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# FIRS USER AGREEMENT



## Effective date

This agreement is dated **16 November 2020**

## Parties

This is an agreement between:

Universal Forest Systems Pty Ltd [ACN 618 515 432] (known as “**UFS**”)

and

the individual or company provided with a FIRS account (known as the “**Client**”)

## Background

1. The client wishes to have access to the products of FIRS and FirsDC for the purpose of forest inventory data capture and/or analysis as a SaaS web deployed software account.
2. UFS will be reimbursed for the provision of this service in accordance with the conditions of this agreement.

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## 1. DEFINITIONS

- a. **Business Day** means any day not a Saturday, Sunday or recognised local, State or Federally declared public holiday where the respective party permanently resides.
- b. **Business Hours** means the hours of 08:30 to 17:00 AEST/AEDT on a Business Day.
- c. **GST** means:
  - i. Goods and Services Tax imposed on a supply of goods or services in Australia, pursuant to the GST Act.
- d. **Intellectual Property Rights** means all rights wherever in the world, whether registrable or unregistrable, with or without a trademark or patent including copyright, confidential information, trade secrets, know-how and unfair competition rights. In Australia copywrite means the Copywrite Act 1968 (Cth).
- e. **Service** means the SaaS web app known as FIRS and the Android and Windows app known as FirsDC and includes:
  - i. The package of software, graphic designs, control systems, user interface, database, reporting and all other systems which constitute the fully functional FIRS systems.
- f. **Terms** means the terms of this agreement.
- g. **Xmas shutdown** means the calendar period from the Monday prior to 25<sup>th</sup> December through to the Friday eleven days later.

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## 2. LEGAL ACCEPTANCE

This agreement is accepted by either logging into FIRS from the [firs.com.au](https://firs.com.au) website or installing the FirsDC app, it is accepted that:

- a. The individual or company representative who accepts these terms must be of legal age.
- b. If the Client does not accept the terms, they are not authorised to use the Service.

## 3. SERVICE USAGE

- a. The Service may be used for personal or business use.
- b. The Service may be used by connecting to any of the internet browsers supported by the Service (FIRS) or by downloading from the relevant App Store (FirsDC).
- c. The Client is responsible for obtaining internet access and the equipment required to use the Service.

## 4. CLIENT RESPONSIBILITIES

If the Client is not an individual they must nominate a primary account holder.

- a. Primary account holder
  - i. The Service commences with the identification of a primary account holder given the unrestricted rights of a Company Administrator.
  - ii. The primary account holder must provide their name and email address.
  - iii. The Client is responsible for maintaining a primary account holder and ensuring that communication details are kept up to date.
- b. The primary account holder may specify a Company Administrator.
  - i. The Company Administrator will have the right to configure the Service based on the Client's requirements, and manage users within the Client account, including the creation of other Company Administrators.
  - ii. The Client is responsible for ensuring the confidentiality of user account logins and passwords.

## 5. UFS RESPONSIBILITIES

- a. UFS will provide user support for the Service between standard business hours (AEST 08:30 to 17:00) Monday to Friday excluding public holidays.
- b. Three support plan options are offered, as documented on the FIRS website (FIRS/Pricing).
  - i. Support covers the following topics:
    - a. general inventory enquiries and assistance
    - b. explanations on how to use the Service also documented in video tutorials or the Getting Started sections
    - c. System Administrator creation of items to act as examples.
  - ii. Support does not include:
    - a. initial account setup
    - b. billing enquiries
    - c. identification and communication of (UFS verified) Service bugs and faults
    - d. complex use of the Service which may not be fully documented.

These items are free and do not represent support.

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- c. Support covered by these plans will be accrued in time increments of ten minutes.
  - d. Users may request support outside of these plans (referred to as *ad hoc* support) provided at the standard plan rate, but in minimum time increments of 30 minutes.
  - e. UFS will observe a general end-of-year industry shut down period between late December to early January. Support may still be requested during this time but charged at double standard rates in minimum time increments of one hour.
    - i. Any request must be made in writing at least ten days in advance and is subject to staff availability.

## 6. FEES AND PAYMENT

The Service is available under two payment plan options: a monthly pay-as-you-go approach paid in arrears, or an annual subscription single payment paid in advance.

### a. Pay-as-you-go monthly invoicing

- i. Payments for usage and support will be made by invoicing at the end of each month.
- ii. Invoices will be sent to the primary account holder on the first business day on or following the 1<sup>st</sup> of the next month.
- iii. The Client may nominate any additional email(s) account to be included, or purchase order numbers stipulated.
- iv. Payment terms will be specified on the invoice.
  - 1. Should the Client fail to meet the payment date on two or more occasions, continued service provision will alter to an *in advance* credit method, whereby the Client will be required to request a monthly credit amount equal to or more than their expected usage requirements and pay prior to the first day of the next calendar month of Service.
  - 2. Similarly, if the Client has internal accounting policies which exclude the ability to pay within 15 days, the credit method will apply.
  - 3. Any credit accrued at the nominated termination of the Service will be remitted to the Client at the next payment cycle.
- v. Support plans are paid monthly on a calendar month basis.
  - 1. Support plans are enabled by nominating one of the three options in the month prior to support, requested by email.
  - 2. If the Client does not wish to renew the support plan, they must inform UFS with seven days' notice prior to the renewal date (the last day of the calendar month) by email.

