

Introduction

These Terms of Service constitute a legally binding agreement between you and Gravitational, Inc. (together with its affiliates, “Gravitational”, “we,” “our” or “us”) governing your use of our software, products, services, and website (the “Site” and collectively with the foregoing, the “Services”).

YOU ACKNOWLEDGE AND AGREE THAT, BY CLICKING ON THE “I AGREE” OR SIMILAR BUTTON, REGISTERING FOR AN ACCOUNT, OR ACCESSING OR USING THE SERVICES, YOU ARE INDICATING THAT YOU HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY THESE TERMS OF SERVICE, WHETHER OR NOT YOU HAVE REGISTERED WITH THE SITE. IF YOU DO NOT AGREE TO THESE TERMS OF SERVICE, THEN YOU HAVE NO RIGHT TO ACCESS OR USE THE SERVICES. These Terms of Service are effective as of the date you first click “I agree” (or similar button or checkbox) or use or access the Services, whichever is earlier. If you accept or agree to these Terms of Service on behalf of your employer or another legal entity, you represent and warrant that (i) you have full legal authority to bind your employer or such entity to these Terms of Services; (ii) you have read and understand these Terms of Service; and (iii) you agree to these Terms of Service on behalf of the party that you represent and any permitted users of such party. In such event, “you” and “your” will refer and apply to your employer or such other legal entity.

Any personal data you submit to us or which we collect about you is governed by our Privacy Policy (“Privacy Policy”), available at <https://goteleport.com/privacy/>. You acknowledge that by using the Services, you have reviewed the Privacy Policy. The Privacy Policy is incorporated by reference into these Terms of Service and together form and are hereinafter referred to as this “Agreement.” You may also enter into a separate written agreement with us (each a “Sales Order”), and in the event of any conflict between such Sales Order and this Agreement, this Agreement

shall take precedence over the Sales Order unless the Sales Order specifically states that such Sales Order shall take precedence.

PLEASE NOTE: THIS AGREEMENT GOVERNS HOW DISPUTES BETWEEN YOU AND GRAVITATIONAL CAN BE RESOLVED. IT CONTAINS A BINDING AND FINAL ARBITRATION PROVISION AND CLASS ACTION WAIVER (SECTION 14). PLEASE READ CAREFULLY AS IT AFFECTS YOUR LEGAL RIGHTS, INCLUDING, IF APPLICABLE, YOUR RIGHT TO OPT OUT OF ARBITRATION.

Our Services

Our services consist of compute resource access management software and services under the Teleport brand. Our open source products provide an Access Plane (AP) for developers and security professionals seeking to simplify secure access to servers, applications, and data across all environments. Teleport is available as a free, open source binary that you can self-host and self-support, or through our commercial offerings. Our commercial offerings support flexible deployment options. We offer the ability to access Gravitational's hosted Services ("Cloud"), download software without the need to access Gravitational's infrastructure in order to run the software ("Self-Hosted") or both ("Hybrid"). You may purchase the right to access and use proprietary aspects of the Services by subscribing to a subscription plan (each a "Subscription Plan").

Account, Password, Security, and Mobile Phone Use

You must register with Gravitational and create an account to use the Services (an "Account") and as part of that process you will be requested to provide certain information, including without limitation your name and email address. By using the Services, you agree to provide true, accurate, current and complete information as prompted by the registration process and to maintain and

promptly update the Account information to keep it accurate, current and complete. You are the sole authorized user of your Account. You are responsible for maintaining the confidentiality of any log-in, password, and Account number provided by you or given to you by Gravitational for accessing the Services. You are solely and fully responsible for all activities that occur under your password or Account, even if not authorized by you. Gravitational has no control over the use of any user's Account and expressly disclaims any liability derived therefrom. Should you suspect that any unauthorized party may be using your password or Account or you suspect any other breach of security, you agree to contact Gravitational immediately.

The person signing up for the Services will be the contracting party ("Account Owner") for the purposes of these Terms of Service and will be the person who is authorized to use any corresponding Account we provide to the Account Owner in connection with the Services; provided, however, that if you are signing up for the Services on behalf of your employer, your employer shall be the Account Owner. As the Account Owner, you are solely responsible for complying with these Terms of Service and only you are entitled to all benefits accruing thereto. Your Account is not transferable to any other person or account. You must immediately notify us of any unauthorized use of your password or identification or any other breach or threatened breach of our security or the security of your Account.

