

SMART FARM SYSTEMS, INC.
TERMS AND CONDITIONS OF SALE

These terms and conditions of sale (these “**Terms**”) comprise part of the Products Purchase Agreement by and between Smart Farm Systems and Customer, and apply to the purchase and sale of the equipment, parts, and software licenses set forth in the Purchase Order executed by Customer and accepted by Smart Farm Systems (such equipment, parts, and software licenses, the “**Products**”). Smart Farm Systems and Customer may be referred to herein individually as, a “**Party**,” and together as, the “**Parties**.” Capitalized terms used, but not otherwise defined, in these Terms have the meaning ascribed to them in the Products Purchase Agreement.

1. Prices; Taxes; Payment.

(a) Customer agrees to pay the prices, charges, and shipping costs set forth in the Purchase Order and all taxes applicable thereto, however designated, levied or based, in accordance with the payment schedule set forth in the Purchase Order. Applicable taxes will be billed as a separate item on invoices where possible.

(b) Smart Farm Systems will invoice Customer for the Products and Smart Farm Software in accordance with the payment schedule set forth in the Purchase Order. Any payment not received by Smart Farm Systems within thirty (30) days after the date on which payment is due may be subject, at Smart Farm Systems’ sole discretion, to a late fee equal to the lesser of one and one half percent (1.5%) or the maximum rate permitted by law, of the amount then due, for each month past due. Further, if any payment is not received within thirty (30) days after the date on which payment is due, Smart Farm Systems may suspend access to Smart Farm Software without penalty or liability to Smart Farm Systems. For amounts unpaid and outstanding for more than sixty (60) days following such due date, Customer agrees it is responsible for, and agrees to pay, reasonable costs and expenses of collection, including, but not

limited to, court and attorneys’ fees and expenses.

(c) Except in the event of a termination of the Software License by Customer pursuant to Section 6(b)(i) thereof, or as otherwise set forth in the Products Purchase Agreement, paid Software Fees (as defined herein) are non-refundable. If Customer elects to pay the Software Fees by credit card, Customer hereby authorizes Smart Farm Systems or its third-party payment processor to charge such credit card on the dates of payment set forth in the Purchase Order. For purposes hereof, “**Software Fees**” means the monthly or annual fees payable by Customer in exchange for the rights to access and use Smart Farm Software granted in the Software License and in the EULA (as defined in the Software License), which fees may be adjusted by Smart Farm Systems no later than thirty (30) days prior to the end of the then-current Term (as defined in the Software License) to be effective on the date on which the renewal of such Term is effective.

2. Orders; Delivery; Title.

(a) After the Effective Date, Products ordered hereunder may not be cancelled except with the written agreement of an authorized representative of Smart Farm Systems; and provided Customer agrees to indemnify and hold harmless Smart Farm

Systems in full from and against all loss (including loss of profit), costs (including the cost of all labor and materials used), damages, charges and expenses incurred by Smart Farm Systems as a result of such cancellation, and pays Smart Farm Systems a restocking fee for any unused Products that were not installed equal to ten percent (10%) of the amounts payable therefor (which may be deducted from amounts already paid by Customer, if any).

(b) The Products will be delivered by commercial carrier or, if Smart Farm Systems is performing Installation Services (as defined below), by Smart Farm Systems.

(c) Any dates quoted for delivery of the Products are approximate only and Smart Farm Systems is not liable for any delay in delivery of the Products howsoever caused.

(d) Risk of damage to, and loss of, the Products passes from Smart Farm Systems to Customer upon delivery of the Products by Smart Farm Systems to Customer's designated installation site.

(e) Title to the Products passes from Smart Farm System to Customer upon Smart Farm Systems' receipt from Customer of payment in full for the purchase price therefor. Notwithstanding the foregoing, Customer hereby grants Smart Farm Systems a purchase money security interest in the Products to secure the payment of the purchase price of the Products and all other sums due to Smart Farm Systems from Customer. For the avoidance of doubt, title to Smart Farm Software does not pass to Customer at any time.

3. Right of Return. The Products may only be returned for refunds or exchanges in accordance with the terms and conditions set forth in Smart Farm Systems' repair and

replacement policy posted at: www.smartfarm.ag/returns, as may be updated by Smart Farm Systems from time to time.

4. Installation.

(a) Smart Farm Systems agrees to use commercially reasonable efforts to provide the installation services set forth in the Purchase Order, if any (the "**Installation Services**").

