

Terms of Service

These Terms of Service (this **Agreement**) are entered into by and between Wherobots Inc., a Delaware corporation (**Wherobots**), and the entity or person accessing or using the Wherobots Services (**Customer** or **you**). This Agreement consists of the terms and conditions set forth below and any Order Forms that reference this Agreement. If you are accessing or using the Wherobots Services on behalf of your company, you represent that you are authorized to accept this Agreement on behalf of your company, and all references to “you” reference your company.

Please note that Wherobots may modify the terms and conditions of this Agreement in accordance with Section titled “Amendment; Waivers” below.

BY INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT OR ACCESSING OR USING THE WHEROBOTS SERVICE, YOU ARE AGREEING TO BE BOUND BY ALL TERMS, CONDITIONS AND NOTICES CONTAINED OR REFERENCED IN THIS AGREEMENT. IF YOU DO NOT AGREE TO THIS AGREEMENT, PLEASE DO NOT USE THE WHEROBOTS SERVICE. FOR CLARITY, EACH PARTY EXPRESSLY AGREES THAT THIS AGREEMENT IS LEGALLY BINDING UPON IT.

Definition

The following terms, when used in this Agreement will have the following meanings:

Affiliates means an entity that directly or indirectly Controls, is Controlled by, or is under common Control with another entity, so long as such Control exists. For the purposes of this definition, **Control** means beneficial ownership of 50% or more of the voting power or equity in an entity.

Channel Partner means a third party reseller, marketplace or other channel partner of Wherobots that is responsible for collecting payments on behalf of Wherobots with respect to Customer’s subscription for the Wherobots Service.

Confidential Information means any information or data disclosed by either party that is marked or otherwise designated as confidential or proprietary or that should otherwise be reasonably understood to be confidential in light of the nature of the information and the circumstances surrounding disclosure. However, **Confidential Information** will not include any information which (a) is in the public domain through no fault of receiving party; (b) was properly known to receiving party, without restriction, prior to disclosure by the disclosing party; (c) was properly disclosed to receiving party, without restriction, by another person with the legal authority to do so; or (d) is independently developed by the receiving party without use of or reference to the disclosing party’s Confidential Information.

Documentation means the printed and digital instructions, on-line help files, technical documentation and user manuals made available by Wherobots for the Wherobots Service.

Order Form means any order form, online sign-up, or subscription sign-up flow provided by Wherobots or a Channel Partner that references this Agreement.

System Data means data collected by Wherobots regarding the Wherobots Service that may be used to generate logs, statistics or reports regarding the performance, availability, usage, integrity or security of the Wherobots Service.

Third-Party Product means any applications, integrations, software, code, online services, systems, or other products not developed by Wherobots.

Wherobots Code means any software code provided by Wherobots to Customer for use in connection with the Wherobots Service.

Wherobots Service means Wherobots's data platform for geospatial analytics and AI, which may be provided both as a cloud offering or on-premise.

Wherobots Cloud

Account Registration

Customer may need to register for a Wherobots account in order to use the Wherobots Service. Account information must be accurate, current, and complete. Customer agrees to keep this information up-to-date so that Wherobots may send notices, statements, and other information by email or through Customer's account. Customer must ensure that any user IDs, passwords, and other access credentials for the Wherobots Service are kept strictly confidential and not shared with any unauthorized person.

License to Wherobots Service

Subject to the terms and conditions of this Agreement, Wherobots hereby grants Customer a non-exclusive, non-transferrable, non-sublicensable right to access and use the Wherobots Service set forth in the corresponding Order Form for its internal business purposes. To the extent Wherobots has provided Customer with any Wherobots Code, rights granted in this Section further include the right to install and run the relevant Wherobots Code in connection with Customer's use of the Wherobots Service.

Free Access Subscriptions

Wherobots may provide Customer with the Wherobots Service for free or on a trial basis (a **Free Access Subscriptions**). Wherobots makes no promises that any Free Access Subscriptions will be made available under the same commercial or other terms. Wherobots may terminate Customer's right to use any Free Access Subscriptions at any time in Wherobots's sole discretion without liability. Any Free Access Subscriptions are provided by Wherobots "AS-IS" without any representations, warranties or support obligations.

