

UPDATED 07/10/20



TRUSTED ADVISOR FARM DATA ACCESS AGREEMENT

COMPANY INFORMATION

Farmobile LLC
4001 W 114th St., Ste 300
Leawood, KS 66211
(844) 337-2255

This Trusted Advisor Farm Data Access Agreement ("**Agreement**") allows you, a trusted advisor of a farmer using an out-of-the-box, plug-in device ("**PUC**"), to upload, access, view, and download certain Farm Data hosted on the Farmobile website and associated servers (**the "Services"**). Your access to Farm Data and your ability to upload, access, view and download Farm Data is governed by this Agreement.

TERMS AND CONDITIONS

1. FARM DATA

1.1. **Definitions.**

- 1.1.1. **"You"** or **"Trusted Advisor"** shall be an advisor, consultant, distributor, or other person designated by the PUC User and accepting the terms of this Agreement.
- 1.1.2. **"PUC Lease"** means the Equipment Lease and Data Upload Agreement signed by the farmer or service provider.
- 1.1.3. **"Farm Data"** has the meaning provided in the applicable PUC Lease and generally refers to agronomic, machine, and land data collected by the PUC.

1.2. **Farm Data Ownership.** Farmobile believes that farmers are the owners of their Farm Data. This Agreement may license you to access, view and download a farmer's Farm Data, but this Agreement does not attempt to transfer ownership of Farm Data. You release Farmobile from any Farm Data ownership disputes between you and the PUC User.

1.3. **Limits on Farm Data Storage.** Farmobile shall have the right to place reasonable limits on the amount of uploaded Farm Data stored by Farmobile on the Services.

2. LICENSE TO ACCESS FARM DATA

- 2.1. **PUC User Permission.** In order to access any PUC User's Farm Data, the PUC User must first consent to allow you to view such information through the Farmobile website or other authorized means.
- 2.2. **License Grant.** Once granted permission by the PUC User, Farmobile grants you a worldwide, non-exclusive, non-transferable, non-assignable license to use the Services to view, access, and upload Farm Data solely for PUC User's internal business (the "License"). Your License is at all times conditioned on the PUC User's permission, which may be revoked at any time.
- 2.3. **Restrictions.** You will not: (i) knowingly send or store infringing, obscene, libelous or otherwise unlawful or tortious material to the Services; (ii) knowingly send, "spoof," "phish," or send or store material containing viruses, worms, Trojan horses or other harmful computer code, files, or programs to or from the Services; (iii) interfere with or disrupt the integrity or performance of the Services; (iv) attempt to gain unauthorized access to the Services; (v) use the Services in violation of applicable law; (vi) license, sublicense, sell, resell, transfer, assign, distribute or otherwise make available to any third party the Services; (vii) modify or make derivative works based upon the Services; (viii) reverse engineer the Services; (ix) remove any trademarks, copyrights or other notice from any materials copied or removed from the Services; or (xi) access others™ user accounts or information without permission. You are responsible for all activity occurring under your account and will abide by all applicable laws and regulations in connection with its use of the Services.
- 2.4. **Intellectual Property.** No license to any patents, designs, copyrights, trademarks, service marks, trade names, domain names, mask words, know-how and trade secrets, and all other intellectual property ("Intellectual Property"), express or implied, is granted by Farmobile to you under the License and this Agreement. Farmobile owns all right, title and interest, including all related Intellectual Property rights, in and related to the PUC and the Services.

3. TERM

Your use of the Services begins upon creation of a Trusted Advisor account through acceptance of this Agreement. Your License to access Farm Data begins and ends depending on the PUC User's permissions. Notwithstanding the foregoing, Farmobile has the right to cancel your use of the Services and to delete your account for any reason at any time, in Farmobile's sole discretion. Likewise, you may terminate your Farmobile account at any time by notifying Farmobile by email, phone or written letter of such termination.

4. FEE

Your use of the Services begins upon creation of a Trusted Advisor account through acceptance of this Agreement. Your License to access Farm Data begins and ends depending on the PUC User's permissions. Notwithstanding the foregoing, Farmobile has the right to cancel your use of the Services and to delete your account for any reason at any time, in Farmobile's sole discretion. Likewise, you may terminate your

Farmobile account at any time by notifying Farmobile by email, phone or written letter of such termination.

