event that an adverse effect occurs following an API Modification.

6. LICENSEE’S RESPONSIBILITIES AND ACKNOWLEDGEMENTS.

- 6.1. End Users must hold an active Farmobile subscription. Licensee must use best efforts to ensure that Licensee Applications do not permit End Users who are not Farmobile subscribers or their Trusted Advisors to access or use the Data and to otherwise prevent the disclosure of an End User’s Data without authorization. In the event that Licensee discovers that an End User is not a Subscriber, Licensee shall terminate the End User’s ability to access data through the Farmobile Applications.
- 6.2. Prior to accessing any Data through the Licensee Application, Licensee shall obtain the written or electronic consent of the Data owner. Prior to obtaining this consent, Licensee shall disclose the nature of the Data being accessed through the DataFeed API and whether the Data will then be stored, transmitted or otherwise later accessed separately from the DataFeed API. Licensee shall promptly cease access to any Farmobile subscribers’ Data upon customer request.
- 6.3. Licensee acknowledges and agrees that Farmobile, as well as any of its third-party data suppliers, have no obligations or liabilities to End Users.
- 6.4. Licensee, in all uses of the Farmobile API and/or the Data, must comply with the restrictions set forth in this Agreement, the Farmobile EULA, the Farmobile Privacy Policy and/or Farmobile Website Terms and Conditions, as well as the Farmobile Brand Guidelines governing trademark/service mark use.
- 6.5. Licensee Applications must not be intended or designed to enable or permit End Users to violate the Farmobile EULA, the intent of the Farmobile DataStore in which participants provide Farmobile with exclusive rights to license Data, or this Agreement. If Farmobile reasonably believes that such a violation has occurred,

Licensee shall upon written notice immediately and at Licensee's sole cost, modify and redistribute the Farmobile Applications and use best efforts to disable or otherwise prevent End Users from using any versions of the Farmobile Applications that violate this Agreement. In no event shall Licensee in any way encourage or assist End Users in violating the Farmobile EULA, the terms and intent of the Farmobile DataStore, or this Agreement.

- 6.6. Licensee agrees that it will abide by "The Privacy and Security Principles for Farm Data" stated as a requirement of the Ag Data Transparency Evaluator found at the following webpage: <https://www.agdatatransparent.com/principles>.
- 6.7. Licensee's Application must have its own end user terms and privacy statement. The end user terms and privacy statement that You provide to Your customers must not be inconsistent with "The Privacy and Security Principle for Farm Data", Farmobile's Privacy Policy, or Licensor's Terms and Conditions of Use.
- 6.8. Licensee's Application must not include, use, be derived from or based on, access or link to any Open Source Software or third party software that would require distribution or disclosure of any of the Farmobile API or any other proprietary information of Farmobile or any of its customers.
- 6.9. Licensee represents and warrants that it has express permission to share any data being cross-shared with Licensor through any API connection, such as field boundaries or other information to be used in connection with Licensor's Customers' Data and You agree to keep a record of users who have provided said permission
- 6.10. Licensee agrees that it is the data controller with respect to any Personally Identifiable Information and/or location data that You collect and use via Licensee's Application.
- 6.11. Licensee represents and warrants that it has entered into valid and binding user license agreements with all users who will access Data through Licensee's Application that includes any restrictions on the use of Data the same as those contained herein. Additionally, these license agreements shall contain limitations of liability and warranty disclaimers with respect to the Data consistent with the limitations contained herein.
- 6.12. Licensee represents and warrants that its Application has been developed to operate with Licensor's Customers' Data in a secure manner and that Licensee will use commercially reasonable state of the art security measures to protect the Data. Licensee must have a process to respond to any vulnerabilities in Licensee's Application related to use of the DataFeed API, and you agree to provide any information concerning vulnerability details discovered by or reported to you to Licensor. In the event of a data breach related in any way to your use of the DataFeed API or the Data, you agree to immediately provide details regarding the data breach, but in any event, by no later than within fourteen (14) days of your discovery of the breach, to Licensor and further agree to refrain from making public statements, e.g., press, blogs, social media, etc., without the prior written and express permission of Licensor.
- 6.13. Licensee shall monitor its use of the DataFeed API and/or the Data to keep Yourself and authorized users in full compliance with the requirements of this Agreement.