Billing and Payment

Payment and any other expenses must be paid through the third party payment processing system (the "PSP") as indicated on the Services. You may be required to register with the PSP, agree to terms of service of the PSP, provide your payment details to the PSP and go through a vetting process at the request of the PSP to set up an account with the PSP (the "PSP Services Agreement"). By accepting these Terms of Service, you agree that you have downloaded or printed, and reviewed and agreed to, the PSP Services Agreement. Please note that Gravitational

is not a party to the PSP Services Agreement and that you, the PSP and any other parties listed in the PSP Services Agreement are the parties to the PSP Services Agreement and that Gravitational has no obligations, responsibility or liability to any user or any other party under the PSP Services Agreement.

All prices and fees displayed on the Services are exclusive of applicable federal, provincial, state, local or other governmental sales, goods and services or other taxes, fees or charges now in force or enacted in the future (“Taxes”). Any applicable Taxes are based on the rates applicable to the billing address you provide to us and will be calculated at the time a transaction is charged to your Account. Unless otherwise indicated, all prices, fees and other charges are in U.S. dollars, and all payments shall be in U.S. currency.

User Content

“User Content” is defined as any content, information, and materials that may be textual, audio, data or visual that you provide, submit, upload, publish, or make otherwise available to the Services and other users.

If you use the Self-Hosted version of our Services, your User Content is limited to the minimum account details provided to us.

You agree that you are solely responsible for User Content, User Content sent or transmitted by you or displayed or uploaded by you in using the Services, and for compliance with all laws applicable to the User Content, including, but not limited to, any laws requiring you to obtain the consent of a third party to use the User Content and to provide appropriate notices of third party rights. You represent and warrant that you have the right to upload the User Content to the Services and that such use does not violate or infringe on any rights of any third party. Under no circumstances will Gravitational be liable in any way for any (a) User Content that is transmitted or

viewed while using the Services, (b) errors or omissions in the User Content, or © any loss or damage of any kind incurred as a result of the use of, access to, or denial of access to User Content. Although Gravitational is not responsible for any User Content, Gravitational reserves the right to delete any User Content, at any time without notice to you, if Gravitational becomes aware that such User Content violates any provision of this Agreement or any law. You retain copyright and other rights you already hold in User Content.

Gravitational acts merely as a passive conduit for your online distribution and publication of your User Content. You acknowledge and agree that Gravitational:

- Is not involved in the creation or development of User Content.
- Disclaims any responsibility for User Content.
- Cannot be liable for claims arising out of or relating to User Content.
- Is not obligated to monitor, review, or remove User Content, but reserves the right to limit or remove User Content on the Services in accordance herewith.

You hereby represent and warrant to Gravitational that your User Content (i) will not be false, inaccurate, incomplete or misleading; (ii) will not infringe on any third party's copyright, patent, trademark, trade secret or other proprietary right or rights of publicity, personality or privacy; (iii) will not violate any law, statute, ordinance, or regulation (including without limitation those governing export control, consumer protection, unfair competition, anti-discrimination, false advertising, anti-spam or privacy); (iv) will not be defamatory, libelous, unlawfully threatening, or unlawfully harassing; (v) will not be obscene or contain pornography (including but not limited to child pornography) or be harmful to minors; (vi) will not contain any viruses, Trojan Horses, worms, time bombs, cancelbots or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information; (vii) will not represent you being employed or directly engaged by or affiliated with Gravitational or purport you to act as a representative or agent of Gravitational; and (viii) will not

create liability for Gravitational or cause Gravitational to lose (in whole or in part) the services of its ISPs or other suppliers.

By making available any User Content through the Services, you hereby grant to Gravitational an irrevocable, transferable, sublicensable (through multiple tiers), fully paid, royalty-free and worldwide right and license to use, copy, access, store, modify and display such User Content: (i) to further our legitimate interests in providing, maintaining, improving, monitoring and administering the Services, and to such other purposes identified in the Privacy Policy, including without limitation to collect and remit payment for paid features, (ii) to administer your use of the Services and any Accounts you may have with us, (iii) to generate and derive useful data and information concerning the interests, characteristics and website use behavior of our users, (iv) to verify that users of the Services meet the criteria required to process their requests; (v) to provide, maintain and improve the Services; (vi) to perform such other actions as authorized by you in connection with your use of the Services; (vii) to personalize your experience, (viii) to provide to you Service announcements or inform you of new releases and features or other information that we believe you may find useful or interesting, (ix) to perform tasks on behalf of and according to instructions of a third party, such as payment processors, third party-service providers or our advertising partners, (x) to enforce these Terms of Service, (xi) to resolve any disputes between users of the Site or between such users and us, (xii) to comply with a legal requirement or process, including, but not limited to, civil and criminal subpoenas, court orders or other compulsory disclosures; (xiii) to further our legitimate interest in protecting our rights, property, or safety and the rights, property and safety of the Services, our users or the public, and (xiv) to contact you to obtain feedback from you regarding the Site and the Services.