5. DISCLAIMER; LIMITATION OF LIABILITY

- 5.1. **Warranty Disclaimer.** THE SERVICES ARE MADE AVAILABLE TO TRUSTED ADVISOR ON AN "AS IS" BASIS. TRUSTED ADVISOR'S USE OF THE SERVICES IS AT YOUR OWN DISCRETION AND FARMOBILE MAKES NO CLAIMS OR PROMISES WITH RESPECT TO THE QUALITY, ACCURACY, AVAILABILITY, OR RELIABILITY OF THE FARM DATA OR SERVICES. FARMOBILE MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SERVICES, OR ITS CONDITION, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR USE BY TRUSTED ADVISOR.
- 5.2. **Limitation of Liability.** FARMOBILE SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, ARISING FROM USE OF FARM DATA OR SERVICES. TRUSTED ADVISOR'S EXCLUSIVE REMEDY FOR DISSATISFACTION WITH THE SERVICES SHALL BE TERMINATION OF TRUSTED ADVISOR'S ACCOUNT AND CEASE USE OF THE SERVICES. FARMOBILE'S MAXIMUM AGGREGATE LIABILITY TO TRUSTED ADVISOR FOR ANY LOSSES OR DAMAGES RELATING TO USE OF THE SERVICES SHALL BE U.S. \$100.

6. INDEMNITY

Trusted Advisor agrees to indemnify, defend, and hold harmless Farmobile and its affiliates and subsidiaries, and the officers, directors, employees, agents, and representatives of each of them against any and all costs, fees (including reasonable attorneys' fees), and liabilities from any claim or demand made by a third party arising out of or relating to Trusted Advisor's access to Farm Data or use of the Services.

7. HARDWARE AND SERVICE REQUIREMENTS

You shall be solely responsible for acquiring, servicing, maintaining, and updating all equipment, computers, software and communication services that allow you to access and use the Services. Farmobile shall not be liable for any damages relating to your inability to access the Services. Farmobile does not make any commitments with respect to use or performance of the Services with specific Internet browsers.

8. MISCELLANEOUS

- 8.1. **Your Personal Information.** When you create a Trusted Advisor account, Farmobile will require certain identifying personal information, such as name, address, phone number, and email. Personal Information is defined in Farmobile's Privacy Policy, which also explains Farmobile's promise to protect your Personal Information. Your use of the Farmobile website and the Services is subject to Farmobile's privacy policy and terms of use, available at www.farmobile.com/legal. Farmobile may modify these documents from time to time at Farmobile's discretion.
- 8.2. **Waiver of Jury Trial.** You waive trial by jury in any action or proceeding arising out of or in any way pertaining to this Agreement. In the event that legal

proceedings are brought by Farmobile to enforce this Agreement, Farmobile shall be entitled to recover its attorneys' fees and costs incurred.

- 8.3. **Complete Agreement.** This Agreement is the complete agreement and understanding between the parties and supersedes any prior understandings, agreements or representations April 3, 2016 ©2016 Farmobile LLC. All Rights Reserved. Page 3 of 3 by the parties, related to the subject matter of this Agreement. If any provisions is determined to be invalid or illegal, such provision shall be deleted without invalidating the remainder of this Agreement. Any failure by Farmobile to enforce any provision of this Agreement shall not be deemed a waiver of such provision at any other time.
- 8.4. **Assignment.** Trusted Advisor may not assign its rights, duties or obligations under this Agreement without the prior written consent of Farmobile.
- 8.5. **Modifications.** This Agreement may be modified by Farmobile from time to time in Farmobile's sole discretion. The revised Agreement will be available on Farmobile's website at www.farmobile.com/legal. You will be notified by email or at login of any modified Agreement and may elect to discontinue use of the Services if you do not consent to the new terms.
- 8.6. **Governing Law.** This Agreement shall be governed by the laws of the State of Kansas. Trusted Advisor consents to jurisdiction and venue in Kansas. Any action or proceeding seeking to enforce any provision of this Agreement may only be brought in the courts of the State of Kansas or the United States District Court for the District of Kansas.
- 8.7. **Notices .** All notices to Farmobile regarding alleged breaches of this Agreement shall be in writing, sent by registered or certified mail, return receipt requested, postage prepaid, and addressed to Farmobile at:
- Farmobile, LLC
4001 W. 114th St
Leawood, Kansas 66211
Attn: Jason Tatge, CEO
- Trusted Advisor agrees to receive electronic communications and notices from Farmobile regarding this Agreement and use of the Services.
- 8.8. **Force Majeure.** Farmobile is not responsible for any delay or failure arising out of causes beyond its control, such as acts of God, any governmental action, fires, floods, tornadoes, riots, strikes, embargoes, earthquakes, electrical outages, computer or communications failures, severe weather, and acts or omissions of subcontractors or third parties.

By signing this Agreement, the undersigned certify that they have read and understand, and agree to be legally bound by, the terms and conditions of this Agreement.

CUSTOMER:

BY (NAME):

TITLE:

FARMOBILE LLC

BY (NAME):

TITLE: