

SAATBAU PROFIT MANAGER

Software as a Service (SaaS) – Terms of Use

The following Terms of Use shall govern the contractual relationship between

SAATBAU PREISGUT GmbH
Schirmerstraße 19
4060 Leonding
AUSTRIA

– hereinafter *SPG* –

and

the user of SAATBAU Profit Manager

– hereinafter *Licensee* –

1. SUBJECT MATTER, SPECIFICATION OF SERVICES AND SERVICE CONDITIONS

1.1. SPG provides the application **SAATBAU Profit Manager** (hereinafter *Contractual Software*) via the Internet. The Contractual Software is protected by a copyright held by a cooperation partner of SPG.

The application offers software for calculation, planning, simulation, consulting and documentation. It serves as a tool for planning and controlling financial profits of grain producing companies and farmers. The financial planning tool takes uncertainty into account. Using the following functions, the tool offers its user at any time the best possible estimate of the profit margins to be expected for different crops:

- recording
 - company structure,
 - crops,
 - planned costs,
 - estimated yields and revenues;
- providing prices and market rates of commodities traded at stock exchanges, subject to availability;
- calculating the prospective profit margins to be achieved per hectare taking into account the estimated cost, estimated yields and the current price level at the relevant futures exchanges;
- simulating the predefined marketing strategies in different scenarios and calculating potential revenues;

- quick, transparent and documented visualising of the scenarios and the corresponding revenue;
- documenting.

It is expressly noted that the calculations and simulations are subject to uncertainty and are thus not binding. No responsibility is taken for the calculation of the planned profits and all performance figures.

SPG provides the Contractual Software for use via the Internet as 'Software as a Service (SaaS)'.

1.2. The delivery limit for the contractual services of SPG is the router outlet of the SPG computing centre. Establishing a connection to the Internet and maintaining this connection as well as providing the necessary hardware and software on the Licensee's side are not object of this contract.

1.3. System requirements on user side:

System software: any

Internet connection and conventional Internet Browser

1.4. On the basis of the information provided by the vendor, the Licensee has ensured that the Contractual Software is suitable for his specific purpose. He is aware of the scope of services and wants to use the 'SAATBAU Profit Manager'.

2. RIGHTS OF USE

For the term of this contract, the Licensee obtains for himself and further authorised persons to be identified by their names, the non-exclusive and non-transferable right to use the Contractual Software within the scope of services the Licensee selected by clicking on the relevant package of services on the online platform.

The right of use includes the production and marketing planning for the surfaces the Licensee is cultivating for his company and for which he wants to use the Contractual Software and for which he is paying the usage fee.

3. CONTRACT PERIOD, TERMINATION

3.1. The right of use shall be granted only as long as the contractual relationship continues. The commencement of the contract and of the right of use is the time of confirmation by SPG of the successful registration by the Licensee. The contract is entered into for an indeterminate period of time. During the first 30 days of the contract, the Licensee shall be able to change the scope of services anytime by selecting a different service package online. It shall thus be possible up until the 30th contract day to switch also to the free service package available. Once the 30-day period has elapsed, the package then selected in the system shall determine the entire contract period.

3.2. In the case of the Licensee selecting the free of charge option, the use or provision for use can be discontinued any time by each of the parties to the contract without a notice period. In the case of the Licensee using one of the chargeable packages, the contract can be terminated by either of the parties at the end of a calendar quarter subject to a one month notice period. To be effective, termination must be in writing and shall be submitted online by means of the termination form available.

3.3. The following shall be valid causes for a termination for cause without notice period:

- a. One of the parties to the contract

- breaches substantial contractual obligations;
 - repeatedly breaches non-substantial contractual obligations and does not remediate the breach upon request by the other party within a reasonable period of time.
- b. One of the parties cannot reasonably be expected to uphold the contract due to force majeure.
- c. Insolvency proceedings with respect to the assets of one of the parties to the contract have been commenced or their commencement is imminent.

4. LICENCE FEE

4.1. The fee payable for the use of the platform (hereinafter Licence Fee) depends on the scope of services selected and the size of the Licensee's company. Information on the scope of the individual service packages and their price is available online on the platform. The relevant Licence Fee applies regardless of whether the platform is actually used and to what extent.