Customer Limitations

Customer will not directly or indirectly: (a) reverse engineer, decompile, disassemble, modify, create derivative works of or otherwise create, attempt to create or derive, or permit or assist any third party to create or derive, the source code underlying the Wherobots Service; (b) attempt to probe, scan or test the vulnerability of the Wherobots Service, breach the security or authentication measures of the Wherobots Service without proper authorization or willfully render any part of the

Wherobots Service unusable; (c) use or access the Wherobots Service to develop a product or service that is competitive with Wherobots's products or services or engage in competitive analysis or benchmarking; (d) transfer, distribute, resell, lease, license, or assign the Wherobots Service or otherwise offer the Wherobots Service on a standalone basis; or (e) otherwise use the Wherobots Service in violation of applicable law (including any export law) or outside the scope expressly permitted hereunder and in the applicable Order Form (collectively, the **License Restrictions**).

Customer Responsibilities

Customer will (i) be responsible for all use of the Wherobots Service under its account, (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the Wherobots Service and notify Wherobots promptly of any such unauthorized access or use or any other known or suspected breach of security or misuse of the Wherobots Service and (iii) be responsible for obtaining and maintaining any equipment, software and ancillary services needed to connect to, access or otherwise use the Wherobots Service, including as set forth in the Documentation. Customer will be solely responsible for its failure to maintain such equipment, software and services, and Wherobots will have no liability for such failure (including under any service level agreement).

Third-Party Products

If Customer uses Third-Party Products in connection with the Wherobots Service (such as through integrations made available by Wherobots), Customer agrees and acknowledges that Wherobots does not warrant or support Third-Party Products and disclaims all responsibility and liability for these items and their use in connection with the Wherobots Service, including whether any integrations or support will continued to be made available by Whereobots or such third party.

Affiliates

Any Affiliate of Customer will have the right to enter into an Order Form executed by such Affiliate and Wherobots and this Agreement will apply to each such Order Form as if such Affiliate were a signatory to this Agreement. With respect to such Order Forms, such Affiliate becomes a party to this Agreement and references to Customer in this Agreement are deemed to be references to such Affiliate. Each Order Form is a separate obligation of the Customer entity that executes such Order Form, and no other Customer entity has any liability or obligation under such Order Form.

Fees

Pricing Plans

To the extent the Wherobots Service is made available for a fee, Customer may choose to purchase either (a) a subscription plan or (b) a pay-as-you-go plan. For the subscription plan, Customer will be billed a recurring fee and at regular intervals, in each case, as set forth in the corresponding Order Form. For the pay-as-you-go plan, Customer will be billed based on Customer's usage at the rates set forth in the corresponding Order Form. Except as otherwise specified herein or in any applicable Order Form, (a) fees are quoted and payable in United States dollars and (b) payment obligations are non-cancelable and non-pro-ratable for partial months, and fees paid are non-refundable.

Credit Card Payment Terms

If Customer elects to pay via credit card, then Customer is responsible for either (a) enabling auto-recharge on Customer's payment instrument or (b) ensuring that Customer's payment instrument has a sufficient positive balance to cover all fees due. If, for any reason, Customer has a negative balance on its payment account, then Wherobots reserves the right to suspend access to the paid version until all fees are paid in full.

Invoicing Payment Terms

If Customer elect to receive invoices and Wherobots approves Customer for the same, then invoices will be sent to via email in accordance with the Order Form. Except as otherwise set forth in an Order Form, Customer will make all of the undisputed fees hereunder within thirty (30) days of the date of the invoice.

Suspension; Late Payment

Wherobots may suspend access to the Wherobots Service immediately upon notice if Customer fails to pay any amounts hereunder at thirty (30) days past the applicable due date. If Wherobots has not received payment within thirty (30) days after the applicable due date, interest will accrue on past due amounts at the rate of one percent (1%) per month, but in no event greater than the highest rate of interest allowed by law, calculated from the date such amount was due until the date that payment is received by Wherobots.

Taxes

All amounts payable hereunder are exclusive of any sales, use and other taxes or duties, however designated (collectively **Taxes**). Customer will be solely responsible for payment of all Taxes, except for those taxes based on the income of Wherobots. Customer will not withhold any taxes from any amounts due to Wherobots.

Payments through Channel Partner

If Customer is purchasing a subscription for Wherobots Service through a Channel Partner, Customer agrees to pay all fees due for Customer's use of the Wherobots Service in accordance with the payment terms agreed to with such Channel Partner. If Customer breaches its payment obligations to the Channel Partner and fails to cure such breach within the time period specified with such Channel Partner, Wherobots may suspend the provision of the Wherobots Service upon written notice to Customer.

