

## FARMCOMMAND END USER LICENCE AGREEMENT

**PLEASE READ THE FOLLOWING AGREEMENT CAREFULLY! BY CLICKING “I ACCEPT,” YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO THIS EULA, AND ANY ADDITIONAL TERMS AND CONDITIONS OR FUTURE MODIFICATIONS. IF YOU DO NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS EULA, CLICK THE “I DO NOT ACCEPT” BUTTON OR LINK OR EXIT THE SOFTWARE.**

NOW THEREFORE in consideration of the foregoing and the mutual promises, covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties agree as follows:

### **1. DEFINITIONS**

1.1 **Definitions.** The following terms, wherever used in this EULA, shall have the respective meanings set forth below:

- (a) “Canada’s Anti-Spam Legislation” means an Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the *Canadian Radio-television and Telecommunications Commission Act*, the *Competition Act*, the *Personal Information Protection and Electronic Documents Act* and the *Telecommunications Act*, as amended.
- (b) “CDMS” means Crop Data Management Systems, Inc.
- (c) “Confidential Information” means any and all information, whether disclosed in writing, electronically, orally, in machine readable form or otherwise, of any nature and in any form, and whether or not specifically marked as confidential, including but not limited to, the terms and agreements contained in this EULA, the information gathered by inspection or heard by you from an inspection of any property, activities or facilities of FEI, the Software, the Results, business plans, business strategies, research and development plans, marketing plans, pricing information and any other technical, engineering, manufacturing, product, servicing, personnel, business or financial information, which is provided, developed, made available or disclosed by FEI to you, or that you prepare that contain or otherwise reflect a review of any of the information referred to in this Section.
- (d) “Content Licence” has the meaning assigned to it in Section 4.2(b).
- (e) “Defaulting Party” has the meaning assigned to it in Section 10.2(c).
- (f) “EULA” means this End User Licence Agreement and all of the schedules and appendices attached hereto, and any additional terms, conditions or future modifications as described herein.
- (g) “FarmCommand IP” means the Software, the Results, the Licensee Content and the Confidential Information, and all Intellectual Property relating thereto.

- (h) “FEI” means Farmers Edge Inc., a corporation incorporated under the laws of the Province of Manitoba, and includes all of FEI’s affiliates, subsidiaries, shareholders, officers, directors, agents, representatives, contractors, suppliers, customers, licensors, licensees, partners, employees, successors and assigns, except for you.
- (i) “FEI IP” means the Software, the Results, and the Confidential Information, and all Intellectual Property relating thereto
- (j) “Intellectual Property” means any and all rights in and in relation to any intellectual and industrial property of every nature, under the laws of any country, whether registered or unregistered, including without limitation, improvements, modifications, developments, trade secrets, proprietary information, know-how, derivative works, copyrights, moral rights, databases, data structures, database designs, screenshots, database indices, modules, objects, classes, packages, in-line comments, user interfaces, design documents, test plans and scripts, computer programs, applications and software (whether in source, object code or executable formats) and related documentation and manuals, literary and/or artistic works, compositions, compilations, diagrams, designs, domain names, patents (including without limitation, divisions, reissues, substitutions, prolongations, continuations, re-examinations, continuations in part, renewals, modifications and extensions thereof), trademarks, trade dress, rights under registered user agreements, trade names, corporate names, business names, social media handles, hashtags, keywords and other trademark and service mark rights and goodwill, industrial designs, models and utility models, prototypes, inventions, ideas, data, suggestions, conceptions, formulations, compounds, methods, discoveries, processes, compositions, research data and results, project plans, notes, testing materials, logs, drawings, information, findings, results, technologies, materials, formulae, specifications and architecture, data, techniques, instructions, manuals, records, look and feel, integrated circuit topography, studies, blueprints, packaging, reports, files, samples, photographs, graphs, graphics, text files, websites (including all of the related web pages, content, software, information, photographs, images, illustrations, audio clips, video clips, data, code, graphics, text files, icons, titles, objects, concepts, artwork, animations, text, sounds, audio-visual effects, methods of operation and the look and feel of the content and information), drawings, interfaces, screen display, audio visual display or presentation, algorithms, documentation and media, and procedures, in whatever form or medium, including:
  - (i) the benefit of all registrations and applications to register as well as all rights to apply for registration of any of the foregoing items and all rights in the nature of any of the foregoing items, each for their full term (including any extensions or renewals thereof);
  - (ii) any other statutory protection of whatever kind;
  - (iii) all such other rights which may be recognized under law, equity, contract or otherwise, to protect technical or other creative contributions or expressions;
  - (iv) confidential information, know-how and trade secrets;

