

General Terms and Conditions

Farm21 B.V. | March 2020



Article 1 – General, Definitions and Applicability

1.1 These general terms and conditions apply to all quotations and contracts between the user of these general terms and conditions, Farm21 B.V. registered in the Netherlands with company number 73028711, and its contracting party.

1.2 In the context of these general terms and conditions, the following terms shall have the meanings given to them below:

- Customer: the contracting party of Farm21;
- Farm21: Farm21 B.V., having its registered address at Danzigerbocht 39G, 1013 AM Amsterdam, The Netherlands, with company number 73028711;
- Hardware: all equipment, including sensors;
- License: the right to use and/or install Farm21's software, granted to the customer by Farm21;
- Order: any order placed by the Customer
- Services and advice: all information, advice and data related to the agricultural business operations and/or activities of the customer, made available by or on behalf of Farm21 to the customer by using the software and/or hardware mentioned in these general terms and conditions, the internet, a combination of these, or in any other way;
- Software: all Farm21's computer programs and online advisory services or parts thereof, including updates, extensions, improvements and adaptations.

1.3 If the customer has previously entered into a contract with Farm21 on the basis of these general terms and conditions, these general terms and conditions will be deemed to have been accepted for any and all subsequent contracts.

Article 2 – Quotations and Agreements

2.1 All quotations provided by Farm21 shall be non-binding, unless explicitly agreed upon otherwise. If the quotation is based on information provided by the customer, Farm21 has the right to assume the accuracy and completeness of this information.

2.2 The contract is entered into upon Farm21's acceptance of customer's Order or an online license has been subscribed to, whichever is the sooner. For the avoidance of doubt, Farm21 reserves the right to reject an order at all times. Unless otherwise agreed, the customer's general terms and conditions shall not apply.

2.3 Changes to or deviations from the contract or these general terms and conditions can only be agreed upon in writing.

Article 3 – Prices and Payment

3.1 All prices are excluding VAT, unless stated otherwise.

3.2 For the purposes of online payment, credit card or payment details may be shared with an external payment processor.

3.3 If delivery takes place more than three months after the date of the order, Farm21 reserves the right to alter its prices.

3.4 All payments to be made hereunder shall be made in Euros and shall be paid in full and without deductions within 30 (thirty) days of the invoice date to the bank account designated by Farm21. In case of late or incomplete payment, the customer shall, without further notice being required, be in default. Farm21 is entitled to charge a monthly interest of 1% on the invoiced amount from the due date until full payment has taken place.

3.5 Invoices will be considered accepted if the customer does not dispute the invoice within seven days of the invoice date.

Article 4 – Delivery

4.1 Delivery will take place to a location to be agreed upon with the customer. Delivery dates mentioned by Farm21 are not binding, unless explicitly agreed upon otherwise.

4.2 Title and risk in the items delivered shall pass to the customer upon delivery.

4.3 Any defects in the Hardware must be reported by the customer to Farm21 in writing within fourteen days after customer has discovered or could have reasonably discovered the defect.

Article 5 – Liability

5.1 Farm21 shall only be liable for direct damages suffered by the Customer caused by wilful intent or gross negligence on the part of Farm21. Farm21's total liability to the customer shall not exceed the amounts invoiced to customer under this contract during the last twelve (12) months, subject to a maximum of €10,000. Any liability of Farm21 for indirect damage, including consequential loss, trading loss, lost data, lost profits, lost saving or business interruption loss, by any cause whatsoever, is excluded.

5.2 Customer indemnifies Farm21 for any and all third party claims arising from the performance of this agreement.

Article 6 – Data, Confidentiality and Processing of Personal Data

6.1 The parties shall preserve the confidentiality of all business information they take note of in the performance of this contract in so far as this does not obstruct the proper performance of this contract. The parties shall ensure their staff members comply with this article 6.1 in full.