Proprietary Rights and Confidentiality

Customer Data

Customer shall retain all right, title and interest to all data and information provided to Wherobots in connection with its use of the Wherobots Service (**Customer Data**). Wherobots will maintain a security program materially in accordance with industry standards that is designed to (i) ensure the security and integrity of Customer Data; (ii) protect against threats or hazards to the security or integrity of Customer Data; and (iii) prevent unauthorized access to Customer Data. Customer

warrants that it has all rights necessary to provide any information, data or other materials that it provides hereunder, and to permit Wherobots to use the same as contemplated hereunder.

Proprietary Rights

As between the parties, Wherobots exclusively owns all right, title and interest in and to the Wherobots Service, Wherobots Code, System Data and Wherobots's Confidential Information. As between the parties, Customer exclusively owns all right, title and interest in and to its Customer Data and Customer's Confidential Information.

Feedback

Customer may from time to time provide Wherobots suggestions or comments for enhancements or improvements, new features or functionality or other feedback (collectively **Feedback**) with respect to the Wherobots Service. Wherobots will have full discretion to determine whether or not to proceed with the development of any requested enhancements, new features or functionality. Wherobots will have the full, unencumbered right, without any obligation to compensate or reimburse Customer, to use, incorporate and otherwise fully exercise and exploit any such Feedback in connection with its products and services.

Confidentiality

Each party agrees that it will use the Confidential Information of the other party solely in accordance with the provisions of this Agreement and it will not disclose the same directly or indirectly, to any third party without the other party's prior written consent, except as otherwise permitted hereunder. However, either party may disclose Confidential Information (a) to its employees, officers, directors, attorneys, auditors, financial advisors and other representatives who have a need to know and are legally bound to keep such information confidential by confidentiality obligations consistent with those of this Agreement; and (b) as required by law (in which case the receiving party will provide the disclosing party with prior written notification thereof, will provide the disclosing party with the opportunity to contest such disclosure, and will use its reasonable efforts to minimize such disclosure to the extent permitted by applicable law). Neither party will disclose the terms of this Agreement to any third party, except that either party may confidentially disclose such terms to actual or potential lenders, investors or acquirers. Each party agrees to exercise due care in protecting the Confidential Information from unauthorized use and disclosure. In the event of actual or threatened breach of the provisions of this Section or the License Restrictions, the non-breaching party will be entitled to seek immediate injunctive and other equitable relief, without waiving any other rights or remedies available to it. Each party will promptly notify the other in writing if it becomes aware of any violations of the confidentiality obligations set forth in this Agreement.

Warranties and Disclaimers

Performance Warranty

If Customer is using the Wherobots Service through a paid subscription, Wherobots warrants that the Wherobots Service will conform in all material respects with the Documentation. In the event of a breach of the foregoing warranty, Wherobots will use commercially reasonable efforts correct the

deficiency at no additional charge to Customer. The remedies set forth in this section will be Customer's sole remedy and Wherobots's sole liability for breach of such warranty.

DISCLAIMERS

EXCEPT AS EXPRESSLY SET FORTH HEREIN, WHEROBOTS DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. WHEROBOTS DOES NOT REPRESENT OR WARRANT THAT THE WHEROBOTS SERVICE WILL BE ERROR-FREE, AND WHEROBOTS EXPRESSLY DISCLAIMS ANY WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION OR DATA ACCESSED OR USED IN CONNECTION WITH THE WHEROBOTS SERVICE. WHEROBOTS IS NOT RESPONSIBLE OR LIABLE FOR ANY PRODUCTS OR SERVICES NOT PROVIDED BY WHEROBOTS (INCLUDING ANY THIRD-PARTY PRODUCTS), AND DOES NOT GUARANTEE THE CONTINUED AVAILABILITY THEREOF OR ANY INTEGRATION THEREWITH, AND MAY CEASE MAKING ANY SUCH INTEGRATION AVAILABLE IN ITS SOLE DISCRETION.

Limitation of Liability

UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, WILL (A) EITHER PARTY BE LIABLE TO THE OTHER UNDER THIS AGREEMENT FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY CHARACTER, INCLUDING DAMAGES FOR LOSS OF GOODWILL, LOST PROFITS, LOST SALES OR BUSINESS, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOST CONTENT OR DATA, EVEN IF A REPRESENTATIVE OF SUCH PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, OR (B) WHEROBOTS BE LIABLE FOR ANY AGGREGATE DAMAGES, COSTS, OR LIABILITIES IN EXCESS OF THE AMOUNTS PAID BY CUSTOMER UNDER THE APPLICABLE ORDER FORM DURING THE TWELVE (12) MONTHS PRECEDING THE INCIDENT OR CLAIM, OR ONE HUNDRED DOLLARS (\$100.00) IF CUSTOMER IS USING A FREE ACCESS SUBSCRIPTION.