- (v) all priority rights derived from any of the foregoing items and all rights in the nature of any of the foregoing items for any and all countries in the world; and
- (vi) all rights to sue for infringement, misappropriation and/or violation of any of the foregoing items and all rights in the nature of any of the foregoing items, whether arising prior to or subsequent to the date of this EULA.
- (k) “Licence” has the meaning assigned to it in Section 4.2(a).
- (l) “Licensee” means a person who uses and accesses the Software or the Software and the Results in any manner, also referred to in this EULA as “you”.
- (m) “Licensee Content” means any data and information distributed or submitted electronically or otherwise by you via the Software, including but not limited to, data, soil information, equipment information and data, agricultural data, inventory information and shipping information. For clarity, the “Licensee Content” does not include data generated or collected from weather stations installed or used by FEI in accordance with any separate transaction agreement between you and FEI.
- (n) “Marks” has the meaning assigned to it in Section 6.5.
- (o) “Non-Defaulting Party” has the meaning assigned to it in Section 10.2(c).
- (p) “Planet” means Planet Labs Inc.
- (q) “Planet Content” means (i) the Earth imagery gathered by the constellation of RapidEye satellites, including imagery data; (ii) the Earth imagery gathered by the constellation of dove satellites, including imagery data; (iii) the Earth imagery gathered by the constellation of SkySat satellites, including imagery data; (iv) the Earth imagery gathered by the Mission 2 constellation of dove satellites, including imagery data; and (v) any additional generally available imagery data generated by Planet during the Term and any renewals thereof. For clarity “Planet Content” does not include the Third Party Content.
- (r) “Requirements” has the meaning assigned to it in Section 7.3.
- (s) “Results” means any and all results, reports and recommendations based on the Licensee Content, weather data, user data, geo-reference data, analytics and/or user data results that FEI prepares or generates, including ratios, soil samples, zone calculations, nutrient prescriptions, controller prescription files, field boundary delineations, weather information, equipment data, soil results, grid setups, prescription maps, imagery, lab results indicators and soil performance of a farm. The term “Results” shall also include any modification or enhancement to the Licensee Content and any Intellectual Property relating thereto by FEI, and any Intellectual Property made, conceived, acquired, suggested, discovered, derived or developed by FEI, or under FEI’s direction, either solely or jointly with others, which relates to, relies on, contains or uses the Licensee Content or the Software, or both, and all Intellectual Property relating thereto.
- (t) “Search Results” means the results obtained from the Intellectual Property of CDMS to which FEI has a right or license to use and access.

- (u) “Software” means the FarmCommand platform and application, together with (a) all computer programs, software, website, database and/or multi-media content in object code form that are embedded in the said platform and application or delivered to you separately by FEI and are designed to be used in conjunction with the said platform and application; (b) all documentation relating to the said platform and application, including without limitation, manuals, handbooks and any user guides and/or other instructions concerning the access, use and/or operation of the Software; (c) the Planet Content, and (d) the Third Party Content.
- (v) “Subscribing Organization” has the meaning assigned to it in Section 2.1.
- (w) “Subscription Fee” has the meaning assigned to it in Section 3.1.
- (x) “Term” has the meaning assigned to it in Section 10.1.
- (y) “Third Party Content” means (i) the Earth imagery collected by the European Space Agency and made available by Planet to FEI and related content; (ii) the Earth imagery collected by the United States Geological Survey and made available by Planet to FEI and related content; (iii) the Intellectual Property of CDMS to which FEI has a right or license to use and access; and (iv) any other third party Intellectual Property (which includes imagery) to which FEI has a right or license to use and access.

## 2. SUBSCRIBING ORGANIZATION

2.1 **Subscribing Organization.** If you are registering or using the Software or the Results on behalf of, or in connection with, your employment or engagement with a company, entity or organization (collectively, the “Subscribing Organization”), you agree to be bound by this EULA on behalf of such Subscribing Organization and you represent and warrant that you have the authority to do so. In such a case, references to “you” and/or the “Licensee” in this EULA shall be construed to mean you, the Subscribing Organization, and any other individual that uses the Software or the Results on the Subscribing Organization’s behalf or in connection with their employment with or engagement by such Subscribing Organization. To the extent your Subscribing Organization has a separate transaction agreement with FEI, that agreement will define the order of precedence between the terms of this EULA and that agreement, provided that you remain individually bound by the terms and conditions of this EULA.

## 3. FEES

3.1 **Fees & Payment.** FEI shall charge you and you shall pay to FEI a subscription fee which is already included in and forms part of any fees payable by you in any transaction agreement between you and FEI (the “Subscription Fee”). The Subscription Fee shall be paid in accordance with this EULA or any transaction agreement between you and FEI, plus any applicable taxes (including any goods and services taxes), during the Term. FEI reserves the right to change at any time the Subscription Fee without any notice or liability to you or any other person. Any amounts remaining unpaid after the due date shall have interest charged thereon at the lower of the rate of 26.8% per annum or the maximum interest rate permitted by law.

If and when applicable, you shall pay all taxes and any related interest or penalty howsoever designated and imposed as a result of the existence or operation of this EULA, the Results or the Software, except for taxes on the income or profits of FEI.

#### 4. LICENCES

##### 4.1 **Delivery.** Subject to the terms and conditions of this EULA:

- (a) FEI will host the Software on its servers for access and reasonable use by you;
- (b) FEI shall, from time to time and at its sole discretion, provide the Results to you.

##### 4.2 **Licences.** The parties agree that:

- (a) Subject to the terms and conditions of this EULA, FEI hereby grants to you a personal, revocable, non-exclusive, non-assignable, non-transferable, non-subliceasable right and licence to access and use the Software and the Results for internal use and for agricultural purposes only and for the Term in accordance with this EULA (the “Licence”). The Licensee shall not use the Software and the Results for any purpose not expressly permitted under this EULA.
- (b) Subject to the terms and conditions of this EULA, you hereby grant to FEI, a royalty-free, fully-paid, perpetual, irrevocable, transferable, sublicenseable, worldwide and non-exclusive right and licence to access, reproduce, copy, distribute, aggregate, create derivative works of, adapt, translate, transmit, arrange, modify, host, bundle, and use the Licensee Content and any Intellectual Property relating thereto (i) in any format for the purpose of preparing or generating the Results and/or for providing the Results to you and/or for internal purposes and/or for research purposes; and (ii) in an aggregated format without the identification of any individual’s private information, for the purpose of providing the Results and all Intellectual Property relating thereto to third parties (collectively, the “Content Licence”).

