**GRAVITY CLIMATE TERMS OF SERVICE**

These Terms of Service (the **“Terms”)** constitute an agreement governing the use of the Services (defined below) provided by Gravity Climate Co., a Delaware corporation, to you (“**Customer**”). The terms of each Order Form (defined below) are incorporated herein such that the Terms and each Order Form are construed as a single agreement (the “**Agreement**”). In these Terms, references Customer refer to the organization identified as the Customer in the applicable Order Form or that otherwise accepts these Terms (such as by using the Services).

# DEFINITIONS

## **“Confidential Information”** means any and all technical and non-technical information disclosed by one party to the other in connection with this Agreement, whether in electronic, written, graphic, oral, machine readable or other tangible or intangible form, that is marked or identified at the time of disclosure as “Confidential” or “Proprietary” or in some other manner so as to clearly indicate its confidential nature, or which, by its nature or the circumstances surrounding disclosure, the receiving party would reasonably deem to be confidential or proprietary. Without limiting the foregoing, Customer Data (as defined below) shall be deemed the Confidential Information of Customer, and the Services and any related documentation or materials, including any Feedback provided by Customer, shall be deemed the Confidential Information of Gravity.

##  **“Services”** means the Gravity-proprietary carbon accounting platform and service (“**Software**”) as further described in the applicable Order Form and supporting services, as described in the Order Form or otherwise made available by Gravity, such as implementation and support services.

## **“Reports”** means the reports presented by the Software that allow Customer to understand their carbon emissions.

# Gravity Services.

## **Access to Services**. Access to the Software is purchased on a subscription basis by a written order form or statement of work describing the Software or any related Services to be provided by Gravity (in each case, an **“Order Form”)**. Subject to these Terms and each Order Form, Gravity hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable (except as provided herein) right, during the applicable Subscription Term, to access and use the Services solely for Customer’s internal business purposes and in accordance with any Service documentation made available to Customer by Gravity in tangible or electronic format (collectively “**Documentation**”). In addition, subject to these Terms and each Order Form, Gravity hereby grants to Customer a non-exclusive, perpetual license to use, for its internal business purposes related to environmental reporting, the Reports that it downloads from the Software or otherwise receives from Gravity during the applicable Subscription Term. Any modification of these terms and conditions within an Order Form will apply only to that Order Form in which the modification is set forth.

## **Technical Support.** During the applicable Order Form term, Gravity will provide email and telephonic support during normal business hours in New York to answer Customer questions regarding the configuration and use of the Software. Gravity will have no other support obligations absent specific written agreement of the parties in the applicable Order Form.

## **Accounts**. Customer must provide accurate and up-to-date account information. Without prejudice to Gravity’s obligations hereunder, Customer is responsible for all activities that occur under Customer’s account, including the activities of any end user (each, an “**End User**”) who is provisioned with an account under Customer’s account (an “**End User Account**”), including their compliance with the terms of this Agreement. Customer may not make account access credentials available to third parties, share individual login credentials between multiple users on an account, or resell or lease access to Customer’s account or any End User Account. Customer will promptly notify Gravity Customer becomes aware of any unauthorized access to or use of Customer’s account or Gravity’s Services.

## **Updates.** Gravity reserves the right to update, upgrade or otherwise modify the Services at any time and with or without notice; provided, however, Gravity will not materially reduce the overall functionality of the Services during the applicable Order Form term. Gravity may suspend provision of the Software, at any time with reasonable notice (except in emergency cases relating to security or adverse impacts on the Services), for security or maintenance purposes or as required by applicable law. Gravity will use commercially reasonable efforts to minimize the duration of any such suspension. Customer agrees that its purchase is neither contingent on the delivery of any future functionality nor dependent upon any oral or written comments made by Gravity with respect to future functionality or features.

