



OPTIfarm
24/7 SUPPORT & OPTIMISATION

TERMS AND CONDITIONS

OPTIfarm Support & Observation Services

This document contains the terms and conditions and service level agreement that applies to your use of OPTIfarm Ltd.

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The use of the term “we” or the “company” means Optifarm Ltd. The use of the term “client” means a company, person or persons or any organisation that engages the services of Optifarm Ltd.

OPTIfarm - Terms and conditions of use

1. Introduction

- 1.1 These terms and conditions shall govern your use of our services.
- 1.2 By using our services, you accept these terms and conditions in full; accordingly, if you disagree with these terms and conditions or any part of these terms and conditions, you must not use our services.
- 1.3 By using our services you also agree to use of our intellectual property in accordance with section 4.
- 1.4 Our services use data; by using our services or agreeing to these terms and conditions, you consent to our use of your data in accordance with section 9. of this agreement.

2. Disclaimer

- 2.1 The company cannot be held responsible for any losses of profit whilst our services are in use. All recommendations issued by the service are given as recommendations not instructions.

3. Copyright notice

- 3.1 Copyright (c) 2019 – *Optifarm Ltd.*
- 3.2 Subject to the express provisions of these terms and conditions:
 - (a) We, together with our licensors, own and control all the copyright and other intellectual property rights within our service; and
 - (b) All the copyright and other intellectual property rights in our service are reserved.

4. Use of intellectual property

- 4.1 You may:
 - (a) use our services for the benefit of livestock;
 - (b) to improve farm performance;
 - (c) to supplement knowledge of unskilled staff;Subject to the other provisions of these terms and conditions.
- 4.2 You may only use our services for your own business purposes, and you must not use our services for any other purpose.
- 4.4 Except as expressly permitted by these terms and conditions, you must not edit or falsely relay information.
- 4.5 Unless you own or control the relevant rights in the material, or have agreement from us in writing you must not:
 - (a) Republish any intellectual property gained from use of our service to any external clients which could commercial de-value our service and intellectual property;
 - (b) Sell, rent or sub-license intellectual property gained from use of our services;
 - (c) Show any intellectual property gained from use of our services in public;

- (d) Exploit any intellectual property gained from use of our service for a commercial purpose; or
- (e) Redistribute any intellectual property gained from use of our services.

4.6 In the event of a Breach of agreement and following formal notification of such, we reserve the right to restrict parts of our service, or indeed our whole service, at our discretion; you must not circumvent or bypass, or attempt to circumvent or bypass, any restriction measures on our services.

5. Acceptable use

5.1 You must not:

- (a) Use our services in any way or take any action that impairs, or may impair the performance, availability or accessibility of our services;
- (b) Use our services in any way that is unlawful, illegal, fraudulent or harmful, or in connection with any unlawful, illegal, fraudulent or harmful purpose or activity;
- (c) Use any data, that is not your own, collected from our services for any commercial purpose.

5.2 You must not use data collected from our services to contact individuals, companies or other persons or entities, without prior approval from OPTifarm.

5.3 You must ensure you take all reasonable measures to ensure that all the information you supply to us through our services, or in relation to our services, is true, accurate, current, complete and non-misleading.

6. Use of our software and databases

6.1 In these terms and conditions “software and databases” refers to any system or systems that we may provide you with access to. Examples include, but are not limited to, shared calendars, shared document folders and KPI dashboards, and, as the case may be, individual hardware and associated software, enabling you to receive the services.

6.2 Any user details or passwords provided to access our software and databases must be kept confidential.

6.3 You are responsible for any activity arising from failure to keep your password confidential, and subject to taking reasonable precautions may be held liable for any losses arising out of such a failure.

6.4 You must use reasonable endeavours not to allow any other person to use your details/device to access our software and databases without express permission.

6.5 You must notify us in writing or via email immediately if you become aware of any unauthorised use of your details or loss of mobile device.

7. Cancellation and suspension of our services

7.1 We may, after a 60 days’ notice period and if we have evidence to show a breach of our agreement and following a formal notification of such breach:

- (a) suspend your service; and/or
- (b) cancel your service;

7.2 You may cancel your agreement with us if outside the agreed contract length of 12 months as specified within the Service Level Agreement.

7.3 You must notify us, in writing, 60 days prior to cancellation.

7.4 Upon cancellation, we will:

(a) Leave your technology in a serviceable and current state and usable without reconfiguration, to include any data collection that is being done locally

(b) Withdraw or remove access to any data or information that contains our intellectual property.

8. Use of your technology

8.1 In these terms and conditions “your technology” means any hardware or software present on your site that can be used to control farm climate and consumption, and/or produce data.

8.2 You grant to us permission to use or change your technology in relation to our services whereby:

(a) We can access and use your data as detailed in section 9.

(b) We can change your technology settings, with prior approval, for the benefit of the farm and the effectiveness of the service.

9. Use of your data

9.1 In these terms and conditions, "your data" means all information (including without limitation all known data formats, graphics, images, audio material, video material, audio-visual material, scripts, software and files) that you submit to us for use as part of services via your technology or otherwise.

9.2 You grant to us permission to reproduce, store and publish your data on and in relation to use of our services in accordance with GDPR 25th May 2018 with the exclusion of 3rd parties without prior written consent.

9.3 **Privacy Statement:** We are committed to protecting your privacy. Authorized employees within the company on a need to know basis only use any information collected from individual customers. We constantly review our systems and data to ensure the best possible service to our customers. Parliament has created specific offenses for unauthorized actions against computer systems and data. We will investigate any such actions with a view to prosecuting and/or taking civil proceedings to recover damages against those responsible.

9.4 Clients data will be used for the optimisation and improvement of the client’s facilities. Where the client’s data pool is part of a larger contract arrangement, we will only use the combined data of all those in the same contract for the benefit of those in that contract. We will not use any individual farm data to directly optimise and/or enhance the performance of a client’s competitor where we have been made aware of the client’s competitor’s trading name and legal entity. If OPTIfarm is in any doubt, we will seek confirmation from the client.

9.5 Anonymised holistic data created by OPTIFarm as part of the ‘service’ may and will be used for the development of the OPTIFarm service ensuring no client’s individual identity is known to other clients and that no data rights of any client are compromised.

10. Your data: rules

10.1 You warrant and represent that your data will comply with these terms and conditions.

10.2 Your data must not be illegal or unlawful, must not infringe any person's legal rights, and must not be capable of giving rise to legal action against any person (in each case in any jurisdiction and under any applicable law).

10.3 Your data, and the use of your data by us in accordance with these terms and conditions, must not, to the best of your ability:

(a) Be libellous or maliciously false;

- (b) Put at risk the safety or confidentiality of any of your data by storing in such as ways as to be deemed unsafe;
- (c) Infringe any copyright, moral right, database right, trade mark right, design right, right in passing off, or other intellectual property right;
- (d) Infringe any right of confidence, right of privacy or right under data protection legislation;
- (e) Constitute negligent advice or contain any negligent statement;
- (e) Be in breach of official secrets legislation;
- (f) Be in breach of any contractual obligation owed to any person;
- (g) Be untrue, false, inaccurate or misleading;
- (h) Consist of or contain any instructions, advice or other information which may be acted upon and could, if acted upon, cause illness, injury or death, or any other loss or damage.

11. Data Protection & Privacy Policy

11.1 OPTIfarm guarantees compliance with the General Data Protection Regulation (GDPR) as ordered by the European Union. For the purpose of providing its services to the User, OPTIfarm requires a minimum of personal data of the User in order to create a specific internal account. Such an account is unique for the User and is identified by the following personal information:

- Company
- Last name, First name
- Language
- Street, number, postal code, city, country
- Email, mobile, telephone, fax

More specifically, following stipulations on personal data apply within the framework of OPTIfarm's services.

- **AIM OF PROCESSING** – Personal data in these Terms are processed on the basis of article 6.1. (b) (required to execute a commercial contract) of the GDPR.
- **STORAGE PERIOD** – Personal data processed for User and/or Client administration, will be stored during a term required for OPTIfarm to fulfil the legal obligations in the framework of a commercial contract.
- **RIGHT TO ACCESS, TO CORRECT, TO BE FORGOTTEN, TO CONSTRAIN, TO OBJECT AND TO TRANSFER PERSONAL DATA** – The User has the right to access his or her personal data at any time and to correct them (or let them be corrected) in case they are incorrect or incomplete, the right to delete personal data (or have them deleted) in case they are incorrect or incomplete, or the right to restrict processing of his or her personal data. Besides, the User has the right to obtain a copy (in a structured and digital readable form) of his or her personal data and to forward these data to any other company, as long as this is required and approved by the User. The User can do this by sending an e-mail to info@optifarm.co.uk.
- **DIRECT MARKETING** – It is possible that, as a result of the normal commercial flow of the OPTIfarm sales process in which the User previously showed an interest in OPTIfarm and its products, certain personal data of the User are also stored in the commercial/marketing database of OPTIfarm. A service user has the right to resist to any processing of his or her personal data with the aim to perform direct marketing.
- **COMPLAINT** – A contact has the right to file a complaint at the Information Commissioners Office (ICO) casework@ico.org.uk and on the telephone 0303 123 1113

Data that contain accidental preference to personal identification, or that could potentially allow identification through operation of meta-analysis or other operations of technology, are not considered as Personal Data.

