

Hotspot Ag, Inc.
Software Terms of Use

Please read these terms of use (“Terms”) carefully. Acceptance of these Terms creates a binding contract between You and Hotspot Ag, Inc. (“Hotspot”).

These Terms cover all of Your use of the Hotspot software and applications, including software solutions, compilations, reports, summaries, other documents, and associated media and printer material generated from use of the Hotspot software, as well as use of the Hotspot services (the software and services referred to hereinafter collectively as the “Services”). By using the Hotspot Services You agree to be bound by these Terms. If You do not agree to be bound by these Terms, You should not use the Hotspot Services.

Software Product License.

Subject to Your agreement to these Terms, Hotspot grants You a non-exclusive, non-transferable license to use the Services for the license term solely for the business associated with Your access code. All rights not expressly granted to You are reserved to Hotspot.

Restricted Use of This Product and Disclaimer

(a) The Services are designed exclusively for customers of Hotspot who have properly purchased the rights to use the Hotspot Services or are authorized users of a Hotspot Licensee, and been provided by Hotspot with an access code (“Authorized Users”). If You are not an Authorized User, You may not use the Services. **THE MATERIALS, INFORMATION, AND DOCUMENTS PROVIDED IN CONNECTION WITH THE SERVICES ARE SOLELY APPLICABLE TO THE AUTHORIZED USERS.**

(b) You agree that You will not:

(i) license, sublicense, sell, resell, transfer, assign, distribute, or otherwise make the Services available to any third party in any way;

(ii) cause or permit disassembly, decompilation, analysis, or other examination of the Services, or any part thereof, for the purposes of reverse engineering the Services or to build a competing product;

(iii) access the Services in order to develop a similar or commercially-competitive product or service, or a product or service embodying similar ideas, features, functions, or graphics of the services, or to copy any idea, feature, function, or graphic of the Services;

(iv) remove or modify any markings, notices, disclaimers, or legends of Hotspot contained in the Services, or any notice of Hotspot’s proprietary rights in the Services;

(v) modify or prepare derivative works from the Services;

(vi) use any device or software to interfere with the proper operation of the Services;

(vii) use the Services for any purpose other than those for which the Services were designed and intended;

(viii) use the Services to send spam or otherwise duplicative, unsolicited messages in violation of applicable laws, rules, or regulations;

(ix) use the Services to send or store infringing, obscene, threatening, libelous, or otherwise unlawful messages or material that violates any right of any third party;

(x) use the Services to send or store material containing viruses, worms, Trojan horses, ransomware, adware, spyware, or other harmful or malicious computer code, files, scripts, agents, or programs;

(xi) use the Services for any other illegal or unlawful purpose.

(c) Hotspot reserves the right, without liability or prejudice to its other rights, to disable Your access to the Services, without notice, upon your breach or violation of any provision of this § 2

Intellectual Property Rights.

(a) The following provisions shall apply with respect to copyrightable works, proprietary, development, or technical materials, assessment methodologies, artwork, presentation materials, manuals, computer programming techniques, trademarks, trade secrets, know-how, techniques, ideas, discoveries, inventions, applications for patents, patents and all record bearing media containing or disclosing such information and techniques (collectively, "Intellectual Property").

(b) Hotspot personally holds an interest in and solely owns the Intellectual Property embodied in or related to the Services. Intellectual Property includes, but is not limited to, those Services developed and provided by Hotspot and/or its affiliates or subcontractors, before, during, and after You have agreed to these Terms. Any changes, modifications, or improvements to the Intellectual Property, and any new items of Intellectual Property discovered or developed by Hotspot (or its employees or agents) during and after the term of these Terms shall be the sole and exclusive property of Hotspot. Under no circumstances will You acquire any rights, title, or interest in any way in or to such Intellectual Property by virtue of the development, experimentation, modification, or adaptation of any portion of the Services.

(c) Hotspot grants You a limited, non-transferable, non-exclusive, license to use Hotspot's Intellectual Property embodied in the Services as needed to exploit the rights granted to You under these Terms. Nothing in these Terms shall constitute a waiver of any patents, trademarks, service marks, ownership interests, copyrights, or other Intellectual Property that Hotspot has in the Services.

(d) You agree that You will not distribute the Intellectual Property of Hotspot embodied in the Services to any person or entity other than as explicitly contemplated in these Terms.

Title and Protection.

All rights, title, and interest in and to the Services are and shall remain at all times the property of Hotspot. You agree to take all reasonable steps to protect the Intellectual Property rights of Hotspot, including, but not limited to, preventing the distribution of unauthorized passwords, storing any portion of the Services or streaming content or media associated therewith, or otherwise taking any action to dilute the Intellectual Property rights of Hotspot.

Copyright.

All rights, title, and interest in and to any and all copyrights embodied by or related to the Services, the accompanying printed materials, and any copies of the Services, are owned by Hotspot. The Services are protected by U.S. and international copyright laws. Therefore, You must treat the Services like any other copyrighted material.

Consent to Use of Data.

You agree that Hotspot may collect and use technical data and related information, including but not limited to technical information about the device(s) You use to access Hotspot Services, and peripherals. This information is gathered periodically to facilitate the provision of software updates, product support and other services to You (if any) related to the Services.

No Warranties and Indemnification.

(a) YOU UNDERSTAND AND AGREE THAT THE HOTSPOT SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE” AND HOTSPOT, ITS AFFILIATES, SUPPLIERS, AND RESELLERS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. HOTSPOT, ITS AFFILIATES, SUPPLIERS, AND RESELLERS MAKE NO WARRANTY OR REPRESENTATION REGARDING THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SOFTWARE OR ANY HOTSPOT SERVICES, REGARDING: (i) THE ACCURACY, RELIABILITY, ACCESSIBILITY, OR INTEGRITY, OF ANY INFORMATION OBTAINED THROUGH OR STORED BY, THE SERVICES; (ii) ANY GOODS OR SERVICES PURCHASED OR OBTAINED THROUGH YOUR USE OF THE HOTSPOT SERVICES; (iii) ANY TRANSACTIONS ENTERED INTO THROUGH THE SERVICES, OR THAT THE SERVICES WILL MEET ANY USER'S REQUIREMENTS OR BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE. USE OF THE HOTSPOT SERVICES IS AT YOUR SOLE RISK. YOU AGREE YOU WILL NOT RELY ON THE SOLUTIONS

PROVIDED BY THE SOFTWARE, OR THE RESULTS THEREOF, OR ON THE PERFORMANCE AND ACCURACY OF THE RESULTS, WHICH ARE NOT GUARANTEED. ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOU RESULTING FROM THE USE OF THE SERVICES. THE ENTIRE RISK ARISING OUT OF USE OR PERFORMANCE OF THE SERVICES REMAINS WITH YOU.

(b) You agree to indemnify, defend and hold harmless Hotspot, its affiliates, shareholders, officers, directors, employees, members, managers, insurers, consultants, agents, and suppliers from any and all third party claims, liability, damages and/or costs (including, but not limited to, reasonable attorney's fees) arising from your use of the Services, whether such claim arises from the sole, active, or passive negligence of Hotspot, concurrent or otherwise, your violation of these Terms, upon theories of express or implied warranty, strict products liability, disclosure of confidential information, other fault of Hotspot, its agents, and/or employees or the infringement or violation by You or any other user of Your account, of any intellectual property or other right of any person or entity.

Limitation of Liabilities.

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL HOTSPOT BE LIABLE FOR PERSONAL INJURY, OR DEATH, OR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES ARISING FROM LOSS OF USE, LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OF, OR INABILITY TO USE, THE HOTSPOT SERVICES, HOWEVER CAUSED, WHETHER USING THE SERVICES ON A DEVICE OWNED BY YOU, HOTSPOT, OR OTHERWISE, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF HOTSPOT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO YOU.

Charges.

(a) You agree that Hotspot may charge to your credit card or other payment mechanism selected by You and approved by Hotspot for all amounts due and owed in exchange for your access to the Services, including service fees, set up fees, subscription fees, overage fees, consulting fees or any other fee or charge associated with your use of the Hotspot Services. Hotspot may change prices at any time without prior notice. You agree that in the event Hotspot is unable to collect the fees owed to Hotspot, Hotspot may disable Your access to the Services without notice and take any other steps it deems necessary to collect such fees and that You will be responsible for all costs and expenses incurred by

Hotspot in connection with such collection activity, including collection fees, court costs and attorneys' fees. You further agree that Hotspot may collect interest at the lesser of 1.5% per month or the highest amount permitted by law on any amounts not paid when due.

(b) If you are an Authorized User of a Licensee of Hotspot that is responsible for charges associated with your use of the Services, § 9(a) may not apply to you individually.

Term and Termination.

(a) These Terms are effective as of Your download or use of the Services, whichever is earlier, and shall continue for so long as You use the Services.

(b) You may terminate your access to the Services, and this agreement with Hotspot, by providing written notice to Hotspot via email to **[insert email address]**. Such termination will be effective on the last day of the billing cycle, subject to (30) days prior written notice.

(c) Hotspot may terminate its agreement with You, as well as your access to the Services, upon (30) days written notice to You, or as otherwise provided in these Terms.

(d) Upon Your violation of any of these Terms, Hotspot may terminate this agreement with You, as well as Your access to the Services, without notice.

Export Restrictions.