(b) Prior to commencement of the Installation Services, Smart Farm Systems will conduct a site survey (the "**Site Survey**") for the purpose of determining the working condition of the equipment to which the Products will be connected. In the event the Site Survey determines there are defects, incompatibilities, or deficiencies in the operability, functionality, or safety of such equipment, or that such equipment is otherwise not in good working condition (collectively, "**Site Deficiencies**"), Smart Farm Systems will provide to Customer a written report identifying the Site Deficiencies. Customer acknowledges the performance of the Installation Services is contingent on the correction of the Site Deficiencies and understands that Smart Farm Systems will suspend its performance thereof until such Site Deficiencies are corrected, without penalty or liability to Customer.

(c) In connection with the Installation Services, Customer agrees to furnish: (i) all information, technical documentation, and other inputs concerning the equipment to which the Products will be connected, together with access to personnel knowledgeable about such equipment, as reasonably determined by Smart Farm Systems to be necessary in connection with its performance of the Site Survey and the Installation Services; (ii) access to Customer's computer system, configured as reasonably necessary for Smart Farm Systems' performance of the Installation

Services; and (iii) access to the site where the Installation Services will be performed, as reasonably determined by Smart Farm Systems to be necessary in connection with its performance of the Site Survey and the Installation Services. Customer acknowledges Smart Farm Systems' ability to perform the Installation Services is conditioned on Customer's timely response to Smart Farm Systems' requests for such inputs and access, and Smart Farm Systems will not be in breach of the Products Purchase Agreement for delays in the Installation Services caused primarily by Customer's failure to provide such timely response.

(d) Customer represents and warrants to Smart Farm Systems that Customer maintains and will continue to maintain a safe working environment for all Smart Farm Systems personnel working on-site at Customer's locations.

(e) Customer agrees Smart Farm Systems may subcontract or delegate to any entity or individual all or any portion of the Site Survey and the Installation Services.

5. Intellectual Property Rights.

(a) As between Smart Farm Systems and Customer, Smart Farm Systems is and will remain the sole and exclusive owner of all right, title and interest in and to the Intellectual Property Rights (as defined below) associated with the Products and Smart Farm Software. Except for the Software License, no right, title, or interest in or to the Intellectual Property Rights associated with the Products or Smart Farm Software is granted by Smart Farm Systems to Customer, whether by implication, estoppel or otherwise; provided, however, subject to Customer's full and complete payment of all amounts due to Smart Farm Systems in connection therewith, Smart Farm Systems grants to Customer a limited,

personal, non-exclusive, non-transferable, non-sublicensable, revocable, Territory-wide (as defined in the Software License) license to use the Intellectual Property Rights only in conjunction with, and to the extent incorporated in, the Products. Customer will not take any actions inconsistent with Smart Farm Systems' ownership of each of Smart Farm Systems' rights in and to the Products or Smart Farm Software or the Intellectual Property Rights associated therewith. Smart Farm Systems reserves all rights in the Products and Smart Farm Software not explicitly granted herein.

(b) Customer agrees that any improvement, enhancement, or modification relating in any way to the Products and/or Smart Farm Software (each, an "**Improvement**") is owned by Smart Farm Systems without any further consideration, regardless of which Party conceives of or develops such Improvement.

(c) Customer agrees not to: (i) derive or attempt to derive by reverse engineering, disassembling or otherwise, any portion of the Products; (ii) use the Products to design or build a product or service that competes with the Products; (iii) build a product using similar ideas, features, functions or graphics as the Products; and/or (iv) Customer agrees not to infringe or misappropriate upon the Intellectual Property Rights.

(d) As used herein, "**Intellectual Property Rights**" means all intellectual property rights throughout the world, including, but not limited to: (i) all patents, patent applications, patent rights and patentable subject matter, including any divisions, substitutions, continuations, continuations-in-part, renewals, reissues and extensions of the foregoing (as and to the extent applicable) now existing or hereafter filed, issued or acquired; (ii) all rights

associated with works of authorship, including copyrights, copyright applications, copyright registrations and derivative works; (iii) all rights associated with the names or labels of products or services, including trademarks, service marks, trade names, domain names, logos, trade dress and product aesthetic features, including, without limitation, all registrations, applications for registration and common law rights thereto and all goodwill associated therewith; (iv) all design rights, whether registered, unregistered, patented, patentable or otherwise; (v) all ideas, inventions, methods, processes, show-how, know-how and trade secret rights and rights to enforce confidentiality or similar obligations; and (vi) any and all other forms of intellectual property or proprietary rights recognized anywhere in the world, whether or not registrable.