We do not claim any ownership rights in any such User Content and nothing in this Agreement will be deemed to restrict any rights that you may have to use and exploit any such User Content.

Gravitational will not access, view or process User Content, except (a) as provided for in this

Agreement or the Privacy Policy; (b) as authorized or instructed by you; © as required to perform its obligations under this Agreement; or (d) as required by applicable law. Gravitational has no other obligations with respect to User Content.

Representations and Warranties

You represent and warrant that: (i) you are 18 years of age or older or are at least of the legally required age in the jurisdiction in which you reside, and are otherwise capable of entering into binding contracts, and (ii) you have the right, authority and capacity to enter into this Agreement and to abide by the terms and conditions of this Agreement, and that you will so abide. Where you enter into this Agreement on behalf of a company or other organization, you represent and warrant that you have authority to act on behalf of that entity and to bind that entity to this Agreement.

You further represent and warrant that (i) you have read, understand, and agree to be bound by these Terms of Service and the Privacy Policy in order to access and use the Services, (ii) you will act professionally and responsibly in your interactions with other users, and (iii) when using or accessing the Services, you will act in accordance with any applicable local, state, or federal law or custom and in good faith.

You agree not to engage in any of the following prohibited activities, among others: (i) copying, distributing, or disclosing any part of the Services in any medium other than as allowed by the Services and these Terms of Service; (ii) transmitting spam, chain letters, or other unsolicited email or attempting to phish, pharm, pretext, spider, crawl, or scrape; (iii) attempting to interfere with, compromise the system integrity or security or decipher any transmissions to or from the servers running the Services; (iv) violating any international, federal, provincial or state regulations, rules, laws, or local ordinances; (v) conducting any unlawful purposes or soliciting others to perform or

participate in any unlawful acts; (vi) uploading invalid data, viruses, worms, or other software agents through the Services; (vii) infringing upon or violate our intellectual property rights or the intellectual property rights of others; (viii) impersonating another person or otherwise misrepresenting your affiliation with a person or entity, conducting fraud, hiding or attempting to hide your identity; (ix) harassing, insulting, harming, abusing, defaming, abusing, harassing, stalking, threatening, intimidating or otherwise violating the legal rights (such as of privacy and publicity) of any other users or visitors of the Services or staff member of Gravitational; (x) interfering with or any activity that threatens the performance, security or proper functioning of the Services; (xi) uploading or transmitting viruses or any other type of malicious code; (xii) attempting to decipher, decompile, disassemble or reverse engineer any of the software or algorithms used to provide the Services; (xiii) bypassing the security features or measures we may use to prevent or restrict access to the Services, including without limitation features that prevent or restrict use or copying of any content or enforce limitations on use of the Services or the content therein; (xiv) attempting to access unauthorized Accounts or to collect or track the personal information of others; (xv) using the Services for any purpose or in any manner that infringes the rights of any third party; (xvi) accessing unauthorized computer networks and infrastructure; or (xviii) encouraging or enabling any other individual to do any of the foregoing.

You hereby warrant and represent that, other than as fully and promptly disclosed to Gravitational as set forth below, you do not have any motivation, status, or interest which Gravitational may reasonably wish to know about in connection with the Services, including without limitation, if you are using or will or intend to use the Services for any journalistic, investigative, or unlawful purpose. You hereby warrant and represent that you will promptly disclose to Gravitational in writing any such motivation, status or interest, whether existing prior to registration or as arises during your use of the Services.

You may not access or use the Services in order to compete directly or indirectly with Gravitational, or for monitoring the Services' availability, performance or functionality, or for any other benchmarking or competitive purposes.

Termination and Suspension

Unless otherwise agreed to in writing between you and Gravitational, either party may terminate these Terms of Service for any or no cause, at any time.

Unless otherwise agreed in a Sales Order, if you have purchased a Subscription Plan, such Subscription Plan may be terminated by either you or Gravitational (a) with written notice to the other party of termination at least 30 days before renewal of the then-current term of the Subscription Plan, (b) immediately upon written notice to the other party if the other party commits a breach or default in the performance of this Agreement and (if capable of cure) fails to remedy such breach or default within thirty (30) days after written notice thereof from the other party, or © immediately upon written notice to the other party if the other party files a petition of any type as to its bankruptcy, is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business or is in such adverse financial condition as to endanger its ability to perform its obligations under this Agreement. In the event of any termination of a Subscription Plan, (a) you will remain liable for any amounts due under this Agreement and/or applicable Sales Order.