You acknowledge that the Services, or portions thereof may be subject to the export control laws of the United States or another country. You will not export, re-export, divert, transfer or disclose any portion of the Software or any related technical information or materials, directly or indirectly, in violation of any applicable export law, rule, or regulation

Injunctive Relief

You acknowledge that any use of the Services contrary to these Terms, or any transfer, sublicensing, copying or disclosure of technical information or materials related to the Services, may cause irreparable injury to Hotspot, its affiliates, suppliers and any other party authorized by Hotspot to resell, distribute, or promote the Services, and under such circumstances Hotspot will be entitled to equitable relief, without posting bond or other security, including, but not limited to, preliminary and permanent injunctive relief.

Choice of Law and Forum.

These Terms shall be governed by and construed under the laws of the State of California, U.S.A., as to the exclusive jurisdiction and venue of the courts located in and serving Kings County, California.

Waiver and Severability.

Failure by either party to exercise any of its rights under, or to enforce any provision of, these Terms will not be deemed a waiver or forfeiture of such rights or ability to enforce

such provision. If any provision of these Terms is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision will be amended to achieve as nearly as possible the same economic effect of the original provision and the remainder of this these Terms will remain in full force and effect.

Entire Agreement.

These Terms embody the entire understanding and agreement between You and Hotspot respecting the subject matter hereof and supersede any and all prior understandings and agreements between You and Hotspot respecting such subject matter. These Terms have been prepared in the English Language and such version shall be controlling in all respects and any non-English version of these Terms are solely for accommodation purposes. All notices or other correspondence to Hotspot under these Terms must be sent to the following e-mail address: **[insert email address]**, or other address as provided by Hotspot for such purpose. Any and all rights and remedies of Hotspot upon your breach or other default under these Terms will be deemed cumulative and not exclusive of any other right or remedy conferred by these Terms or by law or equity on Hotspot, and the exercise of any one remedy will not preclude the exercise of any other. The captions and headings appearing in these Terms are for reference only and will not be considered in construing these Terms.

Responsibility for Content of Your Communications.

You agree that you are solely responsible for the content of all visual, written or audible communications sent by You and You will not use the Services to send unsolicited commercial e-mail outside your company or organization in violation of applicable law. You further agree not to use the Services to communicate any message or material that is harassing, libelous, threatening, obscene, indecent, or would violate the intellectual property rights of any party or is otherwise unlawful, that would give rise to civil liability, or that constitutes or encourages conduct that could constitute a criminal offense, under any applicable law or regulation or that violates your agreed upon responsibilities to other entities. You also agree that Hotspot may delete any such communications in its sole and absolute discretion without notice.

Security.

(a) Hotspot utilizes key generation security. You agree that You will not, under any circumstances, share any device storing your key with any other person or entity. Doing so terminates any rights You have under these Terms. You further agree to undertake Your best efforts to prevent unauthorized use of any device having your key for access to the Services.

(b) Hotspot is not responsible for any unauthorized acquisition and use of Your key, or any device storing your key, or unauthorized access to the Services resulting from such acquisition and use.

(c) You will notify Hotspot immediately of any unauthorized use of Your key, of Your user account, of the loss of any device storing your key, or any other known or

suspected breach of security or confidentiality related to Your access of the Services. Upon receiving such notice, Hotspot will be responsible for erasing your key from its servers to protect your data.

Telephone Lines and Internet Connections.

The Services transmit signals over telephone lines, cables or other Internet communication media. Hotspot cannot, and does not, maintain or repair telephone or Internet connection lines and equipment or computer or networking equipment. Under no circumstances shall Hotspot or its agents be liable for any network interruptions, including without limitation, any downtime regarding computer servers or interruption of Internet service providers. You assume responsibility for all phone line or Internet access charges or excessive abuse of the Internet-based portion of the Services.

Assignment.

Hotspot shall have the right to assign these Terms in their entirety, and the right to change or reassign various duties regarding the operation and performance of any duties imposed by these Terms.

Force Majeure.

Inability or delay in providing access to the Services resulting from cause beyond the control of Hotspot, including but not limited to interruption of communication lines, labor disputes, acts of terrorism, government action or order, laws, or acts of God or war shall not constitute a breach of these Terms.

Compliance with Law.

Each of the parties to these Terms shall exert every reasonable effort in the performance of their respective obligations hereunder to comply with all applicable municipal, county, state and federal laws, ordinances and regulations.

Reservation of Rights.

The Services are Copyright © 2018 by Hotspot, Inc. All rights reserved. No part of the material protected by this copyright may be reproduced or utilized in any form or by any means, electric or mechanical, including photocopying, recording, and broadcasting, or by any information storage and retrieval system, without permission in writing from Hotspot. “Hotspot” and associated logos and graphical designs are trademarks of Hotspot Ag, Inc. The software and technology used to implement the Services may contain trade secrets that Hotspot considers to be confidential and proprietary information, and Your right to use this material is subject to the restrictions in these Terms, under which You obtained it. Companies, names, products and data used in the examples illustrating Hotspot Services, and in the training materials and demonstrations of Hotspot are fictitious. Any resemblance to existing companies, persons, or products is coincidental and unintentional.