6. Confidentiality. Each of Smart Farm Systems and Customer, as a Receiving Party (as defined herein), agrees to hold as confidential, not use except in connection with its performance hereunder or as reasonably required in connection with the exercise of its rights and obligations under the Products Purchase Agreement, and protect from disclosure to unauthorized third parties the Confidential Information (as defined herein) of the Disclosing Party (as defined herein). For purposes hereof, “**Confidential Information**” means any information disclosed or made available by or on behalf of a Party (the “**Disclosing Party**”) to the other Party (the “**Receiving Party**”) that is labeled as “confidential” or with like marking or that should be reasonably understood to be confidential under the circumstances of disclosure or in light of the nature of the information disclosed. Confidential Information will not include information that: (a) was publicly available, or that subsequently becomes publicly available,

except by wrongful disclosure hereunder by the Receiving Party; (b) was in the Receiving Party’s possession prior to receipt of the same hereunder, as evidenced by the Receiving Party’s prior written records; or (c) was received from a third party who was not known by the Receiving Party to be under any obligation of confidentiality with respect to such information or to have violated any applicable law. If a Receiving Party is required by a legal order or other requirement of a court, administrative agency, or other governmental body, to disclose the Disclosing Party’s Confidential Information, it may comply with such requirement provided that, in such event, such Receiving Party provides the Disclosing Party with prompt written notice of such required disclosure, to the extent permitted under applicable law, and reasonable assistance in obtaining an appropriate injunction or protective order.

7. Representations and Warranties.

(a) Customer represents and warrants to Smart Farm Systems that: (i) if Customer is an entity, it is duly formed, validly existing and in good standing under the laws of the jurisdiction of its formation; (ii) it has the full right, power and authority to enter into the Products Purchase Agreement and to perform its obligations hereunder; (iii) the Products Purchase Agreement has been duly executed by its authorized representative and is legally binding upon it and enforceable in accordance with its terms; and (iv) its use of the Products is and will at all times be in accordance with all applicable laws, rules and regulations.

(b) The limited warranty posted at smartfarm.ag/support/warranty and incorporated herein by reference sets forth all representations, warranties, and guarantees with respect to the Products (the “**Limited Warranty**”).

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE LIMITED WARRANTY, THE PRODUCTS, SMART FARM SOFTWARE, THE DEVICE APPLICATION (AS DEFINED IN THE SOFTWARE LICENSE), INSTALLATION SERVICES, AND ANY OTHER SUPPORT AND/OR TECHNICAL ASSISTANCE ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE LIMITED WARRANTY, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SMART FARM SYSTEMS AND ITS AFFILIATES, PARENTS, SUBSIDIARIES AND AGENTS (COLLECTIVELY, THE "REPRESENTATIVES") DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, OR STATUTORY, INCLUDING (WITHOUT LIMITATION) ANY WARRANTY AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, TITLE, OR NON-INFRINGEMENT.

THE REPRESENTATIVES DO NOT WARRANT THE PRODUCTS, SMART FARM SOFTWARE, THE DEVICE APPLICATION, INSTALLATION SERVICES, OR ANY OTHER SUPPORT AND/OR TECHNICAL ASSISTANCE WILL MEET CUSTOMER'S REQUIREMENTS NOR DO THEY GIVE ANY WARRANTY ABOUT THE RESULTS THAT MAY BE OBTAINED BY USING THE PRODUCTS, SMART FARM SOFTWARE, THE DEVICE APPLICATION, INSTALLATION SERVICES, OR ANY OTHER SUPPORT AND/OR TECHNICAL ASSISTANCE. THE REPRESENTATIVES DO NOT WARRANT

THAT OPERATION OF OR USE OF SMART FARM SOFTWARE WILL BE UNINTERRUPTED, BUG OR ERROR FREE, OR ENTIRELY SECURE. THE REPRESENTATIVES DO NOT WARRANT THE DOCUMENTATION (AS DEFINED IN THE SOFTWARE LICENSE) WILL BE FREE OF OPERATIONAL, TECHNICAL OR EDITORIAL ERRORS AND/OR OMISSIONS.