4.2. The Licence Fee shall be invoiced on a quarterly basis and in advance. The fee for the quarter of the conclusion of the contract shall be invoiced on a pro rata basis at the end of the relevant quarter.

In any case, the first 30 contract days shall not be invoiced, irrespective of the service package selected.

Invoices may be delivered per e-mail.

The Licence Fee is due 14 days upon receipt of the invoice and payable to the account of SPG, IBAN AT70 1500 0007 1135 6402, BIC OBKLAT2L.

4.3. When payment by the Licensee is delayed, SPG shall be entitled to block access to the Contractual Software. The Licensee remains obliged to pay the Licence Fee also for this period.

In the case of delayed payment SPG reserves the right to claim further compensation.

5. RIGHTS AND OBLIGATIONS OF THE PARTIES TO THE CONTRACT

5.1. SPG provides the Licensee with the Contractual Software featuring the functions described in section 1 of this document. SPG shall not owe the Licensee any other services, particularly with regard to installation, set up and customising as well as the provision of individual programming solutions or supplementary programmes.

5.2. SPG shall not be obliged to deliver new versions, upgrades or updates unless they are required to remove defects. In case SPG should provide new versions, updates or upgrades of the Contractual Software within the term of the present contract, the aforesaid right of use shall apply to those in the same way.

5.3. The Licensee shall not be authorised to use, copy, download or provide to third parties the Contractual Software or any other than his own data except for the contractual purpose. The Licensee shall not abuse of the Contractual Software in any way and shall not attempt or have a third party attempt to retrieve information or data or to interfere or have a third party interfere with SPG-operated programmes. The Licensee shall protect the user and access authorisations provided to himself or his authorised users from access by non-authorised third parties and shall not pass them on to unauthorised users.

5.4. The Licensee shall notify SPG about defects in the contractual services and indicate the nature and circumstances of the defects or defaults and shall actively support SPG in finding their cause.

5.5. During operating hours (Monday to Thursday from 9 a.m. to 6 p.m. and Friday from 9 a.m. to 12 noon) SPG shall reply by telephone or e-mail within the shortest possible time to questions Licensees may have on the subject or the software itself.

5.6. SPG shall endeavour to carry out maintenance operations during night hours but in any case in a way to ensure that interruptions and limitations of the services are kept to a minimum. Planned maintenance operations that interrupt the service shall be announced in advance. In no case is the Licensee entitled to any claims on the basis of temporary suspension or limitation of the services caused by force majeure.

5.7. The responsibility for the data and contents provided by the Licensee as well as their management lies with the Licensee. SPG will not check whether or not the contents are correct and processable, nor free of viruses. The Licensee shall use state-of-the-art antivirus software.

5.8. SPG shall undertake all reasonable technical and economic efforts to safely store the transmitted data and to protect them from damage and against access by unauthorised third parties. Yet, the Licensee is aware of the fact that perfect protection cannot be guaranteed. SPG shall make a daily back-up of the data. A recovery of the data shall thus be possible on the basis of the latest daily back-up.

It is pointed out expressly that such back-up shall serve as disaster recovery but not for recovering data the Licensee deliberately or accidentally deleted.

6. WARRANTY

The Licensee shall notify SPG about any defects without delay in writing or per email.

In case the services SPG commits to provide according to the present contract are defective, SPG shall correct the defects within reasonable time.

The Licensee shall assist SPG in remediating the defects without the right to any consideration, notably by providing all necessary documentation, data, etc that SPG may need to analyse and correct the defects.

If and only if the defects cannot be corrected within a reasonable time period set by the Licensee and for reasons that lie within the sphere of responsibility of SPG, the Licensee can claim a price reduction or withdraw from the contract

In relation to defects in the contractual services, the Licensee is not entitled to any other than the claims and rights explicitly stated in section 6 unless further liability arises for SPG on the basis of binding provisions of the law.

7. LIABILITY

7.1. The responsibility for the data and contents provided by the Licensee as well as their management lies with the Licensee. SPG will not check whether or not the contents are correct, plausible or processable.

The Contractual Software provides the Licensee with a tool for simulating different scenarios and carrying out corresponding calculations of potential revenues. The calculations and their underlying formulae are partially based on hypotheses which were developed with utmost diligence and caution, yet the reality may still deviate from these. Many of the assumptions must be made for factors that SPG has no influence on. SPG is obliged to undertake every effort to provide close-to-reality assumptions and calculations, yet it cannot be held responsible for their actual and practical conformity with reality.