- 6.14. Licensee agrees that any customer Data shared between Licensor's and Licensee's applications through API connections may be incorporated into electronic field records placed into the Farmobile DataStore and may upon grower consent be made available for licensing through the DataStore.
- 6.15. Licensee shall display at least one of the following Farmobile word or design marks on the graphical user interface wherever Farmobile data is displayed:



7. BRANDING AND ATTRIBUTION.

- 7.1. The Licensee Application must comply with the Farmobile's Brand Guidelines. Licensor reserves the right to revise and or supplement the Brand Guidelines at any time. In the event the Brand Guidelines are revised, reasonable notice shall be provided. Additionally:
 - 7.1.1. Licensee shall not use any of Farmobile's registered or unregistered trademarks, including, but not limited to, FARMOBILE, FARMOBILE DATAENGINE, FARMOBILE DATASTORE, and FARMOBILE DATAFEED, in the hostname of Licensee Application unless approved by Licensor.
 - 7.1.2. Licensee shall place the following notice prominently on the Licensee Application: "This product uses the Farmobile DataFeed API but is not endorsed by Farmobile."

8. ELECTRONIC KEY; UPDATES.

- 8.1. Licensor will issue Licensee a unique electronic key to access the API. Licensee will hold the electronic key in confidence in accordance with the Farmobile Mutual Nondisclosure Agreement previously executed between the parties and will not assign, transfer or disclose such electronic key to any third party. Licensee will be required to use the electronic key to access the API and any updates or subsequent versions of the API that Licensor may release from time to time in its sole discretion.
- 8.2. Licensor may require Licensee to alter all Licensee Applications developed or distributed under this Agreement to use the most current version of the API. Licensor will have the right to review and approve the Licensee Application, including any updates or modified versions, and Licensee will provide Licensor with access to review, test and approve the Licensee Application upon request by Licensor at any time during the term of this Agreement.

9. Intellectual Property.

- 9.1. As between Licensor and Licensee, Licensor owns all right, title and interest, including without limitation all Intellectual Property Rights, in and to the Licensor Applications, the API, and any derivative works of the foregoing ("Licensor IP"). Licensee will not acquire any right, title, or interest in or to the Licensor IP, except the limited rights granted in this Agreement. To the extent that Licensee should

acquire any rights in the Licensor IP, Licensee hereby assigns to Licensor any such Intellectual Property Rights that it may have in the Licensor IP. Licensee will execute and deliver to Licensor and will cause its personnel to do the same, such documents as Licensor may request to evidence, record, and obtain the Intellectual Property Rights related to the foregoing (for example, applying for patent, copyright, or trademark protection), or to enforce or effectuate any of Licensor's rights related to the foregoing.

- 9.2. Trademark License. Licensee is hereby granted a non-exclusive limited right to use the Farmobile Marks in accordance with the Farmobile Brand Guidelines solely in connection with Your obligations under this Agreement. Licensee acknowledges and agrees that Licensor is the exclusive owner of the Farmobile Marks and that Licensor, by virtue of its investment in the Farmobile Marks, has developed substantial goodwill and marketplace recognition. Licensee agrees not to take any action(s) inconsistent with Farmobile's ownership of or rights to the Farmobile Marks, and not to adopt, use or attempt to register any trademarks or trade names that are confusingly similar to any of the Farmobile Marks. Licensee's use of the Farmobile Marks is subject to the control and approval of Licensor. You agree that any unauthorized use of the Farmobile Marks constitutes infringement. You may not challenge the validity of the Farmobile Marks or make any claim regarding the Farmobile Marks that is adverse to Licensor.
- 9.3. If you provide Licensor feedback concerning the DataFeed API, the Farmobile Application or the Data, you give to Farmobile, without charge, the right to use, share and commercialize your feedback in any way and for any purpose.