##### 4.3 **Restrictions.** The parties agree that:

- (a) You agree and covenant (i) to keep all disclaimers and copyright, trademark and other proprietary notices intact on the Software and the Results; (ii) that access and use of the Software and/or the Results does not transfer to you any ownership or other rights in the Software or the Results; (iii) to access and use the Software and the Results only in the manner described expressly in this EULA and subject to all applicable laws; and (iv) to not remove, bypass or circumvent any electronic or other form of protection included in the any of the FEI IP.
- (b) You may not modify, adapt, alter, create derivative works, translate, transfer, transmit, disclose, copy or otherwise reproduce, release, communicate, reproduce, provide or make available to any third party, in any way, any of the FEI IP, in whole or in part, except as expressly provided for in this EULA and in any transaction agreement between you and FEI. You shall not copy, use, analyze, translate, convert, reverse engineer, decompile, disassemble or otherwise reduce or attempt to derive the imagery data from any of the FEI IP, to a human readable form (including reverse engineering or otherwise attempting to derive the algorithms, databases, or data structures from which any of the FEI IP, is derived), nor shall you permit any operator, employee, agent, outside consultant or other third party to do any of the foregoing. Any modification or enhancement to the any of the FEI IP, other than as specifically authorized under this EULA, without the

prior written consent of FEI, is strictly prohibited and may, at the discretion of FEI, terminate the Licence and any Intellectual Property made, conceived, acquired, suggested, discovered or developed by you, or under your direction, either solely or jointly with others, which relates to, relies on or uses any of the FEI IP, shall be treated as Confidential Information of FEI and shall be the sole exclusive property of FEI. You agree and covenant to disclose promptly in writing to FEI any such Intellectual Property.

- (c) You shall not sell or licence the FEI IP to a third party for the purpose of resale;
- (d) You shall not sell, rent, lease, transfer, distribute, loan, sublicense or otherwise transfer or assign any of the FEI IP, or the derivative works of any of the FEI IP, in whole or in part, to any third party.
- (e) You shall not merge the Software, the Results and/or the Confidential Information, or any product that contains the any of the FEI IP, in whole or in part, with any other Intellectual Property, including content.
- (f) This EULA shall not be construed as granting or conferring any ownership, security right, title, rights or licences to use or modify in any manner any of the FEI IP, except for the Licence.
- (g) You agree and covenant not to assign or grant a sublicense for this EULA or any rights or licences obtained pursuant to it.
- (h) You shall not provide a white-labelled or rebranded application, or other substantially similar technical solution that utilizes any of the FEI IP, to a third party.

## **5. ACKNOWLEDGEMENTS & COVENANTS**

### **5.1 Acknowledgements.** The parties agree that:

- (a) You agree and acknowledge the validity of the Software and the Results. You shall not use or modify the Software or the Results in any manner likely to negate, impair or dilute any of the rights of FEI. You shall not, either during the Term or at any time thereafter, contest or dispute or assist another in contesting or disputing, directly or indirectly, the validity, ownership, control or enforceability of any of FEI's right, title and interest in and to the FEI IP.
- (b) You agree that you shall not at any time file any Intellectual Property, secure and/or register any Intellectual Property or maintain any Intellectual Property relating to or arising out of any of the FEI IP.
- (c) You shall not, to the extent legally enforceable, file any action to challenge or raise any question or objection, or cause to be filed any such action or cause to be raised any such question or objection, to the validity, enforceability, registration or patentability of any of the FEI IP, on any grounds whatsoever.
- (d) You shall provide to FEI all such access, assistance and co-operation as is reasonably requested by FEI in order to facilitate the performance by FEI of its obligations hereunder.

- (e) You shall access and use the Software and the Results in a careful and prudent manner in accordance with this EULA.
- (f) You shall (a) comply with all laws and directions of FEI regarding the access and use of the Software and the Results; (b) not, nor shall you permit any person, other than FEI's authorized representatives, to modify, disassemble, perform maintenance on, service or attempt any repair or adjustment to the Software.
- (g) You agree to assume the full risk for loss or damage to the Software and/or the Results, however caused, except if caused by the negligent act or omission of FEI.
- (h) You shall keep the Software, the Results and the Confidential Information free and clear of any liens or other encumbrances.

5.2 **Service Level.** You shall ensure that your systems include reasonable attacker defences and security measures. Your systems shall be configured with reasonable security measures related to data theft (through SSL encryption) and unauthorized network access from other unlicensed computers within your end users.

5.3 **Licensee Costs.** You shall be solely responsible for:

- (a) the cost of all necessary servicing, repair or correction of problems caused by viruses or other harmful components, unless such viruses or other harmful components are the direct result of FEI's negligence or wilful conduct; and
- (b) the cost of acquiring, installing, operating, servicing, maintaining and updating all equipment, computers, software and communication services not owned or operated by or on behalf of FEI that allows you to access and use the Software and the Results.

5.4 **Availability.** The parties agree that:

- (a) You acknowledge and agree that the operation and availability of the systems used for accessing, using and interacting with the Software, the Results and/or the Licensee Content, including the Internet, or to transmit information whether or not supplied by you or FEI, can be unpredictable and may, from time to time, interfere with or prevent the access, the use and/or the operation of the Software, the Results and/or the Licensee Content. You acknowledge and agree that the bandwidth and servers provided by FEI are not guaranteed and you agree not to use an unreasonable amount of bandwidth or unreasonably burden FEI's servers. FEI is not responsible for any outages at your premises, including internal network, local infrastructure or facilities, unless directly attributable to FEI's negligence or wilful conduct. In the event viruses are detected in your local client environment managed by FEI, FEI may be required to secure the systems by denying access to infected users. If the virus infection is traced back to you, you will be invoiced for remedying the virus. You acknowledge and agree that the Results may not be available at all times and may contain inaccuracies.
- (b) Notwithstanding anything in this EULA, Third Party Content is subject to separate terms and conditions included in the "more info" (or similar) section of the Software and is subject to those terms and conditions. FEI makes such Third Party Content available to you as a convenience. You acknowledge and agree that FEI makes

no representations, warranties, covenants, or commitments with respect to any such Third Party Content and that FEI assumes no liability nor bears any responsibility in connection with any such Third Party Content.