Unless otherwise specified in a Sales Order, a Subscription Plan shall be subject to automatic renewal unless either party provides written notice of termination to the other at least thirty (30) days before renewal of the then-current Subscription Plan.

You may cancel and delete your Account at any time by either using the features on the Services to do so (if applicable and available) or by written notice to support@goteleport.com. After

cancellation, you will no longer have access to your Account, your profile or any other information through the Services. For the avoidance of doubt, such cancellation or deletion of your Account does not affect your payment obligations pursuant to any Subscription Plan or Sales Order. The provisions of these Terms of Service which by their intent or meaning intended to survive such termination, including without limitation the provisions relating to disclaimer of warranties, limitations of liability, and indemnification, shall survive any termination of these Terms of Service and any termination of your use of or subscription to the Services and shall continue to apply indefinitely.

Subject to our written agreements with you, we reserve the right to refuse the Services to anyone for any reason at any time. Gravitational may terminate or limit your right to use the Services in the event that we are investigating or believe that you have breached any provision of this Agreement, by providing you with written or email notice. Such termination or limitation will be effective immediately upon delivery of such notice. If Gravitational terminates or limits your right to use the Services pursuant to this section, you are prohibited from registering and creating a new Account under your name, a fake or borrowed name, or the name of any third party, even if you may be acting on behalf of the third party.

Even after your right to use the Services is terminated or limited, this Agreement will remain enforceable against you. Gravitational reserves the right to take appropriate legal action, including but not limited to pursuing arbitration in accordance with Section 14 of these Terms of Service.

Gravitational reserves the right to modify or discontinue, temporarily or permanently, all or any portion of the Services at its sole discretion. Gravitational is not liable to you for any modification or discontinuance of all or any portion of the Services. Gravitational has the right to restrict anyone from completing registration as a user if Gravitational believes such person may threaten

the safety and integrity of the Services, or if, in Gravitational's discretion, such restriction is necessary to address any other reasonable business concern.

Following the termination or cancellation of your Account (as defined below), we reserve the right to delete all your data, including any User Content, in the normal course of operation. Your data cannot be recovered once your Account is terminated or cancelled.

Links to Third-Party Websites

The Services may contain links (such as hyperlinks) to third-party websites. Such links do not constitute endorsement by Gravitational or association with those websites, their content or their operators. Such links (including without limitation external websites that are framed by the Services as well as any advertisements displayed in connection therewith) are provided as an information service, for reference and convenience only. Gravitational does not control any such websites, and is not responsible for their (i) availability or accuracy, or (ii) content, advertising, products, or services. It is your responsibility to evaluate the content and usefulness of the information obtained from other websites. You acknowledge and agree that Gravitational is not involved in the creation or development of third-party websites and disclaims any responsibility for third-party websites, and cannot be liable for claims arising out of or relating to third-party websites. Further, you acknowledge and agree that Gravitational has no obligation to monitor, review, or remove links to third-party websites, but reserves the right to limit or remove links to third-party websites on the Services at its sole discretion.

The use of any website controlled, owned or operated by third parties is governed by the terms and conditions of use and privacy policies for those websites. You access such third-party websites at your own risk. Gravitational expressly disclaims any liability arising in connection with your use and/or viewing of any websites or other material associated with links that may appear on the

Services. You hereby agree to hold Gravitational harmless from any liability that may result from the use of links that may appear on the Services.

As part of the functionality of the Services, you may link your Account with online accounts you may have with third-party service providers (each such account, a “Third-Party Account”) by either: (i) providing your Third-Party Account login information through the Services; or (ii) allowing Gravitational to access your Third-Party Account, as is permitted under the applicable terms and conditions that govern your use of each Third-Party Account. You represent that you are entitled to disclose your Third-Party Account login information to Gravitational and/or grant Gravitational access to your Third-Party Account (including, but not limited to, for use for the purposes described herein), without breach by you of any of the terms and conditions that govern your use of the applicable Third-Party Account and without obligating Gravitational to pay any fees or making Gravitational subject to any usage limitations imposed by such third-party service providers. By granting Gravitational access to any Third-Party Accounts, you understand that (1) Gravitational may access, make available and store (if applicable) any content that you have provided to and stored in your Third-Party Account (the “SNS Content”) so that it is available on and through the Services via your Account, including without limitation any friend lists, and (2) Gravitational may submit and receive additional information to your Third-Party Account to the extent you are notified of this when you link your Account with the Third-Party Account. Unless otherwise specified in these Terms of Service, all SNS Content, if any, shall be considered to be User Content. Depending on the Third-Party Accounts you choose, and subject to the privacy settings that you have set in such Third-Party Accounts, personally identifiable information that you post to your Third-Party Accounts may be available on and through your Account on the Services. Please note that if a Third-Party Account or associated service becomes unavailable or Gravitational’s access to such Third-Party Account is terminated by the third-party service provider, then SNS Content may no longer be available on and through the Services. You will have

