

Groundcover Website Terms of Service

Last Updated: January 2023

Please read the following Terms and Conditions ("**Terms**" and together with the Privacy Policy, the "**Agreement**") carefully before using our website available at: <https://www.groundcover.com> (which together with its subdomains, Content, marks and services, shall be referred to as the "**Website**"), and/or registering for, accessing or using the Service (as defined below) so that you are aware of your legal rights and obligations (the Website together with the Service may collectively be referred as the "**Solution**"). To the extent of any conflict or inconsistency between a provision in these Terms and a provision in the Privacy Policy (as defined below), the Terms shall prevail, unless the Privacy Policy specifically state otherwise. By accessing the Website and downloading, activating, accessing and/or using the Service you acknowledge that you, on your own behalf as an individual, and on behalf of your employer, third party or another legal entity (collectively "**you**" or "**your**" or "**Customer**"), are entering a legal agreement with Groundcover Ltd., Groundcover Inc., or any of their affiliates ("**Groundcover**", "**us**", "**we**" or "**our**") and have understood and agree to comply with, and be legally bound by this Agreement. The Website and Service are only intended for individuals aged eighteen (18) years or older. If you are under eighteen (18) years please do not use the Website and Service. If you are entering into this Agreement on behalf of your employer or other legal entity, you represent and warrant that you have full authority to act on behalf of the employer or other legal entity and bind such employer or other legal entity to this Agreement. If Customer has purchased the subscription to the Service granted hereunder from a partner, reseller or distributor authorized by Groundcover ("**Partner**"), to the extent there is any conflict between these Terms and the agreement entered between Customer and the respective Partner, including any purchase order ("**Partner Order Form**"), then, as between Customer and Groundcover, this Agreement shall prevail. Any rights granted to Customer in such Partner Order Form which are not contained in the Agreement, apply only in connection with such Partner. In that case, Customer must seek redress or realization or enforcement of such rights solely with such Partner and not Groundcover. If you do not agree to comply with and be bound by this Agreement or do not have authority to bind your employer or other legal entity, please do not accept these Terms and immediately refrain from accessing and/or

using the Website and Service. You hereby waive any applicable rights to require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent not prohibited under applicable law. For clarity, this Agreement shall not derogate from any applicable website or platform terms and conditions from which you may download and/or use the Service.

1.

Definitions.

The following capitalized terms have the meanings set forth below:

1.1. "Content" means any text, documents, descriptions, interactions, data, information, video clips, logos, icons, software, links, reports, files, images, graphics, or other content.

1.2. "User Content" means any Content submitted or uploaded to, or transmitted through, the Website or Service, or otherwise provided or made available to Groundcover, by or on behalf of you.

1.3. "Intellectual Property Rights" means any and all rights, titles, and interests (under any jurisdiction or treaty, whether protectable or not, whether registered or unregistered, and whether vested, contingent, or future) in and to inventions, discoveries, works of authorship, designs, software, technical information, databases, know-how, mask works, methods, technology, and other intellectual property, and includes but is not limited to patents, copyrights and similar authorship rights, moral (and similar personal) rights, mask work rights, data and database rights, trade secret rights and similar rights in confidential information and other non-public information, design rights, trademark, service mark, trade name, trade dress and similar branding rights, as well as: (i) all applications, registrations, renewals, reexaminations, extensions, continuations, continuations-in-part, provisionals, substitutions, divisions or reissues of or for the foregoing; and (ii) all goodwill associated with the foregoing.

1.4. "SubscriptionTerm" means the duration of Subscription as specified in your Order Partner Order Form which may be a monthly or annual duration and if not specified, the duration specified in this Agreement.

1.5. "Order" means as the case may be: (a) the offline sales order form (in) to which this Agreement is attached or incorporated, and which is executed by both parties; or (b) the Groundcover online sales web form accepted by you. References herein to the "Agreement" shall be deemed to include the Order.

1.6. "Groundcover Content" means any Content (excluding User Content) appearing on or in, or otherwise provided or made available via, the Solution.

1.7. "Sensitive Data" means any (i) categories of data enumerated in Article 9(1) of the European Union's General Data Protection Regulation (Regulation 2016/679, aka the GDPR) or any successor law; (ii) credit, debit or other payment

card data subject to the Payment Card Industry Data Security Standards (“**PCI DSS**”); (iii) Nonpublic Personal Information (NPI) (as defined by the Gramm-Leach-Bliley Act and its implementing rules and regulations) or Personal Health Information (PHI) data (as defined by the Health Insurance Portability and Accountability Act and its implementing rules and regulations); or (iv) any data similar to the foregoing that is protected under foreign or domestic laws.

2.

The Service.

Groundcover offers software-as-a-service that helps companies to improve their application monitoring (“**Service**”). Groundcover may offer additional services and/or products which are subject to the other agreements, (each an “**Other Agreement**”). To the extent of any conflict or inconsistency between a provision in these Terms and a provision in the Other Agreement, the Other Agreement shall prevail, unless the Other Agreement specifically states otherwise.

3.

Subscription.

Subject to the terms and conditions of this Agreement (including without limitation your payment of all applicable Fees), during the respective Subscription Period Groundcover grants you a limited, fully revocable, non-exclusive, non-sublicensable, non-assignable, non-transferable right to remotely access (i.e. on a SaaS basis) the Service solely for your personal or internal institutional use (collectively: the “**Subscription**”). You are solely responsible for providing all equipment, systems, assets, access, and ancillary goods and services needed to access and use the Service, for ensuring their compatibility with the Service. The Service will be hosted by a third party hosting services provider selected by Groundcover from time to time (each, a “**Hosting Provider**”), and accordingly the availability of the Service shall be in accordance with the Hosting Provider’s then-current uptime commitments.

4.

Account.

In order to access the Service, you will be required to set up an account by submitting the information requested in the applicable online form or interface which will be made available to you via the Website, such as, your full name, email address, company name and company website address (“**Account**”). When creating the Account, you must provide accurate and complete information. You agree not to create an Account for anyone else or use the Account of another. As between Groundcover and you, you alone shall be responsible and liable for maintaining the confidentiality and security of the Account credentials, as well as

for all activities that occur under or in such Account. You must notify Groundcover immediately of any breach of security or unauthorized use of your Account. If you wish to delete your Account you may send an email request to Groundcover at support@groundcover.com.

5.

Privacy.

You agree that Personal Information (as defined in Groundcover's Privacy Policy available at <https://www.groundcover.com/privacy> (the “**Privacy Policy**”) collected by Groundcover in connection with the foregoing, shall be processed in accordance with the then-current Privacy Policy, which is hereby incorporated into this Agreement by reference.

6.

Restrictions.

You agree not to, and shall not permit any third party to do any of the following (in whole or in part): (a) sell, assign, transfer, lease, rent, sublicense, or otherwise distribute or make available the Service to any third party (such as offering it as part of a time-sharing, outsourcing or service bureau environment); (b) publicly perform, display or communicate the Service, or otherwise use the Service for several organizations/projects under one subscription; (c) disassemble, reverse engineer, decompile, decrypt, or attempt to derive the source code or non-literal aspects (such as the underlying structure, sequence, organization, file formats, non-public APIs, ideas, or algorithms) of, the Service; (d) copy, frame" or "mirror", modify, alter, adapt, arrange, translate, improve, or create derivative works of the Service and/or Website or any part thereof or use the Service and/or Website to develop any service or product that is the same as (or substantially similar to) them; (e) circumvent, disable or otherwise interfere with security-related features of the Service and/or Website or features that prevent or restrict use or copying of any content or that enforce limitations on use of the Service and/or Website; (f) remove, alter or obscure any proprietary notice or identification, including copyright, trademark, patent or other notices, contained in or displayed on or via the Service and/or Website; (g) use any communications systems provided by the Service and/or Website to send unauthorized and/or unsolicited commercial communications; (h) store or transmit any robot, malware, Trojan horse, spyware, or similar malicious item intended (or that has the potential) to damage or disrupt the Service and/or Website; (i) employ any hardware, software, device, or technique, or (j) take any action that imposes or may impose (as determined in Groundcover's reasonable discretion) an unreasonable or disproportionately large load on the servers, network, bandwidth, or other cloud infrastructure which operate or support the Service and/or Website, or otherwise systematically abuse

or disrupt the integrity of such servers, network, bandwidth, or infrastructure (k) use Groundcover's name, logo or trademarks without our prior written consent; and/or (l) use the Service and/or Website to violate any applicable laws, rules or regulations, or for any unlawful, harmful, irresponsible, or inappropriate purpose, or in any manner that breaches this Agreement. You represent and warrant that your use of the Service and/or Website complies with all applicable laws and regulations (including, without limitation privacy, marketing and spam laws) and that you have obtained all required approvals, consents, permissions, licenses necessary in order to use the Service and/or Website.

7.

Data Backup.

The Service is not intended to, and will not, operate as a data storage or archiving product or service, and you agree not to rely on the Service for the storage of any User Content whatsoever. You are solely responsible and liable for the maintenance and backup of all User Content.

8.

Fees.

8.1. Fees.

Fees. Groundcover will invoice Customer each month (unless stated otherwise during the purchase procedure) during the term of this Agreement for the Customer usage of the Service based on the number of Activities (as defined hereunder) which occurred during the prior month in your Account, in accordance with the applicable rate for each Activity specified in the following link <https://www.groundcover.com/pricing> (respectively, the “**Fees**” and the “**Rates**”). If Customer purchased the subscription via a Partner, the Services are subject to the full payment of the applicable fees as set forth in the Partner Order Form between Customer and the respective Partner. All payments shall be made directly to Partner, as agreed between Customer and Partner. “**Activities**” means the servers (nodes) and/or active users belonging to you as part of your usage of the Service . Certain elements of the Service and/or amount of Activities may be made available on a free of charge basis, as shall be decided by us in our sole discretion, however, subject to section 8.3 below, we reserve the right in the future to charge a fee for such features and/or amount of Activities which are currently made available free of charge. Any failure to pay applicable charges may result in you not having access to some or all of the Service.

8.2. Payment terms.

Payment terms. (a) all Fees are stated, and are to be paid, in US Dollars; (b) all Fees shall be paid on a monthly basis within thirty (30) days of Groundcover's

delivery of an invoice for the preceding month's Activities ("**Billing Cycle**"); (c) all payments and payment obligations under this Agreement are non-refundable, and are without any right of set-off or cancellation; (d) any amount not paid when due will accrue interest on a daily basis until paid in full, at the lesser of the rate of one and a half percent (1.5%) per month and the highest amount permitted by applicable law; and (e) all amounts payable under this Agreement are exclusive of all sales, use, value-added, withholding, and other direct or indirect taxes, charges, levies and duties. For clarity, Groundcover may immediately terminate your access to the Service if you fail to pay the Fees in accordance with the terms of this Section 8.2.

8.3. Fees and Rate changes.

Groundcover may, at its sole discretion and at any time, modify the Fees and/or the Rates. The modified Fees and/or Rates will become effective at the end of your then-current Billing Cycle. Groundcover will provide you with a prior notice of any change in Fees and/or Rates, enabling you to terminate your Subscription before such change becomes effective. Your continued use of the Service after the Fee and/or Rate change comes into effect constitutes your agreement to pay the modified Fees.

8.4. Subscription Renewals.

At the end of your Billing Cycle your Subscription shall automatically renew for additional Billing Cycles (as applicable to your Subscription), unless otherwise cancelled by you according to Section 7.5 below.

8.5. Subscription Cancellation.

Either party may cancel your Subscription by sending a cancellation request via email to support@groundcover.com (if canceled by you) or the email address applicable to your Account (if cancelled by Groundcover), such request must contain the email address applicable to your Account and shall enter into effect at the end of your current Billing Cycle provided that you delivered a cancellation notice at least 30 days prior to the end of your current Billing Cycle.

9.

Trial period/Free subscription.

Groundcover may, at its sole discretion, offer a free trial subscription to use the Service for evaluation purposes during the applicable trial period specified in the Order and/or within the Website ("**Trial/Free Period**") prior to charging the Fees. Such usage and access shall be subject to certain usage limitations to be determined by Groundcover and/or published on the Website in the following link <https://www.groundcover.com/pricing>. You acknowledges and agree that Groundcover may at any time cancel your access to the Service. Unless otherwise agreed between the Parties, no fees are due for use of the Service during the

Trial/Free Period. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THESE TERMS, DURING THE TRIAL/FREE PERIOD THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTY WHATSOEVER, AND TO THE MAXIMUM PERMITTED BY LAW, GROUNDCOVER AND ITS AFFILIATES WILL HAVE NO WARRANTY, INDEMNITY, SUPPORT, OR OTHER OBLIGATIONS OR LIABILITIES, WITH RESPECT TO TRIAL/FREE PERIOD. FOR GREATER CLARITY, DURING THE TRIAL/FREE PERIOD GROUNDCOVER SHALL NOT BE LIABLE FOR HEREUNDER FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL OR EXEMPLARY DAMAGES OR LOSSES WHATSOEVER; NOR FOR DAMAGES OR LOSSES FOR LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, LOSS OF GOODWILL, OR DAMAGES ARISING OUT OF THE USE OF, OR INABILITY TO USE, THE SERVICE. GROUNDCOVER SHALL NOT BE RESPONSIBLE FOR ANY WARRANTIES AND REPRESENTATIONS MADE BY ANY PARTNER TO THE CUSTOMER, AND SUCH WARRANTIES AND REPRESENTATIONS ARE THE SOLE RESPONSIBILITY OF SUCH PARTNER. In the event of any inconsistencies between the terms of this Section 9 and other provisions of these Terms, the terms specified in this Section 9 shall prevail with respect to the Trial/Free Period. Groundcover has the right to terminate a Trial/Free Period at any time and for any reason.

10.

Ownership.

10.1. Groundcover Materials.

The Service is licensed to you and not sold to you under these Terms. Groundcover (and/or its licensors and suppliers, as applicable) is, and shall be, the sole and exclusive owner of all right, title and interest (including without limitation all Intellectual Property Rights) in and to: (a) the Website and Service, including any software, graphics, photos, sounds, videos, interactive features, trademarks, service marks and logos contained therein; (b) Groundcover Content; (c) Groundcover's confidential information; (d) any Feedback (as defined below); (e) any anonymous information, data, reporting, suggestions, analyses, and/or intelligence, which is derived from the use of the Solution (i.e., metadata, aggregated, statistics and/or analytics information security findings or discoveries, etc.) which is not personally identifiable information (collectively, "**Analytics Information**"); and (f) any improvements, derivative works, and/or modifications of/to any of the foregoing, regardless of inventorship or authorship. You shall make, and hereby irrevocably makes, all assignments and/or waivers necessary or reasonably requested by Groundcover to ensure and/or provide Groundcover (and/or its designee(s)) the ownership rights set forth in this section.

10.2. User Content.

As between the Parties, you are, and shall be, the sole and exclusive owner of all User Content. During the term of this Agreement, you hereby grant Groundcover and its affiliates a worldwide, royalty-free, paid-up, non-exclusive, sublicensable (through multiple tiers of sublicensees) right and license to access and use, User Content, in any media format and through any media channels, for the purpose of providing the Service, for development and/or improvement, and/or for statistical purposes (internally or externally) and for otherwise performing duties under this Agreement.

You shall ensure that no User Content include or link to Sensitive Data, and represent and warrant that (i) no User Content infringes, misappropriates or violates or will infringe, misappropriate or violate, any rights (including Intellectual Property Rights and privacy rights) of any third party; (ii) no User Content violates any law or regulation of any government authority of competent jurisdiction; (iii) you have obtained and will maintain all required consents, licenses, rights and permissions and have acted in compliance with any and all applicable privacy laws to provide, make available, and otherwise expose User Content to Groundcover, its affiliates, and Hosting Providers and authorize Groundcover to use all Intellectual Property Rights in and to your User Content to enable inclusion and use thereof as part of the Solution.

10.2.

To the maximum extent permitted by law, Groundcover shall have no liability to you with respect to the User Content, including, without limitation, liability with respect to: (i) any information (including confidential information) contained in or apparent from any User Content; and/or (ii) any copyright infringement claim or another infringement claim by a third party in relation to or in connection with the User Content. You acknowledge that the Service does not operate as an archive or file storage service. You are solely responsible for the backup of User Content and other safeguards appropriate for your needs.

11.

Feedback.

If Groundcover receives any feedback (e.g., questions, comments, suggestions or the like) regarding the Solution (collectively, "Feedback"), all rights, including Intellectual Property Rights in such Feedback shall belong exclusively to Groundcover and that such shall be considered Groundcover's confidential information. You hereby irrevocably, fully and unconditionally transfer and assign to Groundcover all Intellectual Property Rights and remaining rights you have in such Feedback, without any further step or payment being necessary, and waive

any and all moral rights you may have in respect thereto, and the right to assert or take legal action in connection with such rights. It is further understood that use of Feedback, if any, may be made by Groundcover at its sole discretion, and that Groundcover in no way shall be obliged to make use of any kind of the Feedback or part thereof.

12.

Third Party Components.

The Service may use or include third party open source software, APIs, files, libraries or components that may be distributed to you and are subject to third party open source license terms. If there is a conflict between any open source license and these Terms, then the open source license terms shall prevail but solely in connection with the related third party open source software. To the maximum extent permitted by law, Groundcover makes no warranty or indemnity hereunder with respect to any third party open source software.

13.

Links.

13.1.

The Website and Service may contain links, and may enable you to post content, to third party websites that are not owned or controlled by Groundcover. We are not affiliated with, have no control over, and assume no responsibility for the content, privacy policies, or practices of, any third party websites. You: (i) are solely responsible and liable for your use of and linking to third party websites and any content that you may send or post to a third party website; and (ii) expressly release Groundcover from any and all liability arising from your use of any third party website. Accordingly, we encourage you to read the terms and conditions and privacy policy of each third party website that you may choose to visit.

13.2.

Groundcover permits you to link to the Website provided that: (i) you link to but do not replicate any page on this Website; (ii) the hyperlink text shall accurately describe the Content as it appears on the Website; (iii) you shall not misrepresent your relationship with Groundcover or present any false information about Groundcover and shall not imply in any way that we are endorsing any services or Service, unless we have given you our express prior consent; (iv) you shall not link from a website ("**Third Party Website**") which prohibits linking to third parties; (v) such Third Party Website does not contain content that (a) is offensive or controversial (both at our discretion), or (b) infringes any intellectual property, privacy rights, or other rights of any person or entity; and/or (vi) you, and your website, comply with these Terms and applicable law.

14. Disclaimers.

14.1.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU ACKNOWLEDGE THAT THE WEBSITE, SERVICE, THE GROUNDCOVER CONTENT, AND ANY OTHER GOODS AND/OR SERVICE PROVIDED OR MADE AVAILABLE BY GROUNDCOVER HEREUNDER OR RELATED THERETO (COLLECTIVELY, THE “**GROUNDCOVER MATERIALS**”) ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS, AND WITHOUT ANY REPRESENTATION, WARRANTY, GUARANTEE, OR CONDITION OF ANY KIND WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY OR ARISING FROM A COURSE OF DEALING, LAW, USAGE, OR REGARDING SECURITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET POSSESSION, NON-INFRINGEMENT, TITLE, QUIET ENJOYMENT, RELIABILITY, OR THAT OTHERWISE ARISE FROM A COURSE OF PERFORMANCE OR DEALING, OR USAGE OF TRADE, ALL OF WHICH ARE HEREBY DISCLAIMED BY GROUNDCOVER, ITS SUPPLIERS, AND LICENSORS.

14.2.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, GROUNDCOVER DOES NOT MAKE ANY REPRESENTATION, WARRANTY, GUARANTEE OR CONDITION: (A) REGARDING THE EFFECTIVENESS, USEFULNESS, RELIABILITY, TIMELINESS, COMPLETENESS, ACCURACY OR QUALITY OF GROUNDCOVER MATERIALS, THE SERVICE OR THE WEBSITE; (B) THAT YOUR USE OF GROUNDCOVER MATERIALS, THE SERVICE OR THE WEBSITE WILL BE UNINTERRUPTED, SECURE OR ERROR-FREE; (C) REGARDING THE OPERATION OF ANY NETWORKS, THE PASSING OR TRANSMISSION OF DATA VIA ANY NETWORKS OR CLOUD; OR (D) REGARDING THE SATISFACTION OF, OR COMPLIANCE WITH, ANY LAWS, REGULATIONS, OR OTHER GOVERNMENT OR INDUSTRY RULES OR STANDARDS. WE DO NOT WARRANT THAT THE CONTENT AVAILABLE ON, OR GENERATED BY, THE WEBSITE OR THE SERVICE IS ACCURATE, COMPLETE, RELIABLE, CURRENT, ERROR-FREE AND/OR THAT THE SERVICE OR THE WEBSITE IS FREE OF VIRUSES OR OTHER HARMFUL CODE. WE RESERVE THE RIGHT TO MAKE CHANGES IN OR TO THE GROUNDCOVER CONTENT, THE WEBSITE AND/OR THE SERVICE, OR ANY PART THEREOF, WITHOUT GIVING YOU ANY NOTICE PRIOR TO OR AFTER MAKING SUCH CHANGES. GROUNDCOVER WILL NOT BE LIABLE OR

OBLIGATED IN RESPECT OF DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR FOR ISSUES RELATED TO PUBLIC NETWORKS OR HOSTING PROVIDERS.

14.3.

YOU HEREBY ACKNOWLEDGE THAT THE SERVICE IS INTENDED TO ASSIST YOU, YOU ARE ADVISED NOT TO RELY IN ANY WAY ON THE CORRECT FUNCTIONING OR PERFORMANCE OF THE SERVICE. USE OF THE SERVICE, AND ANY OUTCOMES OF SUCH USE IS ENTIRELY AT YOUR OWN RISK. YOU AGREE THAT WE WILL NOT BE HELD RESPONSIBLE FOR ANY CONSEQUENCES TO YOU OR ANY THIRD PARTY THAT MAY RESULT FROM YOUR USE OF THE SERVICE AND/OR FOR ANY TECHNICAL PROBLEMS INCLUDING WITHOUT LIMITATION IN CONNECTION WITH THE INTERNET (SUCH AS SLOW CONNECTIONS, TRAFFIC CONGESTION OR OVERLOAD OF OUR OR OTHER SERVERS) OR ANY TELECOMMUNICATIONS OR INTERNET PROVIDERS.

15.

Limitation of Liability.

NOTWITHSTANDING ANYTHING TO THE CONTRARY AND TO THE FULLEST EXTENT PERMISSIBLE BY LAW, IN NO EVENT SHALL GROUNDCOVER, ITS AFFILIATES, OR ANY LICENSOR OR SUPPLIER OF GROUNDCOVER, BE LIABLE UNDER, OR OTHERWISE IN CONNECTION WITH, THESE TERMS, FOR: (A) ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES; (B) ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF REVENUE, LOSS OF ANTICIPATED SAVINGS, OR WASTED EXPENDITURE; (C) ANY LOSS OF, OR DAMAGE OR INTERRUPTION TO, DATA, NETWORKS, INFORMATION SYSTEMS, REPUTATION, OR GOODWILL; AND/OR (D) THE COST OF PROCURING ANY SUBSTITUTE GOODS OR SERVICE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE COMBINED AGGREGATE LIABILITY OF GROUNDCOVER AND ITS AFFILIATES UNDER, OR OTHERWISE IN CONNECTION WITH, THESE TERMS, THE WEBSITE AND THE SERVICE SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID (IF ANY) BY YOU TO GROUNDCOVER UNDER THESE TERMS IN THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE GIVING RISE TO LIABILITY. THE FOREGOING EXCLUSIONS AND LIMITATION SHALL APPLY: (A) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW; (B) EVEN IF GROUNDCOVER HAS BEEN ADVISED, OR SHOULD HAVE BEEN AWARE, OF THE POSSIBILITY OF LOSSES, DAMAGES, OR COSTS; (C) EVEN IF ANY REMEDY IN THESE TERMS FAILS OF ITS ESSENTIAL PURPOSE; AND (D)

REGARDLESS OF THE THEORY OR BASIS OF LIABILITY, AND WHETHER IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION FOR NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION, RESTITUTION, OR OTHERWISE.

16.

Indemnification.

To the maximum extent permitted by law, you agree to defend, indemnify and hold harmless Groundcover and its affiliates, and our respective officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs and expenses (including but not limited to attorney's fees) arising from: (i) your use of, or inability to use, the Website and/or Service (ii) your violation of these Terms; (iii) your violation of any third party right, including without limitation any copyright, property, or privacy right; and (iv) a third party claim relating to or in connection with the User Content (including but not limited to a claim for copyright infringement or related to Intellectual Property Rights or proprietary rights). Without derogating from or excusing your obligations under this section, Groundcover reserves the right (at your own expense), but are not under any obligation, to assume the exclusive defense and control of any matter which is subject to an indemnification by you if you choose not to defend or settle it. You agree not to settle any matter subject to an indemnification by you without first obtaining our express approval.

17.

Updates.

Groundcover may from time to time and in its discretion provide updates or upgrades to the Website and/or Service (each a "**Revision**"), but are not under any obligation to do so. Such Revisions will be supplied according to our then-current policies, which may include automatic updating or upgrading without any additional notice to you. You consent to any such automatic updating or upgrading of the Service. All references herein to the Service shall include Revisions. These Terms shall govern any Revisions that replace or supplement the original Service, unless the Revision is accompanied by a separate license agreement, which will govern the Revision.

18.

Terms and Termination.

These Terms are effective until terminated by Groundcover or you. Groundcover, at its sole discretion, has the right to terminate these Terms and/or your access to the Website and/or Service, or any part thereof, immediately at any time and with or without cause (including, without any limitation, for a breach of these Terms).

Groundcover shall not be liable to you or any third party for termination of the Website, Service or any part thereof. Without derogating from your obligation to pay the applicable Fees, if you object to any term or condition of these Terms, or any subsequent modifications thereto, or become dissatisfied with the Website and/or Service in any way, your only recourse is to immediately discontinue your use of the Website and/or Service. Upon termination of these Terms, you shall cease all use of the Website and Service.

19.

Effect of Termination.

Upon termination of these Terms, you will lose all access to the Service and to any data that we may be storing on your behalf. We reserve the right to permanently delete from our (or our third party service provider's) servers any data that may be contained in your Account at any time following said thirty (30) day period. We do not accept any liability for any termination of the Service or data that is deleted in connection thereto. Sections 1 (Definitions), 6 (Restrictions), 10 (Ownership), 14 (Disclaimers), 15 (Limitation of Liability), 16 (Indemnification), 19 (Effect of Termination), 22 (Governing Law and Disputes) and 23 (General), shall survive termination of these Terms.

20.

Assignment.

The Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you but may be assigned by Groundcover without restriction. Any prohibited assignment shall be null and void.

21.

Modifications.

We reserve the right, at our discretion, to change these Terms at any time. Such change will be effective ten (10) days following our sending a notice thereof to you or posting the revised Terms on the Website, and your continued use of the Service thereafter means that you accept those changes.

22.

Governing Law and Disputes.

These Terms shall be governed by the laws of the State of Israel, without reference to its conflict of laws rules. The exclusive jurisdiction and venue for all disputes hereunder shall be the courts located in Tel Aviv-Yafo, and each party hereby irrevocably consents to the jurisdiction of such courts. Notwithstanding the foregoing, Groundcover reserves the right to seek injunctive relief in any court of competent jurisdiction.

22.

General.

This Agreement represents the complete agreement concerning the Service between you and Groundcover and supersede all prior agreements and representations related to the subject matter hereof. Section headings are provided for convenience only and have no substantive effect on construction. Except for your obligation to pay the Fees, neither party shall be liable for any failure to perform due to causes beyond its reasonable control. Groundcover shall not be liable for any failure to perform due to circumstances or causes beyond its reasonable control including, but not limited to on account of strikes, shortages, riots, insurrection, fires, flood, storms, explosions, acts of God, war, government or quasi-governmental authorities actions, riot, acts of terrorism, earthquakes, explosions, power outages, pandemic or epidemic (or similar regional health crisis), or any other cause that is beyond the reasonable control of Groundcover. Groundcover may use your trademarks, service marks, trade names, service names, logos or other brand designations associated with you in any promotional material or other public announcement or disclosure to state that you are a customer of Groundcover. Nothing herein shall be construed to create any employment relationship, partnership, joint venture or agency relationship or to authorize any party to enter into any commitment or agreement binding on the other party. If any provision of this Agreement is held to be unenforceable, the Agreement shall be construed without such provision. The failure by a party to exercise any right hereunder shall not operate as a waiver of such party's right to exercise such right or any other right in the future. YOU AGREE THAT ANY CAUSE OF ACTION THAT YOU MAY HAVE ARISING OUT OF OR RELATED TO THE SOLUTION MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

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