Thus, SPG cannot vouch for the correctness of the calculations and does not accept any liability if the actual results deviate from those calculated by means of the Contractual Software.

The Contractual Software delivers guidelines but in no case can it provide specific recommendations. In any case, the Licensee thus remains solely responsible for his

decisions, even if they are based on the results of the calculations.

7.2. Any questions arising from calculations carried out on the platform and relating to commercial and fiscal law shall be clarified by the Licensee with the help of legal or fiscal advisors if necessary. SPG will not provide any comment on this topic and will not accept any liability in this context.

The Licensee shall be solely responsible for respecting any record keeping obligations arising from commercial or fiscal law. It is explicitly stated that the Contractual Software does not serve this purpose.

7.3. Liability claims against SPG for any damage suffered by the Licensee are generally excluded irrespective of their legal cause unless they are based on binding provisions of the law as is the case in the event of injury to persons or in cases of intent or gross negligence. SPG shall not be liable in cases of slight negligence unless a substantial contractual obligation has been breached in which case potential liability for damages is limited to the compensation of direct losses foreseeable and typical for this type of contract and can in no case include the cost of recovering lost data.

8. DATA PROTECTION AND DATA SECURITY

8.1. In the course of the use of the Contractual Software, the Licensee himself will record, change and delete data relating to his agricultural operation. The Licensee will entrust SPG with the administration and processing of these data with regard to the provision of the services agreed on in the present contract. SPG shall administer, process and use the data in accordance with the present contract and other indications the Licensee may issue in writing.

8.2. SPG shall take the technical and organisational measures necessary to secure the data and ensure data secrecy to an extent that the effort involved is reasonable in relation to the desired level of protection. SPG shall namely undertake the following measures:

- restricting access to the data by means of mandatory entry of username and password;
- encrypting and securely saving passwords (for server and user access);
- encrypting data transfer between computer and server (both ways);
- restricting access to the data to authorised and trained persons, who have to commit to data secrecy unless they have already committed to a more general data security agreement;
- making potential subcontractors commit to corresponding obligations.

8.3. SPG shall be bound to secrecy regarding any and all confidential processes it gains knowledge about, namely business or company secrets of the Licensee as well as the data received. It must not release any such information nor commercialise it in any way. This rule shall apply to all data and information that relates or can be related to persons or to the operation.

8.4. However, the Licensee explicitly agrees to the release and commercialisation of his information and data by SPG once it has been anonymised by either accumulation or further calculation or other kind of processing in a way that connections to the individual companies can no longer be established.

9. FORCE MAJEURE

SPG is excused from its obligation to fulfil its contractual obligation if the non-fulfilment is due to force majeure events occurring after contract conclusion. Force majeure events are e.g.

wars, strikes, unrest, expropriation, storm, floods and other natural catastrophes as well as any other events that are beyond the sphere of influence of SPG (particularly flooding, power outages and the interruption of data lines).

SPG shall immediately inform the other party in writing about the occurrence of a force majeure event. Similarly, the other party shall be informed as soon as the force majeure event has ceased.

10. FINAL PROVISIONS

10.1. Any agreement resulting in a change, amendment or specification of the contract as well as any promises, guarantees and deals need to be made in writing.

10.2. Any assignment of contractual rights and obligations by the parties to the contract requires the prior written agreement of the other party.

10.3. General terms and conditions of the Licensee (if existent) do not apply with respect to this contract.

10.4. The parties to the contract agree on the applicability of Austrian law for any legal relations resulting from this contractual relationship, excluding the UN Convention on Contracts for the International Sale of Goods

The sole place of jurisdiction for any legal dispute arising from this contract shall be the competent court at the domicile of SPG. However, SPG reserves the right to file a suit at the domicile of the Licensee.

10.5. If any provision in this contract proves to be invalid or unenforceable, this will not affect the validity of the contract as such and its other provisions. The parties shall replace the invalid or unenforceable provision by a valid substitute provision that most nearly effects its original economic purpose.

10.6. For the sake of readability, references to persons in this contract are given in the masculine form. As a matter of course, the feminine form shall be understood as included.