the ability to disable the connection between your Account on the Services and your Third-Party Accounts at any time, as set forth below. PLEASE NOTE THAT YOUR RELATIONSHIP WITH THE THIRD-PARTY PROVIDERS ASSOCIATED WITH YOUR THIRD-PARTY ACCOUNTS IS GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD PARTY PROVIDERS. Gravitational makes no effort to review any SNS Content for any purpose, including but not limited to, for accuracy, legality, or non-infringement, and Gravitational is not responsible for any SNS Content.

Intellectual Property Rights

All text, graphics, editorial content, data, formatting, graphs, designs, HTML, look and feel, photographs, music, sounds, images, software, videos, designs, trademarks, logos, typefaces and other content (collectively "Proprietary Material") that users see or read through the Services is owned by Gravitational, excluding User Content, which users hereby grant Gravitational a license to use. Proprietary Material is protected in all forms, media and technologies now known or hereinafter developed. Gravitational owns all Proprietary Material, as well as the coordination, selection, arrangement and enhancement of such Proprietary Materials as a Collective Work under the United States Copyright Act, as amended. The Proprietary Material is protected by the domestic and international laws governing copyright, patents, and other proprietary rights. You may not copy, download, use, redesign, reconfigure, or retransmit anything from the Services without Gravitational's express prior written consent and, if applicable, the holder of the rights to the User Content.

Any use of such Proprietary Material, other than as permitted therein, is expressly prohibited without the prior permission of Gravitational and, if applicable, the holder of the rights to the User Content.

The service marks and trademarks of Gravitational, including without limitation Gravitational and Gravitational logos, are service marks owned by Gravitational. Any other trademarks, service marks, logos and/or trade names appearing via the Services are the property of their respective owners. You may not copy or use any of these marks, logos or trade names without the express prior written consent of the owner.

Additionally, you may choose to or we may invite you to submit comments, ideas, or feedback about the Services, including without limitation about how to improve our services or our products (“Feedback”). By submitting any Feedback, you agree that your disclosure is gratuitous, unsolicited, and without restriction and will not place Gravitational under any fiduciary or other obligation, and that we are free to use the Feedback without any additional compensation to you, and/or to disclose the Feedback on a non-confidential basis or otherwise to anyone. You further acknowledge that, by acceptance of your submission, Gravitational does not waive any rights to use similar or related Feedback previously known to Gravitational, developed by its employees, or obtained from sources other than you. You acknowledge that all email and other correspondence that you submit to us shall become our sole and exclusive property.

Copies of the open source license for any component of the Services made available under an open source license is included in the applicable documentation. Such open source licenses constitute separate written agreements. To the limited extent that the open source licenses for such components conflict with the terms of this Agreement, the applicable open source licenses govern your agreement with Gravitational solely with respect to such applicable component provided under an open source license.

Promotional Offers; Implementation Services; Right to Use

Promotional Offers

We may offer a limited trial of certain Services on a promotional basis subject to the terms we provide regarding such promotional trial. Such trial commences and expires as specified in the terms offered by Gravitational for such promotion. Upon expiration of any such promotion, you will only be able to continue using such Services pursuant to a Subscription Plan. If you purchase a Subscription Plan, we will preserve your User Content in your Account. If you do not purchase a Subscription Plan before the end of the promotional trial, then we reserve the right to delete your User Content and your account after the expiration of any such promotional trial. We reserve the right to charge for use of the Services after the expiration of the promotional trial, and we also reserve the right to limit the usage of the Services or stop the Services available under such promotional trial without advance notice. Unless otherwise specified, your right to use such Services pursuant to a promotional trial is limited to the terms of such promotional trial.

Implementation Services

Gravitational may help you configure software and provide other Services to assist in the implementation and usage of the Services for your benefit (the “Implementation Services”). Implementation Services may be provided pursuant to a separate Implementation Services Statement of Work. You may own and retain all right, title, and interest in and to any work product deliverables of the Implementation Services, provided that Gravitational shall own and retain all right, title and interest in and to any updates or modifications to its content, software, or the Services resulting from Gravitational’s performance of the Implementation Services.