## **Third-Party Offerings**. Gravity or third parties may make available products, services, or content provided by third parties (“**Third Party Offering**”) through or in connection with the Services. Third Party Offerings, other than those obtained or provided by Customer, will be identifiable as such. Any acquisition by Customer of such products or services, and any exchange of data between Customer and any third-party provider, product or service is solely between Customer and the applicable third-party provider, including where Third Party Offerings are purchased on an Order Form signed by Gravity. Gravity does not warrant or support Third Party Offerings or other non-Gravity products or services unless expressly provided otherwise in an Order Form. The Services may contain features designed to interoperate with Third Party Offerings. If Customer elects to use such features, Customer grants Gravity the right to transmit Customer Data to the provider of such Third Party Offering in connection with providing access to such features. Gravity cannot guarantee the continued availability of such Service features and may cease providing them without entitling Customer to any refund, credit, or other compensation (including if, for example and without limitation, the provider of a Third Party Offering ceases to make the Third Party Offering available for interoperation with the corresponding Service features in a manner acceptable to Gravity).

# PROPRIETARY RIGHTS.

## **Gravity Services.** As between the parties, Gravity is and shall remain the owner of the Services and any all and all modifications, enhancements, upgrades and updates thereto, and all copyrights, trademarks, service marks, trade secrets, patents and other intellectual property rights therein (registered or unregistered) (collectively, “**Gravity Property**”). Customer acknowledges and agrees that nothing in this Agreement or in the performance of this Agreement conveys to Customer any ownership, intellectual property right, or other proprietary interest in or to the Services (including the Software) or any Gravity Confidential Information. All rights in the Gravity Property not granted expressly herein by Gravity are reserved.

## **Customer Data**. As between the parties, Customer shall remain the owner of all data it uploads to the Software or any data that the Software accesses from Customer’s systems, including information regarding Customer’s carbon emissions (collectively, “**Customer Data**”) in the operation and performance of the Services. Customer Data is the Confidential Information of Customer. No title to, or ownership of, Customer Data is transferred to Gravity pursuant this Agreement. Subject to the terms and conditions of this Agreement, Customer grants Gravity the right to access and use the Customer Data (a) in order to provide the Services to Customer and for internal purposes to improve the Services, and (b) to anonymize and de-identify the Customer Data for use by Gravity on an anonymized and aggregated basis for any purpose so long as Customer is not identified as the source of such data. Any such anonymized and de-identified data shall be deemed owned by Gravity and shall not constitute the Confidential Information of Customer. Customer may export Customer Data at any time during the term of this Agreement through the export features in the Services in accordance with the Documentation. Customer is responsible for the accuracy, quality and legality of Customer Data and the means by which Customer acquired Customer Data. Without limiting the foregoing, Customer represents and warrants that Customer owns or otherwise has the right to use such Customer Data in connection with the Services and that use of the Customer Data by Gravity in accordance with this Agreement will not infringe or violate the rights of any third party or cause Gravity to be in violation of applicable laws.

## **Restrictions.** Except as expressly permitted in this Agreement,Customer agrees not to: (a) make or have made any copies, in whole or in part, of the Documentation for or screenshots of the Services, except as necessary to use the Services as permitted by this Agreement; (b) modify, adapt, alter, translate, or create derivative works of the Services or any Documentation or materials provided by Gravity relating to the Services; (c) sublicense, lease, rent, loan, or otherwise transfer the Services to any third party or export the Services in violation of United States federal law or regulations; (d) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Services; or (e) disclose benchmarks or other comparisons of the Services. Customer will not delete or alter any copyright, trademark, and other proprietary rights, notices or markings appearing on the Services.

## **Feedback.** If the Customer makes any suggestions, recommendations or feedback regarding the Services (“Feedback”), Customer hereby grants to Gravity a worldwide, perpetual, irrevocable, royalty-free license to exploit such Feedback or derivative works thereof for any purpose. Gravity understands that Feedback is provided by Customer “AS IS” without warranty of any kind.