**5.5 Licensee Content.** You acknowledge and agree that FEI has the perpetual and irrevocable right to delete any or all of the Licensee Content and the Results, including any Intellectual Property relating thereto, from FEI's servers and from the Software, whether intentionally or unintentionally, and for any reason or no reason and with or without notice, without any liability of any kind to you or any other party. YOU UNDERSTAND AND AGREE THAT FEI HAS THE RIGHT, BUT NOT THE OBLIGATION, TO REMOVE, IN WHOLE OR IN PART, ANY LICENSEE CONTENT, RESULTS OR OTHER CONTENT RELATED TO THE SOFTWARE, INCLUDING WITHOUT LIMITATION, DATA, ACCOUNT HISTORY AND ACCOUNT CONTENT RESIDING ON FEI'S SERVERS OR THE SOFTWARE, AT ANY TIME FOR ANY REASON OR NO REASON, WITH OR WITHOUT NOTICE AND WITH NO LIABILITY OF ANY KIND.

**5.6 Representations & Warranties.**

- (a) You represent and warrant that you are not now, and throughout the Term will not be, a natural person or legal entity whose primary purpose is forestry.
- (b) When you distribute or submit the Licensee Content on or through the Software, you represent and warrant: (1) that you own or otherwise control all of the rights, including moral rights and Intellectual Property rights, to the Licensee Content and that that the Licensee Content is accurate and is original to you and that no other party has any rights thereto or that you can grant or have obtained all rights and consents that are necessary for you to grant any rights and licences described in this EULA and relating to the Licensee Content to FEI; (2) that any and all access, use, reproduction, copying, submission, modification, transmission, creation of derivative works, adaptation, translation, hosting, bundling, arrangement, distribution and aggregation of the Licensee Content by you or FEI will not infringe the rights of any third party and will not otherwise cause injury to any person or entity; and (3) that you will immediately notify FEI of any Licensee Content that does not comply with this EULA or may infringe the rights of a third party or third parties.

**6. INTELLECTUAL PROPERTY**

**6.1 Ownership.** The parties agree that:

- (a) FEI is the sole and exclusive owner of and shall own all right, title and interest in the Software (except for the Planet Content and the Third Party Content), the Results and the Confidential Information, and all Intellectual Property relating thereto. The Software and the Results, and all Intellectual Property relating thereto, shall be treated as the Confidential Information of FEI.
- (b) Planet is the sole and exclusive owner of and shall own all right, title and interest in the Planet Content and all Intellectual Property relating thereto.
- (c) You are the sole and exclusive owner of and shall own all right, title and interest in the Licensee Content.



- (d) The respective owner of Third Party Content is the sole and exclusive owner of and shall own all right, title and interest in the Third Party Content.

**6.2 Assignment of IP.** The parties agree that:

- (a) You assign and transfer and/or shall cause the assignment and transfer over to FEI of any right, title and interest, worldwide, you may have or may in the future acquire in and to any of the FEI IP, without any remuneration.
- (b) FEI assigns and transfers and/or shall cause the assignment and transfer over to you of any right, title and interest, worldwide, it may have or may in the future acquire in and to the Licensee Content, without any remuneration.

**6.3 Waiver.** You waive any rights which you may have in the any of the FEI IP, including moral rights and FEI waives any rights which it may have in the Licensee Content, including moral rights.

**6.4 IP Notices.** At the request of FEI, you shall mark in the appropriate place on or within each of the items which bear the Software and/or the Results, an appropriate notice of copyright, trademark or otherwise as stipulated by FEI from time to time, and a notice that you are using the same as a “Licensee” or other such designation. You shall ensure that all proprietary notices and legends, trademark notices, copyright notices and disclaimers of FEI, its suppliers or its licensors, as the case may be, contained in or on the Software and the Results are not altered or removed and are placed in such location or locations as FEI may reasonably advise.

**6.5 Marks.** No licence, express or implied, is granted to you for the use of any of the names, trademarks, trade names, trade dress, designs and logos (collectively, the “Marks”) of FEI or of Planet under this EULA. Except as otherwise agreed to by FEI, you shall not use the Marks of FEI or of Planet in any of its literature, specifications, advertising or other published material dealing with the Software or the Results or otherwise. All goodwill related to any use of Planet’s trademarks, names and logos will inure to Planet and you shall not have a right to use same.

## **7. CONFIDENTIALITY**

**7.1 Confidentiality.** You acknowledge that it shall be necessary for FEI to disclose or make available to you the Confidential Information. The Confidential Information shall remain the sole exclusive property of FEI. Both during and after the termination or expiration of this EULA, you shall: (i) keep the Confidential Information strictly confidential; (ii) make no further use of the Confidential Information upon the return or the destruction of the Confidential Information; (iii) not nor will you assist any other person, directly or indirectly, at any time, to (a) use for yourself or others, or divulge to others, the Confidential Information; nor (b) use, publish or sell for your own purposes or for any purpose, other than to carry out your obligations under this EULA, the Confidential Information; (iv) take all steps and do all things necessary to preserve the value, confidential nature and proprietary nature of the Confidential Information and take all reasonable steps to prevent the accidental or intentional disclosure of the Confidential Information and shall comply with any reasonable request of FEI with regard to the safeguarding of the Confidential Information; (v) immediately notify FEI of any use, disclosure, transfer or transmission of the Confidential Information which is not in accordance with this EULA; and (vi) make the Confidential Information available to your agents, contractors or employees having a need to know such information solely for the purposes described in this EULA and only to the extent necessary for such persons. Prior to making any such disclosure, you shall provide to FEI a listing of all persons receiving the Confidential Information and shall cause all such persons to execute non-disclosure

agreements or other agreements containing substantially similar terms and conditions to those contained in this EULA.