Right To Use

Subject to the terms and conditions of this Agreement, your Subscription Plan, and any applicable Sales Order, Gravitational grants you a non-exclusive, non-transferable, limited license (without the right to sublicense) with respect to any Self-Hosted Services or the Self-Hosted portion of

Hybrid Services or a non-exclusive, non-transferable, limited right to access and use with respect to any Cloud services or Cloud portion of Hybrid Services to (i) install such Self-Hosted Services as identified in your Subscription Plan on your internal or your third party service providers' servers, provided that only you and your authorized users shall have access to the Products on such third party service providers' servers; and (ii) use the Services and associated documentation for authorized purposes within the limits set forth in your Subscription Plan. Upon the expiration or termination of your Subscription Plan, you must cease use of the applicable Services unless you have purchased a Subscription Plan from Gravitational that is valid at the time of your use of the applicable Services. If requested by Gravitational, you agree to provide accurate and complete usage data regarding your use of the Services.

Copyright Complaints and Copyright Agent

Gravitational respects the intellectual property of others, and expects users to do the same. If you believe, in good faith, that any materials provided on or in connection with the Services infringe upon your copyright or other intellectual property right, please send the following information to Gravitational's Copyright Agent at:

Attention: Copyright Agent
340 S Lemon Ave #8219
Walnut, CA 91789-2706
Email: support@goteleport.com

- A description of the copyrighted work that you claim has been infringed, including the URL (Internet address) or other specific location on the Services where the material you claim is infringed is located. Include enough information to allow Gravitational to locate the material, and explain why you think an infringement has taken place;

- A description of the location where the original or an authorized copy of the copyrighted work exists – for example, the URL (Internet address) where it is posted or the name of the book in which it has been published;
- Your address, telephone number, and e-mail address;
- A statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
- A statement by you, made under penalty of perjury, that the information in your notice is accurate, and that you are the copyright owner or authorized to act on the copyright owner’s behalf; and
- An electronic or physical signature of the owner of the copyright or the person authorized to act on behalf of the owner of the copyright interest.

Confidential Information

You acknowledge that Confidential Information (as defined below) is a valuable, special and unique asset of Gravitational and agree that you will not disclose, transfer, use (or seek to induce others to disclose, transfer or use) any Confidential Information for any purpose other than using the Services in accordance with these Terms of Service. If relevant, you may disclose the Confidential Information to your authorized employees and agents provided that they are also bound to maintain the confidentiality of Confidential Information. You shall promptly notify Gravitational in writing of any circumstances that may constitute unauthorized disclosure, transfer, or use of Confidential Information. You shall use best efforts to protect Confidential Information from unauthorized disclosure, transfer or use. You shall return all originals and any copies of any and all materials containing Confidential Information to Gravitational upon termination of this Agreement for any reason whatsoever.

The term “Confidential Information” shall mean any and all of Gravitational’s trade secrets, confidential and proprietary information, and all other information and data of Gravitational that

is not generally known to the public or other third parties who could derive value, economic or otherwise, from its use or disclosure. Confidential Information shall be deemed to include technical data, know-how, research, product plans, products, services, customers, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, strategic and other proprietary and confidential information relating to Gravitational or Gravitational's business, operations or properties, including information about Gravitational's staff, users or partners, or other business information disclosed directly or indirectly in writing, orally or by drawings or observation.

Disclaimer of Warranties

THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. GRAVITATIONAL MAKES NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY OR COMPLETENESS OF THE CONTENT PROVIDED THROUGH THE SERVICES OR THE CONTENT OF ANY SITES LINKED TO THE SERVICES AND ASSUMES NO LIABILITY OR RESPONSIBILITY IN CONTRACT, WARRANTY OR IN TORT FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF THE SERVICES, (III) ANY ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN; AND (IV) EVENTS BEYOND OUR REASONABLE CONTROL.

UNDER NO CIRCUMSTANCES WILL GRAVITATIONAL AND AFFILIATES OR THEIR CORPORATE PARTNERS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, ACTUAL,

CONSEQUENTIAL, ECONOMIC, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF DATA, LOSS OF GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE, SYSTEM FAILURE, FAILURE TO STORE ANY INFORMATION OR OTHER CONTENT MAINTAINED OR TRANSMITTED BY GRAVITATIONAL, OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES) ARISING IN CONNECTION WITH YOUR USE OF OR INABILITY TO USE THE SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF THE SAME. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU IN THEIR ENTIRETY.

IF, NOTWITHSTANDING THE FOREGOING EXCLUSIONS, IT IS DETERMINED THAT GRAVITATIONAL AND AFFILIATES OR THEIR CORPORATE PARTNERS ARE LIABLE FOR DAMAGES, IN NO EVENT WILL THE AGGREGATE LIABILITY, WHETHER ARISING IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EXCEED THE LOWER OF (I) THE TOTAL FEES PAID BY YOU TO GRAVITATIONAL DURING THE SIX MONTHS PRIOR TO THE TIME SUCH CLAIM AROSE OR (II) ONE HUNDRED DOLLARS (\$100), TO THE EXTENT PERMITTED BY APPLICABLE LAW.

Indemnification

You hereby agree to indemnify, defend, and hold harmless Gravitational and its officers, directors, employees, agents, attorneys, insurers, successors and assigns (the “Indemnified Parties”) from and against any and all Liabilities incurred in connection with (i) your use or inability to use the Services, or (ii) your breach or violation of this Agreement; (iii) your violation of any law, or the rights of any user or third party and (iv) any content submitted by you or using your Account to the Services, including, but not limited to the extent such content may infringe on the intellectual rights of a third party or otherwise be illegal or unlawful. You also agree to indemnify the

Indemnified Parties for any Liabilities resulting from your use of software robots, spiders, crawlers, or similar data gathering and extraction tools, or any other action you take that imposes an unreasonable burden or load on our infrastructure. Gravitational reserves the right, in its own sole discretion, to assume the exclusive defense and control at its own expense of any matter otherwise subject to your indemnification. You will not, in any event, settle any claim or matter without the prior written consent of Gravitational.

Dispute Resolution – Arbitration & Class Action Waiver

PLEASE READ THIS SECTION CAREFULLY – IT AFFECTS YOUR LEGAL RIGHTS AND GOVERNS HOW YOU AND GRAVITATIONAL CAN BRING CLAIMS AGAINST EACH OTHER. THIS SECTION WILL, WITH LIMITED EXCEPTION, REQUIRE YOU AND GRAVITATIONAL TO SUBMIT CLAIMS AGAINST EACH OTHER TO BINDING AND FINAL ARBITRATION ON AN INDIVIDUAL BASIS.

You agree that, in the event any dispute or claim arises out of or relating to your use of the Services, you will contact us at support@goteleport.com and you and Gravitational will attempt in good faith to negotiate a written resolution of the matter directly. You agree that if the matter remains unresolved for 30 days after notification (via certified mail or personal delivery), such matter will be deemed a “Dispute” as defined below. Except for the right to seek injunctive or other equitable relief described under the “Binding Arbitration” section below, should you file any arbitration claims, or any administrative or legal actions without first having attempted to resolve the matter by mediation, then you agree that you will not be entitled to recover attorneys’ fees, even if you may have been entitled to them otherwise.

Binding Arbitration. You and Gravitational agree that any dispute, claim or controversy arising out of or relating to this Agreement or to your use of the Services (collectively “Disputes”) will be settled by binding arbitration, except that each party retains the right to seek injunctive or other

equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation, or violation of a party's copyrights, trademarks, trade secrets, patents, or other intellectual property rights. This means that you and Gravitational both agree to waive the right to a trial by jury. Notwithstanding the foregoing, you may bring a claim against Gravitational in "small claims" court, instead of by arbitration, but only if the claim is eligible under the rules of the small claims court and is brought in an individual, non-class, and non-representative basis, and only for so long as it remains in the small claims court and in an individual, non-class, and non-representative basis.

Class Action Waiver. You and Gravitational agree that any proceedings to resolve Disputes will be conducted on an individual basis and not in a class, consolidated, or representative action. This means that you and Gravitational both agree to waive the right to participate as a plaintiff as a class member in any class action proceeding. Further, unless you and Gravitational agree otherwise in writing, the arbitrator in any Dispute may not consolidate more than one person's claims and may not preside over any form of class action proceeding.

Arbitration Administration and Rules. The arbitration will be administered by the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (the "AAA Rules") then in effect, except as modified by this "Dispute Resolution" section. (The AAA Rules are available at <http://www.adr.org> or by calling the AAA at 1-800-778-7879).

Arbitration Process. A party who desires to initiate the arbitration must provide the other party with a written Demand for Arbitration as specified in the AAA Rules. The arbitrator will be either a retired judge or an attorney licensed to practice law in the state of California and will be selected by the parties from the AAA's roster of arbitrators with relevant experience. If the parties are

unable to agree upon an arbitrator within seven days of delivery of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with AAA Rules.

Arbitration Location and Procedure. Unless you and Gravitational agree otherwise, the seat of the arbitration shall be in San Francisco, California. If your claim does not exceed USD\$10,000, then the arbitration will be conducted solely on the basis of documents you and Gravitational submit to the arbitrator, unless you request a hearing and the arbitrator then determines that a hearing is necessary. If your claim exceeds USD\$10,000, your right to a hearing will be determined by AAA Rules. Subject to AAA Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties, consistent with the expedited nature of the arbitration. Hearings may be conducted by telephone or video conference, if requested and agreed to by the parties.

Arbitrator's Decision and Governing Law. The arbitrator shall apply California law consistent with the Federal Arbitration Act and applicable statutes of limitations, and shall honor claims of privilege recognized by law. The arbitrator will render an award within the timeframe specified in the AAA Rules. Judgment on the arbitration may be entered in any court having jurisdiction thereof. Any award of damages by an arbitrator must be consistent with the "Disclaimers and Limitations of Liability" section above. The arbitrator may award declaratory or injunctive relief in favor of the claimant only to the extent necessary to provide relief warranted by the claimant's individual claim.

Fees. Each party's responsibility to pay the arbitration filing, administrative and arbitrator fees will depend on the circumstances of the arbitration and are set forth in the AAA Rules.

Governing Law

Except as provided in Section 14 or expressly provided in writing otherwise, this Agreement and your use of the Services will be governed by, and will be construed under, the laws of the State of

California, without regard to choice of law principles. This choice of law provision is only intended to specify the use of California law to interpret this Agreement.

No Agency; No Employment

No agency, partnership, joint venture, employer-employee or franchiser-franchisee relationship is intended or created by this Agreement.

General Provisions

Failure by Gravitational to enforce any provision(s) of this Agreement will not be construed as a waiver of any provision or right. This Agreement constitutes the complete and exclusive agreement between you and Gravitational with respect to its subject matter, and supersedes and governs any and all prior agreements or communications. The provisions of this Agreement are intended to be interpreted in a manner which makes them valid, legal, and enforceable. Except for the "Class Action Waiver" in Section 14, in the event any provision is found to be partially or wholly invalid, illegal or unenforceable, (i) such provision shall be modified or restructured to the extent and in the manner necessary to render it valid, legal, and enforceable or, (ii) if such provision cannot be so modified or restructured, it shall be excised from the Agreement without affecting the validity, legality or enforceability of any of the remaining provisions. This Agreement may not be assigned or transferred by you without our prior written approval. We may assign or transfer this Agreement without your consent, including but not limited to assignments: (1) to a parent or subsidiary, (2) to an acquirer of assets, or (3) to any other successor or acquirer. Any assignment in violation of this section shall be null and void. This Agreement will inure to the benefit of Gravitational, its successors and assigns.

Changes to this Agreement and the Services

Gravitational reserves the right, at its sole and absolute discretion, to change, modify, add to, supplement, suspend, discontinue, or delete any of the terms and conditions of this Agreement (including these Terms of Service and Privacy Policy) and review, improve, modify or discontinue, temporarily or permanently, the Services or any content or information through the Services at any time, effective with or without prior notice and without any liability to Gravitational.

Gravitational will endeavor to notify you of material changes by email, but will not be liable for any failure to do so. If any future changes to this Agreement are unacceptable to you or cause you to no longer be in compliance with this Agreement, you must terminate, and immediately stop using, the Services. Your continued use of the Services following any revision to this Agreement constitutes your complete and irrevocable acceptance of any and all such changes. Gravitational may also impose limits on certain features or restrict your access to part or all of the Services without notice or liability.

No Rights of Third Parties

None of the terms of this Agreement are enforceable by any persons who are not a party to this Agreement.

Notices and Consent to Receive Notices Electronically

You consent to receive any agreements, notices, disclosures and other communications (collectively, "Notices") to which this Agreement refers electronically including without limitation by e-mail or by posting Notices on this Site. You agree that all Notices that we provide to you electronically satisfy any legal requirement that such communications be in writing. Unless otherwise specified in this Agreement, all notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted

by facsimile or email; or the day after it is sent, if sent for next day delivery by a recognized overnight delivery service.

Contacting Us

If you have any questions about these Terms of Service or about the Services, please contact us by email at support@goteleport.com or by mail to:

Attention: Copyright Agent
340 S Lemon Ave #8219
Walnut, CA 91789-2706
Email: support@goteleport.com