12. Limitations and exclusions of liability

12.1 Nothing in these terms and conditions will:

- (a) Limit or exclude any liability for death or personal injury resulting from negligence;
- (b) Limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) Limit any liabilities in any way that is not permitted under applicable law;
- (d) Exclude any liabilities that may not be excluded under applicable law.

12.2 The limitations and exclusions of liability set out in this Section 12 and elsewhere in these terms and conditions:

- (a) Are subject to Section 12.1; and
- (b) govern all liabilities arising under these terms and conditions or relating to the subject matter of these terms and conditions, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in these terms and conditions.

12.3 To the extent that our services are provided free of charge, we will not be liable for any loss or damage of any nature.

12.4 We will not be liable to you in respect of any special, indirect or consequential loss or damage.

12.5 You accept that we have an interest in limiting the personal liability of our management and employees and, having regard to that interest, you acknowledge that we are a limited liability entity; you agree that you will not bring any claim personally against our management or employees in respect of any losses you suffer in connection with the services or these terms and conditions (this will not, of course, limit or exclude the liability of the limited liability entity itself for the acts and omissions of our officers and employees).

13. Breaches of these terms and conditions

13.1 Without prejudice to our other rights under these terms and conditions, if you breach these terms and conditions in any way, or if we reasonably suspect that you have breached these terms and conditions in any way, we may use the following escalation scale:

- (a) send you one or more formal warnings;
- (b) temporarily suspend your access to our services;
- (c) permanently prohibit you from accessing our services;
- (d) commence legal action against you, whether for breach of contract or otherwise.

13.2 Where we or the client suspend, prohibits or block access to the service or a part of the service, in accordance with the terms of clause 7, neither we nor the client shall take any action to circumvent such suspension or prohibition or blocking (including) without limitation creating and/or using a different account.

14. Variation

14.1 We may revise these terms and conditions from time to time.

14.2 We will give you written notice of any revision of these terms and conditions, and the revised terms and conditions will apply to the use of our services from the date that we give you such notice; if you do not agree to the revised terms and conditions, you must stop using our services.

15. Assignment

- 15.1 Neither we nor the client may, without prior written consent, assign, transfer, sub-contract or otherwise deal any rights and/or obligations under these terms and conditions.

16. Severability

- 16.1 If a provision of these terms and conditions is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect.
- 16.2 If any unlawful and/or unenforceable provision of these terms and conditions would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.

17. Third party rights

- 17.1 A contract under these terms and conditions is for our benefit and your benefit, and is not intended to benefit or be enforceable by any third party.
- 17.2 The exercise of the parties' rights under a contract under these terms and conditions is not subject to the consent of any third party.

18. Entire agreement

- 18.1 Subject to Section 12.1, these terms and conditions shall constitute the entire agreement between you and us in relation to your use of our services and shall supersede all previous agreements between you and us in relation to your use of our services.

19. Law and jurisdiction

- 19.1 These terms and conditions shall be governed by and construed in accordance with English law.
- 19.2 Any disputes relating to these terms and conditions shall be subject to the exclusive jurisdiction of the courts of England.

20. Confidentiality

- 20.1 Any information concerning the Client and their respective Client Records may be passed to third parties. However, Client records are regarded as confidential and therefore will not be divulged to any third party, other than [our manufacturer/supplier(s) and] if legally required to do so to the appropriate authorities. Clients have the right to request sight of, and copies of any and all Client Records we keep, on the proviso that we are given reasonable notice of such a request. Clients are requested to retain copies of any literature issued in relation to the provision of our services. Where appropriate, we shall issue Client's with appropriate written information, handouts or copies of records as part of an agreed contract, for the benefit of both parties.

We will not sell, share, or rent your personal information to any third party or use your e-mail address for unsolicited mail. Any emails sent by this Company will only be in connection with the provision of agreed services and products.

21. Statutory and regulatory disclosures

- 21.1 We are registered in Companies House you can find the online version of the register at <https://beta.companieshouse.gov.uk/company/11468744>, our registration number is 11468744.
- 21.2 Our VAT number is 301151963

22. Our details

- 22.1 This service is owned and operated by OPTIfarm Limited.
- 21.2 We are registered in England and Wales under and our registered office is at:
Lewis House, Great Chesterford Court, Essex, UK CB10 1PF.
- 22.3 Our principal place of business is at:
Peak Gateway Business Park, Baslow Road, Eastmoor, Chesterfield, Derbyshire, England,
S42 7DA.
- 22.4 You can contact us:
- (a) by post, using the postal address given above;
 - (b) by telephone using +44 (0) 1246 569066
 - (d) by email, info@optifarm.co.uk