CUSTOMER ACKNOWLEDGES SMART FARM SYSTEMS DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND SMART FARM SOFTWARE, THE PRODUCT, AND THE DEVICE APPLICATION MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. SMART FARM SYSTEMS IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THE PRODUCTS, SMART FARM SOFTWARE, AND THE DEVICE APPLICATION RELY UPON THIRD PARTY SOFTWARE (AS DEFINED IN THE SOFTWARE LICENSE) FOR CERTAIN FUNCTIONS AND SMART FARM SYSTEMS MAKES NO REPRESENTATION, WARRANTY, PROMISE OR GUARANTEE TO CUSTOMER THAT SUCH SOFTWARE WILL BE BUG OR ERROR FREE, ACCOMPLISH A SPECIFIED PURPOSE OR PERFORM IN ACCORDANCE WITH ANY PARTICULAR STANDARD, LEVEL OR METRIC AND SMART FARM SYSTEMS WILL NOT BE LIABLE FOR

ANY FAILURE THEREOF TO CUSTOMER.

8. Indemnification. Customer hereby agrees to defend and hold harmless Smart Farm Systems, its successors, assigns, affiliates, and subsidiaries, and its and their officers, directors, stockholders, employees, and agents (collectively, “**Indemnitees**”) in any action or claim, and to indemnify Smart Farm Systems and its Indemnitees from and against any and all claims, damages, losses, liabilities, sums of money, penalties, costs and/or expenses of any kind, including, without limitation, reasonable attorneys’ fees, arising from such action or claim, to the extent related to: (a) a breach by Customer of any term, condition, or covenant, or of any of its warranties or representations, contained in the Products Purchase Agreement; (b) Customer’s negligence or intentional misconduct; (c) Customer’s violation of applicable law; (d) Customer’s unauthorized or improper use of the Products and/or Smart Farm Software or due to the Products and/or Smart Farm Software being misused, abused, altered, or improperly maintained or repaired; and/or (e) an End User’s (as defined in the Software License) breach of any term or condition, or of any of its representations and warranties, set forth in the EULA.

9. Export. Customer may not export, or transfer for the purpose of re-export, the Products.

10. Third Party Products and Services. In connection with the Products and/or Smart Farm Software, Smart Farm Systems may recommend a third party’s products and services and/or rely on data or information provided or generated by such third party’s products and services. Any business relationship, exchange of data, or other interaction between Customer and a third

party and/or any purchase, download, or use by Customer of any product or service offered by a third party, is solely between Customer and such third party. Further, Customer hereby acknowledges Smart Farm Systems does not make any representation, warranty, or guarantee with respect to such third parties, their products or services, or the accuracy, reliability or completeness of any such data and information. Customer agrees Smart Farm Systems is not liable for: (a) any loss or liability caused by such third parties; or (b) any acts or omissions based on its reliance on such data and information.

11. Force Majeure. Except with respect to a Party’s payment obligations under the Products Purchase Agreement, neither Party will be responsible for any delay or failure to perform obligations specified in the Products Purchase Agreement or otherwise agreed upon by the Parties from time to time due to unforeseeable causes beyond such Party’s reasonable control.

12. Relationship of the Parties. Customer agrees the relationship between the Parties under the Products Purchase Agreement is that of independent parties and that nothing contained herein shall be construed or interpreted as creating any other relationship between the Parties including, but not limited to, a joint venture, partnership, principal/agent, or employer/employee relationship.

13. Customer Reference. Customer consents to Smart Farm Systems’ use of Customer’s name and logo in Smart Farm Systems’ marketing and promotional materials.

14. Governing Law. The Parties agree the Products Purchase Agreement is governed by, and interpreted in accordance with, the laws of the Commonwealth of Kentucky, except for

those conflicts of law rules thereof that would require or permit the application of the laws of another jurisdiction.

15. Dispute Resolution. Any dispute, claim or controversy arising out of, connected with, or relating to, the Products Purchase Agreement will be resolved exclusively by binding arbitration in accordance with the then current Commercial Arbitration Rules of the American Arbitration Association. Any such arbitration will be conducted in Lexington, Kentucky. A judgment upon the award may be entered in any court having appropriate jurisdiction. Each Party agrees to bear its own costs and expenses and attorneys' fees, and an equal share of the arbitrators' fees and any administrative fees of arbitration. Notwithstanding the foregoing, in the event of any dispute, claim or controversy relating to Smart Farm Systems' intellectual property rights or Customer's breach of confidentiality, Smart Farm Systems may separately seek injunctive or other equitable remedies and relief directly from the federal and state courts located in the Commonwealth of Kentucky without posting bond or other security, to which jurisdiction, for such purpose, Customer hereby irrevocably consents.