# NON-DISCLOSURE. All Confidential Information disclosed by one party to the other party shall be held in confidence by the recipient to the same extent and in at least the same manner as the recipient protects its own Confidential Information of a similar nature, but in no event less than reasonable care, and shall be used by the recipient only for the purposes of this Agreement. Neither party may disclose, publish, release, transfer, or otherwise make available the Confidential Information of, or obtained from, the other in any form to, or for the use or benefit of, any person or entity without the disclosing party’s consent, except that each party shall be permitted to disclose relevant aspects of the other party’s Confidential Information to its employees, contractors, and agents who have a need to know and are bound by confidentiality obligations at least as strict as those in this Agreement, but only to the extent that such disclosure is reasonably necessary for the exercise of its rights or performance of its obligations under this Agreement. The recipient will be responsible for any breach of this Section 4 by its employees, contractors, and agents. The obligations in this Section 4 shall not restrict any disclosure pursuant to any applicable law or by order of any court or governmental authority, provided that the recipient shall to the extent permitted give prompt notice to the disclosing party of such requirement. The obligations set forth in this Section 4 shall not apply to any information that: (a) is already in the public domain or becomes available to the public through no breach of this agreement or other confidentiality obligation by the recipient, (b) was in the recipient’s possession prior to receipt from the disclosing party as proven by the recipient’s written records, or (c) is received independently on a non-confidential basis from a third party free to disclose such information to the recipient. Upon request of the disclosing party, the recipient copies and embodiments of the disclosing party’s Confidential Information shall be promptly returned to the disclosing party or destroyed.

# PAYMENT.

## **Fees.** Customer agrees to pay fees in the amounts and at the times specified in the applicable Order Form. Unless specified otherwise, all amounts due hereunder shall be paid within 30 days after the date of the invoice in U.S. dollars. All fees are nonrefundable and noncancelable except as expressly set forth herein.

## **Taxes.** All payments required by this Agreement are exclusive of federal, state, local and foreign taxes, duties, tariffs, levies, withholdings and similar assessments (including without limitation, sales taxes, use taxes and value added taxes), and Customer agrees to bear and be responsible for the payment of all such charges, excluding taxes based upon Gravity’s net income.

## **Disputes and Late Payments**.To dispute an invoice, Customer must notify Gravity within thirty (30) days of issuance. Overdue amounts not disputed in good faith may be subject to a finance charge of 1.5% of the unpaid balance per month or the maximum permitted by law, whichever is lower, and Gravity may suspend the Services after providing written notice of late payment.

# Publicity. Customer hereby grants Gravity permission to use the Customer name and logo on Gravity’s website, press releases, customer lists, and investor and marketing materials to list Customer as a customer. However, Gravity will not use Customer’s name, trademarks, or logos in any other way without Customer’s prior consent.

# TERM; TERMINATION.

## **Term.** The term of this Agreement shall commence on the effective date set forth in the applicable Order Form and continue in effect until the expiration or termination of all Order Forms.

## **Term of Purchased Subscriptions.** The term of each subscription shall be as specified in the applicable Order Form (“**Subscription Term**”). Except as otherwise specified in an Order Form, the Subscription Term will automatically renew for additional one-year terms, unless either party gives the other written notice (email acceptable) at least 30 days before the end of the relevant subscription term. Except as expressly provided in the applicable Order Form, renewal of promotional or one-time priced subscriptions will be at Gravity’s applicable list price in effect at the time of the applicable renewal. Notwithstanding anything to the contrary, any renewal in which subscription volume or subscription length for any Services has decreased from the prior term will result in re-pricing at renewal without regard to the prior term’s per-unit pricing.