10. SUPPORT.

- 10.1. Licensor is not obligated to provide any maintenance or support, technical or otherwise, to You under this Agreement. Licensor may, in its sole discretion, elect to provide Licensee with support or modifications for the API (collectively, "Support"), and may terminate such Support at any time without notice to Licensee. Licensor may change, suspend, or discontinue any aspect of the API at any time, including the availability of the API. Licensor may also impose limits on certain features and services or restrict Licensee's access to parts or all of the API or the Licensor websites without notice or liability.

11. NO RESTRICTIONS AGAINST SIMILAR APPLICATIONS.

- 11.1. You acknowledge that Farmobile retains full right to acquire, and has no restrictions under this Agreement against acquiring in any way or developing, alone or with others, any new or future service or application regardless of whether it is similar to or in any way the same as any application of Yours.

12. TERM AND TERMINATION.

- 12.1. **Commencement of Term.** This Agreement commences on the Effective Date and will continue in force thereafter, unless terminated as provided herein.
- 12.2. **Termination by Licensor.** Licensor will have the right to change, suspend or discontinue all or any aspect of the API, including its availability, or terminate this Agreement (including Licensee's use of the API) at any time.

- 12.3. **Termination by Licensee.** Licensee will have the right to terminate this Agreement at any time upon 60 days written notice to Licensor.
- 12.4. **Effect of Termination.** Upon the termination of this Agreement for any reason (i) all rights granted herein will immediately terminate; (ii) Licensee will immediately delete any and all Licensor Trademarks from Licensee’s website and cease all use of the Licensor Trademarks; and (iii) Licensee will immediately cease all use and distribution of the Licensee Application or any Data received through use of the Farmobile DataFeed API. Licensor reserves the right to request the transfer and/deletion of any Data and Licensee agrees to promptly comply with any such request.
- 12.5. **Survival of Terms.** The terms and conditions of the following provisions will survive any termination or expiration of this Agreement: Section 1 in its entirety, 3.2.7, 3.2.12, 3.2.15, 3.2.16, Section 4 in its entirety, 6.2, 6.3, 6.4, 6.6, 6.9, 6.11, 6.14, 6.15, Sections 7, 9 and 11 in their entirety, 12.4, 12.5 and Sections 13 through 17 in their entirety.

13. WARRANTIES.

- 13.1. Licensee hereby represents, warrants and covenants to Licensor as follows:
- 13.1.1. the Licensee Application will not (a) contain any virus, Trojan horse, worm, time bomb, cancelbot, or other computer programming routine that is intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data, or personal information; (b) create an unusually high load on Licensor’s servers; or (c) enable any user to interfere with other users’ use of the Licensor Applications;
 - 13.1.2. the Licensee Application (excluding the API) will not infringe any third party’s copyright, trade secret, patent or trademark rights;
 - 13.1.3. that Licensee’s Application, in whole or in part, is not or has not been the subject of any suit, claim or demand asserting infringement, misappropriation or other violation of any third party copyrights, trademarks, rights of privacy and publicity trade secrets, patents, or other proprietary or legal rights, or the subject of a letter requesting that You take a license under any such third party rights, and that you are not aware of any facts that would support the assertion of any such claim; and
 - 13.1.4. in addition to the rights granted herein by Licensor, Licensee has all rights, permissions and licenses necessary to create and distribute the Licensee Application.
- 13.2. **DISCLAIMER. SUBJECT TO APPLICABLE LAW, LICENSEE’S USE OF THE API IS AT LICENSEE’S SOLE RISK. THE API IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. LICENSOR EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. NOT LIMITING THE FOREGOING, LICENSOR MAKES NO WARRANTY THAT (i) THE API WILL MEET LICENSEE’S REQUIREMENTS, (ii) THE API WILL OPERATE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE AND/OR THAT (iii) ANY**