### b. Annual subscription

Annual subscription payment is also known as *Platinum* plans.

- i. The Client must nominate a commencement date for the plan which will be the first day of the month starting the subscription.
- ii. The subscription payment must be paid in advance before the first day of the first month of Service.
- iii. The account is unrestricted for the duration of the plan and any amount or type of plots may be captured, imported or analysed.
- iv. Monthly support will be included as detailed in Schedule 1 depending on price tier.
- v. A five-tiered area (and product value) forest under management system applies to pricing. UFS will determine the relevant payment tier for each Client and offer this tier plan.

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1. If the Client believes they are close to a lower payment tier and also represent a lower value bracket they may negotiate a lower tier rate.
  2. The Client may also request a price freeze of either 2 or 3 years, assuming ongoing subscription intentions, which will be taken into account with respect to (1) above. This will form Schedule 2 of this Agreement and must be co-initialled by both parties to be valid.
- vi. The Client may not allow external company entities to also make use of the Service when using *Platinum* subscriptions.
  - vii. The Client may elect to either renew or cancel their annual subscription by email notice.
    1. Renewal will be assumed unless otherwise notified.
    2. Cancellation should be provided in writing 14 days prior to the renewal date.
  - viii. Consultants and sub-contractors may also elect an annual subscription in which case:
    1. The lowest tier 1 pricing will apply.
    2. The subscription is not to be used in place of an asset management arrangement, which the forest owner is expected to maintain.
    3. It is generally anticipated that the account will be used for:
      - a. pre sale assessments
      - b. due diligence and audit inventory
      - c. small land owner assessments (<1000 ha of productive forest)
      - d. special purpose inventories.
    4. Should the annual plot use exceed 1000 plots per year either:
      - a. the tier rating will alter to tier 2, payable from the date the plot limit is met; or
      - b. at the renewal date standard pay-as-you-go payments will apply to all plots which exceeded the first 1000 plot uploads or analysis.
      - c. The Client may nominate which of these two options they wish to apply.
  - ix. Field contractors may also nominate for a tier 1 pricing plan, in which case the following conditions will apply:
    1. It is assumed the main use of the account is for data capture, not analysis (in which case 6.b.viii should apply).
      - a. Up to 5000 plots (of any level) may be captured under the plan.
      - b. Up to 250 plots may also be analysed (any level) under the plan.
    2. Any single customer of the contractor with more than 1000 plots collected annually should have their own separate account created to facilitate possible later adoption and data consolidation.
    3. If plot usage exceeds the stated limits before the renewal date then:
      - a. the tier rating will alter to tier 2, payable from the date the plot limit is met; or
      - b. at the renewal date standard pay-as-you-go payments will apply to all plots which exceeded the first 5000 plot uploads or 250 plots for analysis.
      - c. The Client may nominate which of these two options they wish to apply.

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- c. UFS reserves the right to change the price of any component of the Service as currently documented. Any increase in fees will apply after the expiry of the current billing month (or year in the case of *Platinum*).
  - d. UFS reserves the right to disable Client accounts upon failure to meet the payment terms, unless prior agreement from UFS has been granted.

## 7. CLIENT ENTITLEMENTS

The Client is the sole owner of any content and data created and stored by them.

- a. The Client may export, transfer and publish any content created by them from the Service.
- b. The Service does not allow UFS to view, export, alter or distribute the content created by the Client except for the sole purpose of providing support for the Service. It should be noted that:
  - i. UFS may require access to the Client's account for the purpose of billing, faults or support provision.
  - ii. In the case of support UFS will verbally ask the Client's permission to access their account.
  - iii. The Client may request at any time whether UFS has been required to access their account for the purposes of billing or fault checking.
  - iv. Administrator access is maintained in a login record table and may be reviewed upon request.
- c. If UFS is unable to offer the Service due to faults with internet availability either from the FIRS hosting environment or to the Client's internet environment (outside of both parties ability to control) *Platinum* Clients will be credited with an extension of the renewal date equivalent to the duration for which it was not available.

## 8. INTELLECTUAL PROPERTY

UFS, FIRS and FirsDC and their associated logos and the names of Service components are the property of UFS. The Client agrees not to display or reproduce UFS property without prior consent. The client may not:

- a. share their login with other users unless also provided with a company user login; or
- b. decompile, reverse engineer, disassemble, or otherwise attempt to derive the source code of the Service; or
- c. post the Service or part of the Service on any other Website; or
- d. use the Service to resell for commercial purposes; or
- e. reproduce any of the Service's documentation without first obtaining written permission and confirmation of accuracy and adherence to minimum publishing standards.