## **Termination.** This Agreement may be terminated by either party on thirty (30) days’ prior written notice if there are no operative Order Forms outstanding. This Agreement may be earlier terminated (in whole, or in respect of any Order Form) by either party (a) if the other party materially breaches a provision of this Agreement and fails to cure such breach within 30 days (10 days in the case of non-payment by Customer) after receiving written notice of such breach from the non-breaching party or (b) immediately upon written notice, if the other party makes any assignment for the benefit of creditors, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of any or all of the other party's property, or the other party seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding or such a proceeding is instituted against the other party and is not dismissed within 90 days, or the other party becomes insolvent or, without a successor, dissolves, liquidates or otherwise fails to operate in the ordinary course.

## **Effect of Termination.** Within 10 days following the termination or expiration of the Agreement, Customer will delete all Confidential Information of Gravity, and upon written request, and subject to Gravity’s data retention and backup policies, Gravity shall delete and remove any Customer Data on the Software. Any right or obligation of the parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement shall so survive, including without limitation Sections 1 (Definitions), 2.5 (Third-Party Offerings), 3.1 (Gravity Services), 3.3 (Restrictions), 3.4 (Feedback), 4 (Non-Disclosure), 5 (Payment), 7.3 (Termination), 7.4 (Effect of Termination), 8.2 (Disclaimer), 9 (Limitations of Liability), 10 (Indemnification), 11 (Notices), and 12 (General).

# Warranties; Disclaimer.

# Gravity warrants during the applicable Order Form term that the Services will, when used in accordance with this Agreement, conform in all material respects with the applicable Documentation and Order Form. For any breach of this warranty, Customer’s exclusive remedies are those described in the “Termination” section above.

# DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED HEREIN, CUSTOMER ACKNOWLEDGES THAT THE SERVICES ARE PROVIDED ON AN “AS IS” BASIS, WITHOUT ANY WARRANTY OF ANY KIND. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES MAY NOT BE ERROR FREE. WITHOUT LIMITING THE FOREGOING, GRAVITY EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE SERVICES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS. CUSTOMER ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES IN THIS AGREEMENT AND THAT NO WARRANTIES ARE MADE BY GRAVITY EXCEPT THOSE EXPRESSLY STATED ABOVE.

# LIMITATIONS OF LIABILITY. IN NO EVENT WILL GRAVITY OR ITS SUPPLIERS AND LICENSORS BE LIABLE FOR ANY LOST PROFITS, LOST DATA, LOSS OF USE OR DOWNTIME, OR FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES, ARISING FROM OR RELATING TO THIS AGREEMENT, REGARDLESS OF CAUSE OF ACTION, EVEN IF GRAVITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF GRAVITY AND ITS SUPPLIERS AND LICENSORS ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID TO GRAVITY IN THE TWELVE-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM FOR THE APPLICABLE SERVICES OR IF CUSTOMER HAS NOT HAD ANY PAYMENT OBLIGATIONS TO GRAVITY (FOR EXAMPLE THROUGH A FREE TRIAL), FIVE HUNDRED DOLLARS ($500). CUSTOMER ACKNOWLEDGES THAT THESE LIMITATIONS OF LIABILITY REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT GRAVITY WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY. NOTHING IN THIS AGREEMENT LIMITS CUSTOMER’S INDEMNIFICATION OBLIGATIONS OR OBLIGATIONS OF PAYMENT, OR ANY LIABILITIES THAT CANNOT BE LIMITED BY LAW.