ERRORS IN THE API WILL BE CORRECTED. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE API IS OBTAINED AT LICENSEE'S OWN DISCRETION AND RISK AND LICENSEE WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO LICENSEE'S COMPUTER SYSTEM/NETWORK OR ANY LOSS OF DATA THAT MAY RESULT FROM THE DOWNLOAD OF ANY SUCH MATERIAL OR THE USE OF THE API. LICENSOR DOES NOT PROVIDE ANY GUARANTEE, CONDITION OR WARRANTY OF THE ACURACY OF ANY DATA MADE AVAILABLE TO ANY APPLICATION THAT YOU PROVIDE, WHETHER THE DATA IS LOCATION DATA OR ANY OTHER DATA AVAILABLE TO YOUR APPLICATION.

14. LIABILITY LIMITATION.

- 14.1. Licensor shall not, under any circumstances, be liable to licensee for any indirect, incidental, consequential, special or exemplary damages arising out of or in connection with use of the API, whether based on breach of contract, breach of warranty, tort (including negligence, product liability or otherwise), or any other pecuniary loss, whether or not licensor has been advised of the possibility of such damages. Under no circumstances shall licensor be liable to licensee for any amount in the aggregate of the amounts paid or payable by licensee in the relevant contract year and, if no amounts have been paid, such cap shall be five hundred dollars (\$500.00 USD).

15. REMEDIES.

- 15.1. **Indemnification.** Licensee will indemnify, defend, and hold harmless Licensor, its parent, affiliates and subsidiaries, and/or its licensees against any and all claims, suits, losses, liabilities, additional taxes, and/or judgments, including costs, expenses, damages, and reasonable legal fees based upon and arising from (i) Licensee's violation of the rights of others, including without limitation any alleged infringement of any third-party intellectual property rights by the Licensee Application (excluding the API) or the use thereof; or (ii) Licensee's breach of any of the foregoing warranties or violation of any other terms of this Agreement. Licensor will notify Licensee of any claims within a reasonable time and will have the right, but not the obligation, to participate in any such contest, defense or litigation through counsel of its own choosing at Licensee's expense. Licensee will not retain counsel to act on Licensor's behalf without Licensor's consent. Licensor shall have the right to control its defense and Licensee will not enter into any settlement in which the Licensor admits liability, or in connection with which Licensor's Intellectual Property Rights may be limited or compromised, without Licensor's prior written approval, which Licensor will provide in its sole discretion.
- 15.2. Licensee will promptly notify Licensor of: (1) any claim, allegation, or notification of which Licensee has knowledge, that the Licensee Application, the API or the Licensor Applications infringe or may infringe the intellectual property rights of any other party; (2) any determination, discovery, or notification that any party is or may be infringing the Intellectual Property Rights of Licensor; and (3) any actual or threatened breach of any of Farmobile's Agreements of which Licensee becomes aware. Licensee will provide Licensor with reasonable assistance in policing and enforcing Licensor's intellectual property rights.
- 15.3. **Injunctive Relief.** Licensee acknowledges that a breach, actual or threatened, of this Agreement may cause irreparable harm to Licensor, the amount of which

may be extremely difficult to estimate, thus making any remedy at law inadequate. Licensor will therefore be entitled to obtain immediate injunctive relief and any other relief Licensor deems appropriate from a court of competent jurisdiction without having to post a bond or other security or prove irreparable harm. This right will be in addition to any other remedy available to Licensor in law or equity.

