

SANY EVI FMS: Fleet Management System – License Terms

1. WHO WE ARE AND WHAT THIS AGREEMENT DOES

SANY BENELUX B.V. (“We” or “Sany”) is a private limited liability company registered in the Netherlands under Chamber of Commerce number 89533658, with its registered office at Treubstraat 1, 2288 EG, Rijswijk, the Netherlands. Our VAT number is NL 865 012 131 B01. For contact, please send an email to sany.benelux@sanygroup.com.

These terms apply to the use of certain services (as specified below) by our business customer with whom we enter into an agreement for those services (“**Customer**”). We grant the Customer a license to use:

- the FMS: Fleet Management System, including the associated data and software and any updates or additions thereto (**FMS Portal**);
- the associated documentation, whether online, electronic, or in any other format (**Documentation**); and
- the service through which you connect via the FMS Portal and the content we provide to you through it (**Service**),

as further described in these terms.

2. PERSONAL DATA

We use personal data of the Customer or its contact person with whom we communicate, and we collect such data via the FMS Portal and the Services as described in our privacy notice.

To the extent that the Customer directly or indirectly obtains personal data and information from its own employees or persons otherwise engaged by it, relating to their interactions with Sany machines, this is entirely the responsibility of the Customer. The Customer qualifies exclusively as the data controller within the meaning of applicable data protection legislation and must comply with the legal obligations that entails towards those individuals. Sany is not able to identify those individuals, and unless otherwise agreed in writing, the Customer will not provide any personal data about them to Sany.

Please be aware that internet transmissions are never completely private or secure and that any message or information you send using the FMS Portal or a Service may be read or intercepted by others, even if there is a special notice stating that a particular transmission is encrypted.

3. SYSTEM REQUIREMENTS

The FMS Portal requires reasonably up-to-date hardware and software with a reasonable service life. The FMS Portal may not function properly with older software and/or hardware.

Computer

Hardware requirements: Core i3-530 processor 2.93 GHz, 4 GB memory; hard disk 100 GB

FMS Portal requirements: Windows 7/8/10 system, iOS 10 or higher, Google Chrome 50.0 or higher

Mobile

iOS: CPU Apple A8 + M8 coprocessor, dual-core; RAM 1 GB; ROM 16 GB

Android: CPU Qualcomm Snapdragon 835 quad-core; RAM 4 GB; ROM

4. SUPPORT FOR THE FMS PORTAL AND HOW THE CUSTOMER CAN REPORT PROBLEMS

Contacting us (including complaints or support) If (a) the Customer believes that the FMS Portal or the Service is defective or inaccurately described, or
(b) the Customer would like more information about the FMS Portal or the Service or experiences problems using it, or
(c) the Customer wishes to contact us for any other reason,
please send an email to our customer service at jial12@sanygroup.com
or call us at +31 633 251 691.

How we communicate with you If we need to contact you, we will do so by email, SMS, or prepaid post using the contact details you have provided to us.

5. USE OF THE FMS PORTAL

The Customer has the right to:

- download or stream a copy of the FMS Portal to approved systems and devices and view, use, and display the FMS Portal and the Service in accordance with these terms;
- use the Documentation in support of the permitted use of the FMS Portal and the Service; and
- receive and use any free additional FMS Portal code or update of the FMS Portal containing patches and bug fixes that we may provide to the Customer.

6. CHANGES TO THESE TERMS

We reserve the right to amend these terms to reflect changes in the law or best practices, or to address additional features we introduce.

Where reasonably possible, we will notify you of changes to these terms or inform you of a change when you next start the FMS Portal.

7. UPDATES TO THE FMS PORTAL AND CHANGES TO THE SERVICE

From time to time, we may automatically update the FMS Portal and modify the Service to improve performance, enhance functionality, reflect changes to the operating system, or address security issues. The Customer must install the updates provided in order to ensure optimal performance.

If you choose not to install such updates or disable automatic updates, you may no longer be able to use the FMS Portal and the Services.

8. IF SOMEONE ELSE OWNS THE DEVICE OR COMPUTER YOU USE

If you download or stream the FMS Portal onto a device you do not own or access the FMS Portal on someone else's computer, you must have the owner's permission. You are responsible for complying with these terms whether or not you own the relevant device or computer.

9. WE MAY COLLECT TECHNICAL DATA ABOUT YOUR DEVICE OR COMPUTER

By using the FMS Portal or a Service, you agree that we may collect and use technical information about the devices or computers on which you use the FMS Portal and related FMS Portal software, hardware, and peripherals in order to improve our products and provide Services to you.

10. WE MAY COLLECT LOCATION DATA (BUT THE CUSTOMER CAN DISABLE LOCATION SERVICES)

Certain Services use location data transmitted by peripheral equipment. The Customer may disable this functionality at any time by turning off location services in the equipment settings; however, this may cause the FMS Portal to function improperly.

If the Customer uses these Services, the Customer grants us and our affiliates and licensors permission to transmit, collect, store, maintain, process, and use your location data and search queries in order to provide and improve our Services.

The Customer may stop the collection of such data at any time by disabling location services on the peripheral equipment.

11. WE ARE NOT RESPONSIBLE FOR OTHER WEBSITES YOU LINK TO

The FMS Portal or a Service may contain links to other independent websites not provided by us. Such independent sites are not under our control, and we are not responsible for, nor have we reviewed or approved, their content or their privacy policies (if any).

The Customer must independently assess whether to use such independent sites, including purchasing products or services offered by them.