6.2 For the proper performance of the contract and all contracts following from it, it is necessary for Farm21 to collect, process and save personal data of the customer. Farm21 shall process any and all personal data in accordance with the General Data Protection Regulation. A copy of Farm21's privacy policy can be found on the website www.farm21.tech.

6.3 Farm21 is entitled to use all data, with the exception of personal data as defined in the General Data Protection Regulation, which Customer enters into the Farm21 dashboard, for improvement of Farm21's software, hardware, services and advice, and to use the data for external analysis purposes, in which case Farm21 anonymises such data.

Article 7 – Hardware & Software

7.1 Farm21 will supply the hardware to the Customer in accordance with the Customer's Order and deliver the hardware to the location as specified by the Customer. The risk in the Hardware shall pass to the Customer on completion of delivery.

7.2 On a sensor by sensor basis and subject always to a minimum of five licenses, Farm21 grants the customer a non-exclusive, non-sublicensable and non-transferable license to use the software for the initial term of one year, starting on the date that Farm21 receives payment for the relevant periodic license fees (as set out in section 7.3). Thereafter, the license shall be automatically renewed with consecutive and successive terms of one year.

7.3 In consideration for the rights granted to Customer in section 8.1, Customer shall pay to Farm21 a periodic license fee of €5.25 per sensor per month, subject always to a minimum of five sensors. The license fee shall be charged annually and shall be paid by Customer in advance. Any license fees already paid shall be non-refundable. Farm21 retains the right to increase the periodic license fees upon prior notification to Customer.

7.4 In order to access the software, Customer is required to register for an user account. Any personal data collected by Farm21 for this matter shall be processed in accordance with the section 6.

7.5 At all times, Customer shall refrain from:

1. using the software other than for its own business purposes;
2. selling, transferring or sharing the software/user account information with any third parties;
3. in any way to change, copy, reverse engineer, modify, extend or decompile the software.

7.6 All rights and title, including but not limited to any and all copyrights, intellectual and industrial property rights, to the software shall exclusively remain at Farm21. At all times, the software shall remain the sole property of Farm21.

7.7 Farm21 shall use reasonable efforts to repair any material defects in the software, provided that such defects are immediately reported to Farm21 by Customer.

7.8 Farm21 retains the right to terminate or suspend a user account at any time without further explanation.

Article 8 – Warranty

8.1 Farm21 maintains a warranty period of 12 months after delivery of the Hardware. Farm21 retains the right to inspect all goods returned under warranty for damage and/or other defects. Any rights under the warranty will lapse if the defects or damage are caused, whether partly or wholly, by the improper use of the Hardware or where the defects or damage are in any other way attributable to the Customer. Where the defects or damage are covered by the warranty, Farm21 will repair or replace the product free of charge. Recovery of lost data is not covered under the warranty.

Article 9 – Services and Advice

9.1 Customer cannot derive any rights from any services and/or advice provided by Farm21. Farm21 shall use its reasonable efforts to provide services and/or advice adequately. Farm21 does not in any way guarantee the correctness or completeness of its services and/or advice and cannot be held liable for any damage, whether direct or indirect, that may arise from these services and/or advice.

Article 10 – Termination

10.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

(a) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

(b) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

10.2 Without affecting any other right or remedy available to it, Farm21 may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment

10.3 Without affecting any other right or remedy available to it, Farm21 may suspend the supply of Services or all further deliveries of Hardware under the Contract or any other contract between the Customer and Farm21 if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in Clause 10.1(a) to Clause 10.1(b), or Farm21 reasonably believes that the Customer is about to become subject to any of them.

11. Miscellaneous

11.1 Force Majeure. Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

11.2 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause 11.2 shall not affect the validity and enforceability of the rest of the Contract.

11.3 Waiver. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

11.4 Governing law. The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of the Netherlands.

11.5 Jurisdiction. Each party irrevocably agrees that the competent courts in the Netherlands shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

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