- 15.4. **Release and Waiver.** To the maximum extent permitted by applicable law, Licensee hereby releases and waives all claims against Licensor, and its subsidiaries, affiliates, officers, agents, Licensors, co-branders or other partners, and employees from any and all liability for claims, damages (actual and/or consequential), costs and expenses (including litigation costs and attorneys' fees) of every kind and nature, arising from or in any way related to its use of the API. If Licensee is a California resident, it waives its rights under California Civil Code § 1542, which states, "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor." Licensee understands that any fact relating to any matter covered by this release may be found to be other than now believed to be true and Licensee accepts and assumes the risk of such possible differences in fact. In addition, Licensee expressly waives and relinquishes any and all rights and benefits which it may have under any other state or federal statute or common law principle of similar effect, to the fullest extent permitted by law.

16. CONFIDENTIALITY.

- 16.1. **Confidential Information.** For purposes of this Agreement, "Confidential Information" means pricing terms found in the Addendum to this Agreement, the API DataFeed, Data, technical non-public information You provide and the terms of this Agreement. If any of the aforementioned information is made publicly available for any reason, it no longer constitutes Confidential Information.
- 16.2. **Trade Secret Information.** For purposes of this Agreement, "Trade Secret Information" means all Confidential Information that qualifies as a Trade Secret as defined by K.S.A. § 60-3320 (4). The parties agree that they will not be sharing any Trade Secret Information in connection with this Agreement. In the event that the parties anticipate a need to share any Trade Secret Information during the term of this Agreement, the parties agree to enter into a mutually agreeable non-disclosure agreement prior to sharing any Trade Secret Information.
- 16.3. **Confidentiality Obligations.** Licensee and Licensor both agree to hold any Confidential Information they receive in strict confidence. Only a parties' representatives and or employees may be given access to Confidential Information so long as it is used consistent with this Agreement. Licensee's customers shall only be given access to the Data. No other Confidential Information shall be made available to customers of the parties. The parties are not prevented from disclosing Confidential Information if required to do so by a valid court order or other legal requirement, as long as the party required to disclose Confidential Information promptly notifies the other party of such requirement in writing as soon as commercially reasonable and said party must cooperate with the disclosing party in any efforts undertaken to limit disclosure. This provision shall not be construed to limit either Party's right to independently

develop, provide, or otherwise acquire products or services without the use of the other party's Confidential Information

17. GENERAL.

- 17.1. Notices. Any notice required to be given in connection with this Agreement must be in writing and served upon the party via (a) certified mail, postage prepaid and return receipt requested; (b) a nationally recognized overnight courier with tracking capability, sent to the following addresses:

Notices to Licensor:

Farmobile LLC
4001 W. 114th Street, Suite 300
Leawood, KS 66211
Attention: Legal

legal@farmobile.com

Notices to Licensee:

Attn: _____

Any change of address shall be made by notice given pursuant to this paragraph.

- 17.2. **Entire Agreement; Amendment.** This Agreement, including the Addendum hereto, contains the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the Parties with respect to said subject matter. This Agreement may not be amended, except by a writing signed by both Parties. Farmobile may, in its sole discretion, amend the Addendum. In the event of such an Addendum amendment, notice will be provided as otherwise described herein.
- 17.3. **Independent Contractors.** The relationship of the parties under this Agreement is that of independent contractors. Neither party will be deemed to be an employee, agent, partner nor legal representative of the other for any purpose and neither will have any right, power or authority to create any obligation or responsibility on behalf of the other.
- 17.4. **Audit.** Farmobile may, in its discretion, audit Your compliance with the terms of this Agreement and you agree to cooperate with any such audit. In the event that Farmobile decides to exercise its audit rights, it will provide at least ten (10) business days' notice. The right to audit includes, but is not limited to, the right to audit Your compliance, and the compliance of Licensee's Application, with any and all of the following: (a) information security requirements; (b) Licensee Application performance security requirements; and (c) any other requirements Farmobile may provide in the DataFeed API Documentation.
- 17.5. **Assignment.** Licensee may not assign or delegate any rights or obligations under this Agreement, including in connection with a change of control. Any purported assignment and delegation shall be ineffective. Licensor may freely assign or delegate all rights and obligations under this Agreement, fully or partially without notice to you.

- 17.6. **Waiver.** Any waiver of any of the provisions of this Agreement or of a Party's rights or remedies hereunder must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time will not be construed as a waiver of such party's rights under this Agreement and will not in any way affect the validity of this Agreement or prejudice such party's right to take subsequent action. No exercise or enforcement by either Party of any right or remedy under this Agreement will preclude the enforcement by such Party of any other right or remedy under this Agreement or that such Party is entitled by law to enforce.
- 17.7. **Severability.** In the event any provision of this Agreement is determined to be invalid, such invalidity will not affect the validity of the remaining portions of this Agreement, and the parties will promptly substitute for the invalid provision a valid and enforceable provision which most closely approximates the intent and economic effect of the invalid provision.
- 17.8. **References and Headings.** In this Agreement the article and section headings and the tables of contents are for convenience of reference only and shall not be considered in the interpretation of this Agreement. Any phrase introduced by the words "include," "including" or "in particular" or any similar words or expression shall be construed as illustrative and shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words. The terms "herein," "hereof" and any similar words or expression shall be construed as referring to this Agreement in its entirety and not to any particular section or subsection except to the extent expressly specified.
- 17.9. **Governing Law; Venue.** This Agreement shall be governed by the laws of the State of Kansas and the United States of America, without regard to choice of law and/or conflict of law principles. All disputes arising out of this Agreement will be subject to the exclusive jurisdiction of the state and federal courts located in or serving Johnson County, Kansas, and each party hereby consents to the exclusive jurisdiction of, and waives any rights it may otherwise may have had to object to jurisdiction before, a court in Kansas. You agree that, regardless of any statute or law to the contrary, you must file any claim or cause of action arising out of this Agreement or related to use of the DataFeed API or DataFeed documentation within one (1) year after such claim or cause of action arose, or you shall be forever barred from filing such claim or cause of action. To the fullest extent permitted by applicable law, you agree that any and all disputes, claims, and causes of action you may have in connection with or related to this Agreement, the DataFeed API or DataFeed documentation will be resolved individually, without resort to any form of class action. If Licensee is found by a court or jury to be in breach of this Agreement, Licensors shall be entitled to recover all reasonable costs and attorneys' fees incurred in connection with any action brought to enforce the Agreement terms.
- 17.10. **Force Majeure.** Except for Licensee's obligation to make payment, if any, hereunder, neither party shall be in default if its delay or failure to perform any obligation hereunder is caused solely by supervening conditions beyond that party's reasonable control, including acts of God, civil commotion, strikes, labor disputes, and governmental demands or requirements (a "Force Majeure Event"); provided that, in order to be excused from any such delay or failure to perform,

such party must immediately notify the other party upon the commencement of the Force Majeure Event, and use its best efforts to remedy the cause of such delay or failure.

- 17.11. **Expenses.** The parties acknowledge that neither party is under any obligation to reimburse the other party for any expenses or costs incurred by the other party in the performance of its responsibilities under this Agreement. Any costs or expenses incurred by either party will be at that party's sole risk based upon its independent business judgment that such costs and expenses are appropriate.
- 17.12. **Multiple Counterparts and Electronic Signatures.** This Agreement may be executed in several counterparts, all of which taken together shall constitute one single Agreement between the parties. Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Delivery of a copy of this Agreement or any other document contemplated hereby bearing an original or electronic signature by facsimile transmission (whether directly from one facsimile device to another by means of a dial-up connection or whether mediated by the worldwide web), by electronic mail in portable document format (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

IN WITNESS WHEREOF, the parties have caused this Farmobile Datafeed Application Programming Interface (API) License Agreement to be executed by their duly authorized representatives, with said Agreement effective as of the Execution Date.

FARMOBILE LLC

By: _____

Name: _____

Title: _____

Date: _____

_____(LICENSEE)

By: _____

Name: _____

Title: _____

Date: _____