16. Limitation of Liability. In no event will Smart Farm Systems be liable to Customer for any direct, indirect, incidental, consequential lost profits, punitive, remote, special, cover or exemplary damages (even if Smart Farm Systems has been advised in advance of the possibility of such damages), arising from the Products, the Smart Farm Software, or the Products Purchase Agreement, including, but not limited to, loss of revenue or anticipated profits or lost business, loss of data or loss of use. IN NO EVENT WILL SMART FARM SYSTEMS' TOTAL CUMULATIVE LIABILITY FOR CLAIMS OF ANY KIND, WHETHER BASED ON CONTRACT, TORT,

NEGLIGENCE, INDEMNITY OR OTHERWISE, FOR ANY LOSS OR DAMAGE ARISING OUT OF OR RELATED TO THE PRODUCTS, THE SMART FARM SOFTWARE, OR THE PRODUCTS PURCHASE AGREEMENT EXCEED THE AMOUNTS ACTUALLY PAID BY CUSTOMER HEREUNDER FOR THE PRODUCTS TO WHICH SUCH CLAIM RELATES. NO CLAIM MAY BE ASSERTED BY CUSTOMER AGAINST SMART FARM SYSTEMS MORE THAN TWELVE (12)-MONTHS AFTER THE DATE OF THE CAUSE OF ACTION UNDERLYING SUCH CLAIM. IN THE EVENT OF ANY FAILURE OF THE PRODUCT OR SMART FARM SOFTWARE, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY SHALL BE FOR SMART FARM SYSTEMS TO USE COMMERCIALY REASONABLE EFFORTS TO REPAIR OR PROVIDE THE AFFECTED SERVICE. CUSTOMER HEREBY AGREES THAT IN NO EVENT WILL SMART FARM SYSTEMS BE LIABLE FOR, AND CUSTOMER HEREBY RELEASES AND FOREVER HOLDS SMART FARM SYSTEMS HARMLESS FROM, ANY LIABILITY OR LOSS ARISING IN CONNECTION WITH ANY PROPERTY DAMAGE, DEATH OR PERSONAL INJURY WHICH OCCURS AS A RESULT OF A FAILURE, UNAVAILABILITY OR MALFUNCTION OF THE PRODUCT OR THE APPLICATION. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT SMART FARM SYSTEMS HAS ENTERED INTO THE PRODUCTS PURCHASE AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY SPECIFIED HEREIN, WHICH ALLOCATE RISK BETWEEN CUSTOMER AND SMART FARM SYSTEMS AND FORM A

BASIS OF THE BARGAIN BETWEEN THE PARTIES.

17. Miscellaneous. The Products Purchase Agreement is binding upon and inures to the benefit of the Parties and their respective successors and assigns; provided, however, neither the Products Purchase Agreement nor any rights, duties, or obligations hereunder may be assigned, delegated, or otherwise transferred in any way by Customer without Smart Farm Systems' prior written consent. Any attempted assignment by Customer in violation of the foregoing restriction is null, void, and of no legal effect. If any provision contained in the Products Purchase Agreement is for any reason held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision of the Products Purchase Agreement, but the Products Purchase Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained therein. No delay or omission by a Party to exercise any right or remedy accruing pursuant to any of the terms of the Products Purchase Agreement will impair any such right or remedy or be

construed to be a waiver thereof. A waiver by a Party of any of the covenants and agreements of the Products Purchase Agreement will not be construed to be a waiver of the future enforceability of such covenants and agreements or any other covenant or agreement therein contained. No amendment or modification of any provision of these Terms will be effective against Smart Farm Systems unless the same shall be in writing and signed by an authorized representative of Smart Farm Systems. Smart Farm Systems may amend or modify any provision of these Terms without the consent of Customer at any time in its discretion. Any changes Smart Farm Systems makes to these Terms will be effective when posted online at www.smartfarm.ag under Terms and Conditions. The Parties agree the Products Purchase Agreement is the result of arm's length negotiations between the Parties and is construed to have been drafted by all Parties such that any ambiguities in the Products Purchase Agreement will not be construed against either Party.