12. LICENSE RESTRICTIONS

The Customer agrees that it:

- acknowledges that the FMS Portal and the Service are provided “as is” and that Sany gives no warranties in this respect, including regarding availability;
- will not rent, lease, sublicense, lend, make available, or otherwise provide the FMS Portal or the Service, in any form, in whole or in part, to any person without our prior written consent;
- will not copy the FMS Portal, Documentation, or Service, except as part of the normal use of the FMS Portal or where necessary for backup or operational security purposes;
- will not translate, merge, adapt, vary, alter, or modify the FMS Portal, Documentation, or Service, nor permit the FMS Portal or Service or any part thereof to be combined with or incorporated into other programs, except to the extent necessary to use the FMS Portal and the Service as permitted under these terms;
- will not decompile, reverse engineer, or create derivative works based on all or any part of the FMS Portal or the Service, nor attempt to do so, except to the extent such actions cannot be prohibited because they are necessary to decompile the FMS Portal to obtain the information necessary to create an independent program that can be operated with the FMS Portal or another program (**Permitted Purpose**), provided that the information obtained during such activities:
 - is not disclosed or communicated to third parties without the prior written consent of the licensor, except where necessary to achieve the Permitted Purpose;
 - is not used to create a portal that is substantially similar in expression to the FMS Portal;
 - is kept secure; and
 - is used solely for the Permitted Purpose; and
- complies with all applicable technology control or export laws and regulations applicable to the technology used or supported by the FMS Portal or the Service.

13. ACCEPTABLE USE RESTRICTIONS

The Customer must:

- not use the FMS Portal or any Service in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these terms, or act fraudulently or maliciously, for example by hacking into

or inserting malicious code, such as viruses or harmful data, into the FMS Portal, any Service, or any operating system;

- not use the FMS Portal or any Service in a way that could damage, disable, overburden, impair, or compromise our systems or security or interfere with other users; and
- not collect or harvest any information or data from any Service or our systems or attempt to decipher transmissions to or from the servers on which a Service operates.

14. INTELLECTUAL PROPERTY RIGHTS

All intellectual property rights in the FMS Portal, the Documentation, and the Service throughout the world belong to us (or our licensors), and the rights in the FMS Portal and the Service are licensed (not sold) to you. You have no intellectual property rights in or to the FMS Portal, the Documentation, or the Service other than the right to use them in accordance with these terms.

15. OUR LIABILITY FOR LOSS OR DAMAGE SUFFERED BY THE CUSTOMER

We do not exclude or limit our liability to you in any way where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents, or subcontractors, or for fraud or fraudulent misrepresentation.

Limitations of the FMS Portal and the Services. Although we make reasonable efforts to update the information in the FMS Portal and the Service, we make no representations, warranties, or guarantees, whether express or implied, that such information is accurate, complete, or up to date.

Check whether the FMS Portal and the Service are suitable for you. It is the Customer's responsibility to verify that the facilities and functions of the FMS Portal and the Service meet the Customer's requirements.

We are not responsible for events beyond our control. If our provision of the Service or support for the FMS Portal or the Service is delayed due to an event beyond our control, we will contact you as soon as reasonably possible to inform you and will take steps to minimize the effect of the delay. Provided we do so, we will not be liable for delays caused by such events; however, if there is a risk of substantial delay, the Customer may contact us to terminate the contract and receive a refund for any Service paid for but not received.

16. INDEMNIFICATION

The Customer indemnifies Sany against all damages, costs, and third-party claims incurred by Sany arising out of or in connection with a (alleged) breach of these terms by the Customer.

17. WE MAY SUSPEND OR TERMINATE RIGHTS TO USE THE FMS PORTAL AND SERVICES IF THE CUSTOMER BREACHES THESE TERMS

We may suspend or terminate the rights to use the FMS Portal and the Service at any time if the Customer has materially breached these terms. If what the Customer has done can be remedied, we will give the Customer a reasonable opportunity to do so and will reactivate the usage rights thereafter.

If we terminate the rights to use the FMS Portal and the Services:

- the Customer must cease all activities permitted under these terms, including use of the FMS Portal and all Services;
- the Customer must remove the FMS Portal from all devices or computers in its possession and immediately destroy all copies of the FMS Portal and confirm to us that this has been done; and
- we may remotely access your devices or computers to remove the FMS Portal from them and deny you further access to the Services.

18. ASSIGNMENT

We may assign our rights and obligations under these terms and your agreement for the FMS Portal, Documentation, or Service to another organization. We will always notify you in writing if this happens and will ensure that the transfer does not affect your rights under the contract.

You may assign your rights or obligations under these terms to another person only with our prior written consent.

19. NO RIGHTS FOR THIRD PARTIES

This agreement does not create any third-party rights to enforce any term of this agreement for the benefit of the Customer.

20. IF A COURT FINDS PART OF THIS CONTRACT UNLAWFUL, THE REST REMAINS IN FORCE

Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them is unlawful, the remaining paragraphs will remain in full force and effect.

21. EVEN IF WE DELAY ENFORCEMENT OF THIS CONTRACT, WE MAY STILL ENFORCE IT LATER

Even if we delay enforcing this agreement with the Customer, we may still enforce it later. If we do not immediately insist that the Customer do something required under these terms, or if we delay taking steps against the Customer in respect of a breach of this contract, this does not mean that the Customer does not have to do those things, nor does it prevent us from taking action against the Customer at a later date.

22. GOVERNING LAW AND JURISDICTION

These terms are governed by Dutch law. Article 6:227b(1) of the Dutch Civil Code does not apply. In the event of a dispute relating to these terms that cannot be resolved amicably, the District Court of Amsterdam shall have exclusive jurisdiction (subject to appeal).