## 9. EXCLUSION OF DAMAGES

The Client agrees that the use of the Service is at their own risk. The Service is provided on an 'as is' basis. UFS disclaims all warranties, direct or implied, for the use the Client makes of FIRS analysis and reporting. UFS makes no guarantee that the Service will be uninterrupted or error free. Advice and information obtained from UFS staff will be accepted at the Client's own risk and discretion.

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## 10. INDEMNIFICATION

The Client agrees to indemnify and hold blameless UFS, its staff and directors from any loss, damages and expenses arising from use of the Service. In particular it should be noted that:

- a. Each FIRS account is provided with a range of free biometric forms and library tables for the Client to apply at start up.
  - i. It remains the responsibility of the Client to ensure the appropriate application of these functions.
  - ii. UFS strongly encourages each client to review and identify the most appropriate biometric options.
  - iii. It is generally expected that the Client will create their own estate specific biometric tables to best suit their individual biological circumstances.
- b. UFS accepts no responsibility for the inappropriate application of biometric forms or tables.

## 11. RESTRICTIONS OF USE

The Client is forbidden from using the Services in any manner which could:

- i) Damage, disable, harm or impair any server, network or computer systems under the operation or owned by UFS.
- ii) Violate any state, commonwealth or international law.
- iii) Reproduce any document, video or other resource available on the website without obtaining written consent from UFS.
- iv) *Platinum* Clients may not allow external private or company entities to also make use of the Service.
- v) *Platinum* Clients may only capture or analyse plots located within the land owned or managed by the Client, or under active investigation for Client acquisition.

## 12. TERMINATION

- a. UFS may terminate this Agreement immediately and without further notice if the Client fails to comply with the Terms of this Agreement.
  - i. The Client may request an export of their current data upon Termination, to be supplied within ten working days at a fee of \$100.
- b. UFS reserves the right to disable user accounts that are inactive.
  - i. An account is deemed inactive if no payment has been made for any components of the Service for 365 days.
  - ii. In the event of an account termination the account data will be stored for a further 365 days, after which the data will be deleted.
  - iii. UFS will provide notice of termination and invite the Client to back-up their data. Data requested after the termination date may be provided on an hourly cost of extraction basis.

## 13. ALTERATIONS TO THE TERMS

UFS reserves the right to modify the Terms upon notice to the Client either through documentation provided by the Service or email communication to the primary account holder through the Company Administrator email address maintained in FIRS.

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- a. In the case of significant changes to the Terms which affect the Client's rights, a minimum of 30 days' notice will be provided by email.
  - b. Acceptance of Term alterations will be deemed by continued use of the Service.

## 14. COMMUNICATION

The Client may contact UFS regarding any questions or concerns regarding the Terms of this agreement by emailing [support@ufsystems.com.au](mailto:support@ufsystems.com.au).



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## I. SCHEDULE 1. ADDITIONAL PLATINUM CONDITIONS

Annual subscription accounts include the following additional services:

1. Support
  - a. Support will be provided for the duration of the plan according to one of the three standard monthly support plan options where:
    - i. Tier 1 = Bronze support
    - ii. Tier 2 = Silver support
    - iii. Tier 3 = Silver support
    - iv. Tier 4 = Gold support
    - v. Tier 5 = Gold support
2. Training
  - a. The Client may request one virtual *Basic* FIRS training course (one day) delivered remotely via webinar.
  - b. If preferred the training may be delivered on-site at the Client's expense for transit time and travel costs.
  - c. A single account will be made available for the training session, with any amount of staff allowed to view and participate in the training.
    - i. The account will remain active to the provided logins for seven days following the training for the purposes of reinforcement or unavailable staff access.
    - ii. The Client may also request additional training accounts to be prepared, but additional costs may apply at a rate of \$100 per hour for configuration.
3. Biometric review
  - a. The Client may request a free biometric review of their existing growth and volumation options.
    - i. The review will be a desktop exercise primarily aimed at identifying whether Client equation forms already exist within the FIRS library.
    - ii. The review will provide costed options for either refitting or software adoption of unrecognised biometric forms.
    - iii. A detailed report will be provided to the Client at the completion of the review.
4. API access
  - a. Upon request the Client may apply for API access to their data to manage outside of the FIRS hosting environment.
5. Enhancement request
  - a. The Client may request, at any time during the subscription, one free minor enhancement (alteration to the Service).
  - b. It must be deemed by UFS to take 5 hours or less duration of development time.
  - c. This would represent a new feature aimed at making a Client specific task easier.
  - d. UFS will aim to have the enhancement available within 3 months of the request date, and no later than 6 months.
  - e. The Client is required to provide sufficient detail of the nature of the request for UFS developers to replicate.
  - f. The feature will be available to all FIRS users once released.