**7.2 Exclusions.** Information shall not be considered to be Confidential Information if it: (a) becomes publicly available through no fault of the recipient; (b) at the time communicated by the disclosing party as Confidential Information, was already in the possession of the recipient; (c) is lawfully received from a third party having the right to disclose the Confidential Information without restriction; or (d) has been independently developed without access to or use of any Confidential Information.

**7.3 Requirements.** If you become legally compelled to disclose any Confidential Information (collectively, the “Requirements”), you shall provide FEI with prompt notice of any such Requirement and shall cooperate with FEI in connection with any efforts to prevent or limit the scope of such disclosure of the Confidential Information. If such efforts are not successful, you shall disclose only that portion of the Confidential Information as is required pursuant to such Requirements. Any such required disclosure shall not, in and of itself, change the status of the disclosed information as Confidential Information under the terms of this EULA.

## **8. INFRINGEMENT**

**8.1 Infringement.** The parties agree that:

- (a) You and FEI shall promptly notify each other in writing of any conflicting use, act of infringement or appropriation that comes to their attention regarding any of the FarmCommand IP, and shall provide any evidence relating to same which is reasonably available.
- (b) In such cases where it is alleged that a third party is infringing the Intellectual Property rights of FEI, FEI shall have the sole right, but not the obligation (i) to bring an action for infringement against the alleged infringer or to take steps as it may deem necessary in order to terminate such conflict, infringement or appropriation; or (ii) to investigate, defend, litigate and/or settle any such complaint. Any damages or sums recovered by FEI in such action or complaint or any settlement thereof shall be retained by FEI. You shall not at any time settle any such action or complaint without prior written consent of FEI.
- (c) You shall cooperate fully with and assist FEI to the fullest extent possible on any such action or complaint and execute such documents and do such other acts and things as in the opinion of FEI may be necessary, including to testify when requested by FEI, and to make available any records, information, or specimens.

## **9. LIMITATIONS AND DISCLAIMERS**

**9.1 Disclaimers & Limitation of Liability.** The parties agree that:

- (a) THE LAWS OF CERTAIN JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR CONDITIONS OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE BELOW DISCLAIMERS, EXCLUSIONS OR LIMITATIONS MIGHT NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

- (b) YOU AGREE THAT THE FEI IP IS PROVIDED BY FEI ON AN "AS IS" AND "AS AVAILABLE" BASIS. YOU AGREE THAT YOUR ACCESS AND USE OF THE FEI IP, SHALL BE AT YOUR SOLE RISK.
- (c) TO THE FULLEST EXTENT PERMITTED BY LAW, FEI DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTEES AND/OR REPRESENTATIONS, EXPRESS, STATUTORY IMPLIED OR ARISING BY CUSTOM, COURSE OF DEALING OR TRADE USAGE, IN CONNECTION WITH THE FARMCOMMAND IP, AND YOUR ACCESS TO AND USE THEREOF, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY, CONDITION, GUARANTEE AND/OR REPRESENTATION OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, PERFORMANCE, QUALITY, NON-INFRINGEMENT, SECURITY, ACCURACY, COMPLETENESS, SUITABILITY OR ANY IMPLIED WARRANTY, CONDITION, GUARANTEE OR REPRESENTATION ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.
- (d) FEI MAKES NO WARRANTIES, CONDITIONS, GUARANTEES OR REPRESENTATIONS ABOUT THE TRUTHFULNESS, USEFULNESS, ACCURACY OR COMPLETENESS OF THE FARMCOMMAND IP, OR THE AVAILABILITY, QUALITY, CHARACTERISTICS, LEGITIMACY, FUNCTIONALITY, SECURITY OR SAFETY OF ANY OF THE FARMCOMMAND IP, AND FEI ASSUMES NO LIABILITY OR RESPONSIBILITY THEREOF.
- (e) FEI ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (A) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF ANY OF THE FEI IP; (B) UNAUTHORIZED ACCESS TO AND USE OF FEI'S SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN; (C) INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SOFTWARE OR THE RESULTS; (D) BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE, WHICH MAY BE TRANSMITTED TO OR THROUGH THE SOFTWARE AND/OR THE RESULTS BY ANY THIRD PARTY; AND/OR (E) ERRORS OR OMISSIONS CONTAINED IN THE FARMCOMMAND IP, AND/OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE ACCESS TO OR USE OF ANY OF THE FARMCOMMAND IP.
- (f) IN NO EVENT SHALL FEI BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY LOSS OR DAMAGE ARISING FROM, CONNECTED WITH, OR RELATING TO (1) THE FARMCOMMAND IP, AND (2) THIS EULA, INCLUDING BUT NOT LIMITED TO, LOSS OF DATA, BUSINESS, BUSINESS INTERRUPTION, MARKETS, SAVINGS, INCOME, PROFITS, USE, PRODUCTION, REPUTATION AND/OR GOODWILL, ANTICIPATED OR OTHERWISE, AND/OR ECONOMIC LOSS, UNDER ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY OR LAW OR EQUITY), REGARDLESS OF ANY NEGLIGENCE OR OTHER FAULT OR WRONGDOING (INCLUDING WITHOUT LIMITATION GROSS NEGLIGENCE AND FUNDAMENTAL BREACH) BY FEI OR ANY PERSON FOR WHOM FEI IS RESPONSIBLE, AND EVEN IF FEI HAS BEEN

ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE BEING INCURRED. IN THOSE JURISDICTIONS THAT DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH JURISDICTIONS, THE LIABILITY OF FEI SHALL BE LIMITED TO THE FULL EXTENT PERMITTED BY LAW.