# INDEMNIFICATION.

# Gravity agrees to defend or settle, at its expense, Customer from and against any third-party claims alleging that Customer’s authorized use of the Services infringes and/or misappropriates any valid (i) issued U.S. patent; (ii) registered U.S. trademark; (iii) registered U.S. copyrights; and (iv) trade secrets. In connection with the foregoing defense, Gravity shall indemnify Customer against all damages finally awarded against Customer in a final judgment or settlement of any of the foregoing claims that are specifically attributable to such suit or action. If Gravity receives information about an infringement or misappropriation claim related to the Services or otherwise becomes aware of a claim that the provision of any of the Services is unlawful in a particular territory, Gravity may, at its option and expense, (i) obtain for Customer the right to continue using the Services, (ii) replace or modify the Services so that it is no longer infringing but performs substantially similar functions, and (iii) if neither of the foregoing options are commercially practicable, terminate this Agreement and/or the Order Form and refund to Customer a prorated portion of any pre-paid fees paid by Customer as of the date of termination for the Services subject to the claim, in which case Customer will cease use of the Services and return or provide to Gravity all materials related to the Services subject to such claim. The indemnification set forth in this Section 11.1 does not apply if the claim arose from (i) Customer’s negligence, abuse or misapplication of the Services or breach of this Agreement; (ii) use of the Services other than as specified in the applicable Documentation; (iii) any alterations, modifications or adaptations of the Services performed by anyone other than Gravity; (iv) any unauthorized combination or interfacing of the Services with other hardware or software; or (v) other causes beyond the reasonable control of Gravity. THIS SECTION 11.1 STATES CUSTOMER’S SOLE AND EXCLUSIVE REMEDIES FOR INFRINGEMENT OR CLAIMS ALLEGING INFRINGEMENT.

# Customer shall indemnify, defend, and hold Gravity and its directors, officers, employees, independent contractors, representatives, and agents harmless for any costs, losses, liabilities, damages, and expenses (including reasonable attorneys’ fees) arising from (i) any breach of this Agreement; or (ii) any Customer Data or use of Customer Data in connection with the Services.

# The foregoing indemnification obligations are conditioned on the indemnified party: (a) notifying the indemnifying party promptly in writing of such action, (b) reasonably cooperating and assisting in such defense and (c) giving sole control of the defense and any related settlement negotiations to the indemnifying party, provided that the indemnifying party may not settle any claim in a manner that admits guilt or does not unconditionally release the indemnified party, without the indemnified party’s prior written consent.

# NOTICES. All notices, consents and approvals under this Agreement must be delivered in writing by courier, or by certified or registered mail (postage prepaid and return receipt requested), to the other party at the address set forth beneath such party’s signature and will be effective upon receipt or three business days after being deposited in the mail as required above, whichever occurs sooner. Either party may change its address by giving notice of the new address to the other party. Any notices or other communications provided by Gravity under these Terms may be given via email to Customer’s contact listed on an Order Form or the administrator of Customer’s Services account. For notices made by e-mail, the date of receipt will be deemed the date on which such notice is transmitted.

# GENERAL. The headings to the clauses, sub-clause and parts of this Agreement are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement. The terms “this Agreement,” “hereof,” “hereunder” and any similar expressions refer to this Agreement and not to any particular Section or other portion hereof. The parties hereto agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be applied in the construction or interpretation of this Agreement. As used in this Agreement, the words “include” and “including,” and variations thereof, will be deemed to be followed by the words “without limitation.” The parties are independent contractors and neither party is the agent, representative, joint venturer or partner of the other party. This Agreement will be governed by and interpreted in accordance with the laws of New York, without regard to conflict of laws provisions. The sole jurisdiction and venue for actions related to this Agreement will be the state or federal courts located in the County and State of New York, and both parties consent to the jurisdiction of such courts with respect to any such action. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Customer agrees to comply with all applicable export and import control laws and regulations in its use of the Services and, without limiting the generality of the foregoing, Customer shall not export or re-export the Software or Services without all required United States and foreign government licenses. In the event any provision of this Agreement is held by a court of competent jurisdiction to be prohibited by law or unenforceable, such provision shall be amended and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. This Agreement may not be changed, modified, amended or supplemented except by a written instrument signed by both parties. Failure or neglect by either party to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of such party’s rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice such party’s rights to take subsequent action. This Agreement may not be assigned by Customer without the prior written consent of Gravity. Any assignment in violation of the foregoing shall be null and void from the beginning. This Agreement contains the final, complete and exclusive agreement of the parties relative to the subject matter hereof and supersedes all prior and contemporaneous understandings and agreements relating to its subject matter.