- (g) YOU ARE SOLELY RESPONSIBLE FOR ANY DECISIONS YOU MAKE BASED ON INFORMATION CONTAINED IN THE FARMCOMMAND IP.
- (h) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU ACKNOWLEDGE AND AGREE THAT YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY DISPUTE WITH FEI IS TO STOP USING THE SOFTWARE AND THE RESULTS.
- (i) FEI WILL NOT BE RESPONSIBLE FOR ANY DAMAGES YOU OR ANY THIRD PARTY MAY SUFFER AS A RESULT OF THE TRANSMISSION, STORAGE OR RECEIPT OF THE RESULTS AND CONFIDENTIAL OR PROPRIETARY INFORMATION THAT YOU MAKE OR THAT YOU EXPRESSLY OR IMPLICITLY AUTHORIZE FEI TO MAKE, OR FOR ANY ERRORS OR ANY CHANGES MADE TO ANY TRANSMITTED, STORED OR RECEIVED INFORMATION OR RESULTS.
- (j) FEI'S TOTAL AGGREGATE LIABILITY TO YOU OR ANY THIRD PARTIES IN ANY CIRCUMSTANCE IS LIMITED TO THE GREATER OF (A) THE AMOUNT OF FEES THE LICENSEE PAID TO FEI; AND (B) \$100. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.
- (k) IN ADDITION, NO ADVICE OR INFORMATION (ORAL OR WRITTEN) OBTAINED BY YOU FROM FEI SHALL CREATE ANY WARRANTY.
- (l) YOU AND FEI AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE FARMCOMMAND IP, OR THIS EULA, MUST COMMENCE AND BE FILED WITHIN 1 YEAR AFTER THE CAUSE OF ACTION AROSE; OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.
- (m) ALL EXPRESS AND IMPLIED WARRANTIES REGARDING THE PLANET CONTENT BY PLANET AND ITS SUPPLIERS ARE DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INTERFERENCE, AND NON-INFRINGEMENT.
- (n) ALL LIABILITIES (DIRECT AND INDIRECT) TO YOU ARE DISCLAIMED ON BEHALF OF PLANET.
- (o) THE PRODUCT INFORMATION DISPLAYED IN THE SEARCH RESULTS IS PROVIDED "AS IS," WITHOUT WARRANTY, EXPRESS OR IMPLIED, AND FOR INFORMATION PURPOSES ONLY. ALTHOUGH CDMS ENDEAVORS TO PRESENT CURRENT AND ACCURATE INFORMATION, THE SEARCH RESULTS CONTAIN INFORMATION CREATED AND MAINTAINED BY A VARIETY OF EXTERNAL SOURCES THAT MAY NOT BE CURRENT OR

COMPLETE. CDMS DOES NOT CONTROL, MONITOR OR GUARANTEE THE TIMELINESS OR ACCURACY OF THE INFORMATION PROVIDED BY SUCH EXTERNAL SOURCES. INCLUSION OF A PRODUCT IN A SEARCH RESULT DOES NOT CONSTITUTE CDMS' ENDORSEMENT OF THAT PRODUCT. IT IS YOUR RESPONSIBILITY TO REVIEW THE OFFICIAL MANUFACTURER PRODUCT LABEL INFORMATION, APPLICABLE REGULATIONS, AND OTHERWISE RESEARCH THE ACCURACY, COMPLETENESS AND USEFULNESS OF ALL INFORMATION, CLAIMS AND OPINIONS CONTAINED IN THE SEARCH RESULTS. IN NO EVENT WILL CDMS OR ITS DATA PROVIDERS BE RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY DAMAGE OR LOSS CAUSED OR ALLEGED TO BE CAUSED BY OR IN CONNECTION WITH THE USE OF OR RELIANCE ON ANY INFORMATION CONTAINED IN THESE SEARCH RESULTS, INCLUDING INFORMATION THAT IS OUTDATED OR INCORRECT. THE SEARCH RESULTS ARE PROVIDED UNDER A LIMITED NON-EXCLUSIVE, REVOCABLE, NONTRANSFERABLE LICENSE, AND MAY NOT BE REDISTRIBUTED OR USED TO DEVELOP A STAND-ALONE DATABASE. THE SEARCH RESULTS MAY INCLUDE MATERIALS COVERED BY REGISTERED COPYRIGHTS AND TRADEMARKS. ALL RIGHTS NOT EXPRESSLY GRANTED HEREIN ARE RESERVED BY THE INTELLECTUAL PROPERTY OWNERS. IN NO EVENT SHALL THE LIABILITY OF CDMS, ITS OFFICERS, DIRECTORS AND AGENTS HEREUNDER EXCEED \$100 IN THE AGGREGATE.

**9.2 Release.** You release and forever discharge FEI from and against any and all demands, causes of action, liability and claims, at law or in equity that you, or your successors or assigns, have or may hereafter have connected in any way with the FarmCommand IP.

**9.3 Indemnity.** Except if caused by the negligent act or omission of FEI, you shall indemnify and hold harmless FEI from and against any and all claims, damages, losses, expenses or liability of any kind whatsoever from third parties relating to:

- (a) Your breach of any provision, representation, warranty or covenant of this EULA;
- (b) any loss, injury, death, damage, expense, charge or cost that FEI may suffer or incur, whether in respect of injury to persons or damage to its property, end-users, or others in any manner that arises out of, or is attributable to you use or access of the FEI IP, or any other item provided by FEI hereunder; or
- (c) the Licensee Content and the Results, including any claim in respect of infringement of a third party's Intellectual Property rights. FEI takes no responsibility and assumes no liability for any Licensee Content distributed or submitted by you or any third party.

## **10. TERMINATION**

**10.1 Term.** The term of this EULA will commence on the date of your acceptance of this EULA and shall remain in effect until terminated as provided in this EULA or in any transaction agreement between you and FEI (the "Term").

**10.2 Termination.** The parties agree that:

- (a) FEI shall have the right to terminate this EULA, at any time and without cause, upon the provision of 7 days' written notice to you.
- (b) In the event you fail to pay the Subscription Fee or other amounts due to FEI pursuant to this EULA or any transaction agreement between FEI and you, FEI can immediately terminate this EULA and the rights and licences granted herein.
- (c) Subject to Section 10.2(a) and Section 10.2(b), in the event that a party (the "Defaulting Party") shall breach any material provision of this EULA or fail to observe or perform any covenant or obligation applicable to it under this EULA, the other party (the "Non-Defaulting Party") has the right to serve written notice on the Defaulting Party of the Non-Defaulting Party's intent to terminate this EULA. The notice of intent to terminate shall specify the alleged breach or failure and if within 30 business days of the date of delivery of such notice to the Defaulting Party, the Defaulting Party has not cured all of the defaults, the Non-Defaulting Party may, at its sole discretion, terminate this EULA. Such termination shall be without prejudice to any other rights or remedies the Non-Defaulting Party may have in respect of such default.
- (d) You agree to pay any outstanding amounts owing to FEI to the effective date of termination of this EULA. Such termination shall not relieve any of the parties from obligations incurred prior to the date of such termination.
- (e) If any party becomes insolvent or bankrupt, dissolves or winds up, this EULA terminates immediately.
- (f) Where either party is given a right to terminate hereunder and does not exercise the same, this shall not be deemed to be a waiver of such party's right to terminate upon any subsequent event.

**10.3 Return.** Upon the expiration or termination of this EULA, for any reason whatsoever:

- (a) You shall forthwith deliver to FEI, without charge, the FEI IP, including all copies, and you shall certify to FEI that no copies of such material have been retained.
- (b) You shall immediately cease access and use of the FEI IP and any other item provided by FEI herein, and any Intellectual Property relating thereto provided by FEI to you in any manner whatsoever.
- (c) The Licence will terminate. Your access to the Software and the Results shall be disabled. The Content Licence shall continue.
- (d) You agree that FEI has the right to notify any persons it deems appropriate as to the termination or expiry of the rights granted hereunder.

## **11. GENERAL**

### **11.1 Governing Law.**

- (a) This EULA will be construed and the legal relationships between the parties determined in accordance with the laws of the Province of Manitoba and the laws of Canada, without regard to conflicts of laws principles, and the parties expressly

attorn to the exclusive jurisdiction of the courts of Manitoba for enforcement thereof. Notwithstanding the foregoing, either party may apply to the court to obtain injunctive relief and any other available equitable or legal remedy regarding any matter relating to their confidentiality or proprietary rights. The courts in some countries will not apply the laws of the Province of Manitoba and the laws of Canada to some types of disputes. If you reside in one of those countries, then where the laws of the Province of Manitoba and the laws of Canada are excluded from applying, your country's laws will apply to such disputes related to this EULA. Otherwise, you agree that the laws of the Province of Manitoba and the laws of Canada will apply to any disputes arising out of or relating to the terms of this EULA. Similarly, if the courts in your country will not permit you to consent to the jurisdiction and venue of the courts in the Province of Manitoba and/or Canada, then your local jurisdiction and venue will apply to such disputes related to this EULA. Otherwise, all claims arising out of or relating to this EULA will be litigated exclusively in the federal or provincial courts of Winnipeg, Manitoba, Canada, and you and FEI consent to personal jurisdiction in those courts.

- (b) You and FEI expressly exclude the *UN Convention on Contracts for the International Sale of Goods* and *The International Sale of Goods Act (Manitoba)*, as amended, replaced or re-enacted from time to time. You agree to waive any right that you may have to: (i) a trial by jury; and (ii) commence or participate in any class action against FEI related to the Software, the Results, the Licensee Content and this EULA. You also agree to opt out of any class proceedings against FEI.
- (c) You shall comply fully with all applicable laws and regulations, including, without limitation, the laws and regulations of the United States, Canada, Germany, the Netherlands and any other jurisdiction in which FEI operates or does business, which regulations include, without limitation, the Foreign Corrupt Practices Act and economic sanctions and export controls administered by the U.S. Department of the Treasury and the U.S. Department of Commerce. Without limiting the foregoing, you shall ensure that neither the Planet Content nor any part or derivation thereof is (a) provided to or the subject of any transaction or dealing, directly or indirectly, with or related to an Embargoed Jurisdiction (as defined below) or Sanctioned Person (as defined below); (b) exported or reexported, directly or indirectly, in violation of any applicable laws or regulations, or (c) used for any prohibited purpose. "Embargoed Jurisdiction" means a country, region, territory or government with respect to which the U.S. government imposes a trade or investment embargo, presently Crimea, Cuba, Iran, North Korea, and Syria. "Sanctioned Person" means any legal entity or individual with respect to which or whom U.S. citizens are generally forbidden to transact under economic sanctions including, without limitation, a person on the List of Specially Designated Nationals and Blocked Persons.

**11.2 Currency.** All references to dollar amounts in this EULA shall be lawful money of the country to which you are resident, unless indicated otherwise in this EULA or in any transaction agreement between you and FEI.

**11.3 Severability.** If any provision of this EULA is held to be unlawful, void, or for any reason unenforceable by a court of competent jurisdiction, then that provision will be deemed severable from this EULA and will not affect the validity and enforceability of any remaining provisions.

**11.4 General.** All rights and remedies of each party under this EULA are cumulative and may be exercised at any time and from time to time, independently or in combination. If any provision of this EULA is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of any other provision of this EULA. No party shall be bound by any waiver of any provision of this EULA unless such waiver is consented to in writing by that party. No waiver of any provision in this EULA shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver unless otherwise provided. Time shall be of the essence herein. The Licensee and FEI are independent contractors. No agency relationship or partnership exists between them, and neither of them has the right to enter into a contract on behalf of or as an agent or representative of the other. The parties shall execute and deliver, or cause to be executed and delivered, upon written request, any and all further documents and do all acts and things or cause such acts or things to be performed which may be necessary or desirable to give effect to the terms of this EULA. The parties acknowledge that this EULA and any existing transaction agreements between you and FEI, together with any schedules and appendices attached thereto, constitutes the entire agreement between the parties and supersedes all previous representations or agreements, written or oral, between the parties hereto. You consent to the exchange of information and documents between us electronically over the internet or by email. You agree that this electronic agreement shall be equivalent of a written paper agreement between us.

**11.5 Notice.** Any notice required or authorized under this EULA to be given by any party to the other parties shall be in writing and may be delivered in person or by courier or sent by prepaid registered mail and addressed to the addresses described on any transaction agreement between you and FEI or such other parties or such other addresses as a party shall notify the other parties in writing. Any notice given shall be deemed to be received on the date of delivery by person or by courier, as the case may be, or on the fifth business day following the date of mailing.

**11.6 Language of Agreement.** The parties hereto confirm that it is their wish that this EULA, as well as other documents related hereto, including notices, have been and shall be drawn up in the English language only. Les parties aux présentes confirment leur volonté à cette convention de même que tous les documents, y compris tout avis qui s'y rattache, sont rédigés en anglais seulement. Os partes confirmam que é desejável que esta EULA, bem como outros documentos relacionados ao presente, incluindo avisos, tenham sido e sejam escrito apenas em língua inglesa. Настоящим Стороны подтверждают, что Лицензионное соглашение с конечным пользователем (EULA), а также другие документы, относящиеся к данному соглашению, включая уведомления, составляются только на английском языке.

**11.7 Other Remedies.** Except as expressly provided herein to the contrary, the exercise of a right of termination or any other right or remedy by either party shall be without prejudice to such party's right, subject to the limitations set forth in this EULA, to pursue any other right or remedy available hereunder or under applicable law.

**11.8 Third Party Beneficiary.** You acknowledge and agree that Planet is expressly named as an intended third party beneficiary of this EULA, with the right to enforce the terms of this EULA directly against you.

**11.9 Survival.** Any indemnity or any obligation of confidence under this EULA is independent and survives termination or expiration of this EULA. All obligations under this EULA that necessarily extend beyond termination or expiration of this EULA in order to fully achieve their



intended purpose shall survive termination or expiration of this EULA, including without limiting the generality of the foregoing, all indemnification provisions, intellectual property provisions, confidentiality provisions, licence provisions, representations, warranties, covenants, ownership provisions, disclaimers and limitation of liability provisions.

**11.10 Assignment & Enurement.** You may not assign, transfer or encumber this EULA, or any of its rights or obligations hereunder, without the prior written consent of FEI. The consent of FEI to any assignment of this EULA shall not constitute FEI's consent to a further assignment. Notwithstanding this Section, this EULA shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, executors, personal representatives, successors and permitted assigns.

**11.11 Force Majeure.** Neither party shall be liable for any failure or delay in performing its obligations under this EULA, or for any loss or damage resulting therefrom, due to acts of God, the public enemy, terrorist activities, riots, fires, and similar causes beyond such party's control. In the event of such failure or delay, the date of delivery or performance shall be extended for a period not to exceed the time lost by reason of the failure or delay; provided that the party affected by such delay is using commercially reasonable efforts to mitigate or eliminate the cause of such delay or its effects.

**11.12 Non-Solicitation.** Both during this EULA and after the termination or expiration of this EULA for a period of 1 year, you shall not nor attempt to, directly or indirectly, whether for your own benefit or for the benefit of any other entity or individual, solicit, encourage, induce or in any way influence any person employed by, or engaged to render services on behalf of FEI, to leave FEI or to engage in any activity conflicting with the interests of FEI.

**11.13 Injunctive Relief.** Notwithstanding this EULA, any breach of the Articles titled "CONFIDENTIALITY", "INTELLECTUAL PROPERTY", "LICENCES", "ACKNOWLEDGEMENTS & COVENANTS", or "INFRINGEMENT" is a breach of this EULA that may cause serious and irreparable harm to FEI and will entitle FEI to injunctive relief, in addition to all other legal or equitable remedies that may be available.

**11.14 Anti-Spam Consent.** In the event that Canada's Anti-Spam Legislation or similar legislation in other countries (like in the United States whose legislation is referred to as *Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003*) applies to the installation of the Software and related upgrades, FEI hereby seeks and you hereby provide consent to FEI for such installation and potential future upgrade installations so that you may use the Software. You may revoke such consent at any time.

**11.15 Changes to EULA.** FEI reserves the right, at its sole discretion, to change, add or remove terms and conditions contained in this EULA, at any time, without notice by posting any changes on the Software. Any changes will be effective as soon as they are posted. It is your responsibility to check this EULA and the Software periodically. Your continued use of the Software and/or the Results following the posting of such changes will mean that you accept and agree to the changes.

**11.16 SPAM.** The inclusion of any email addresses on the Software or within the Results or does not constitute consent to receiving unsolicited commercial electronic messages or SPAM.

**11.17 Contact Us.** If you have any questions, concerns or comments, please contact us at: **Farmers Edge Inc., 25 Rothwell Road, Winnipeg, MB R3P 2M5. Telephone No.: 1 (866) 724-3343, E-mail: [support@farmersedge.ca](mailto:support@farmersedge.ca)**