Indemnification

To the fullest extent permitted by law, Customer agrees to indemnify, release, and hold harmless Wherobots and its directors, officers, employees, and contractors for any third party claims, demands, suits, proceedings, liabilities, losses, damages, judgements, fines, or costs and expenses (including, without limitation, reasonable attorneys' fees) arising out of or relating to: (a) Customer's breach of this Agreement or (b) Customer's unauthorized or misuse of the Wherobots Service.

Term and Termination

Paid Subscriptions

If Customer is accessing the Wherobots Service via a paid subscription, this Agreement will be in effect for the subscription term set forth in the Order Form and automatically renew for additional, successive renewal terms of equal length unless either party provides the other party with written notice of non-renewal at least (30) days' before the end of the then-current renewal term. In addition, each party may each terminate this Agreement if the other party fails to cure any material

breach of this Agreement (including a failure to pay undisputed fees) within thirty (30) days after written notice detailing the breach.

Free Access Subscriptions

If Customer is accessing the Wherobots Service via a Free Access Subscription, each party may terminate this Agreement upon written notice to the other party.

Survival

Upon termination of this Agreement all rights and obligations will immediately terminate except that any terms or conditions that by their nature should survive such termination will survive, including the License Restrictions and terms and conditions relating to proprietary rights and confidentiality, disclaimers, indemnification, limitations of liability and termination and the general provisions below.

General

Export Compliance

Each party will comply with the export laws and regulations of the United States, European Union and other applicable jurisdictions in providing and using the Wherobots Service.

Publicity

Customer agrees that Wherobots may refer to Customer's name and trademarks in Wherobots's marketing materials and website; however, Wherobots will not use Customer's name or trademarks in any other publicity (e.g., press releases, customer references and case studies) without Customer's prior written consent (which may be by email) not to be unreasonably delayed. If Customer does not agree to Wherobots's use of Customer's name or trademark in Wherobots's marketing materials, Customer may opt-out of such use by providing written notice to Wherobots within fourteen (14) days of the date of the initial Order Form.

Assignment; Delegation

Neither party hereto may assign or otherwise transfer this Agreement, in whole or in part, without the other party's prior written consent, except that either party may assign this Agreement without consent to a successor to all or substantially all of its assets or business related to this Agreement. Any attempted assignment, delegation, or transfer by either party in violation hereof will be null and void. Subject to the foregoing, this Agreement will be binding on the parties and their successors and assigns.

Amendment; Waiver

Wherobots reserves the right in its sole discretion and at any time and for any reason to modify this Agreement. With respect to each Order Form, any modifications to this Agreement, shall become effective upon the date of Customer's next renewal of such Order Form. It is Customer's responsibility to review this Agreement from time to time for any changes or modifications. If Customer does not agree to the modified Agreement, Customer may provide notice of Customer's non-renewal at any point prior to the Customer's next renewal. No waiver by either party of any

breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. . Any such waiver will be only to the specific provision and under the specific circumstances for which it was given, and will not apply with respect to any repeated or continued violation of the same provision or any other provision. Failure or delay by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision.

Relationship

Nothing contained herein will in any way constitute any association, partnership, agency, employment or joint venture between the parties hereto, or be construed to evidence the intention of the parties to establish any such relationship. Neither party will have the authority to obligate or bind the other in any manner, and nothing herein contained will give rise or is intended to give rise to any rights of any kind to any third parties.

Unenforceability

If a court of competent jurisdiction determines that any provision of this Agreement is invalid, illegal, or otherwise unenforceable, such provision will be enforced as nearly as possible in accordance with the stated intention of the parties, while the remainder of this Agreement will remain in full force and effect and bind the parties according to its terms.

Governing Law

This Agreement will be governed by the laws of the State of Delaware, exclusive of its rules governing choice of law and conflict of laws. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods.

Notices

Any notice required or permitted to be given hereunder will be given in writing by personal delivery, certified mail, return receipt requested, or by overnight delivery. Notices to the Customer may be sent to the address listed on the Customer's applicable Order Form or email address provided by Customer when Customer creates its Wherobots Service account. Notices to Wherobots must be sent to the following:

Wherobots Inc
350 California St
Suite 400
San Francisco, CA 94104
Attn: Legal

Entire Agreement

This Agreement comprises the entire agreement between Customer and Wherobots with respect to its subject matter, and supersedes all prior and contemporaneous proposals, statements, sales materials or presentations and agreements (oral and written). No oral or written information or advice given by Wherobots, its agents or employees will create a warranty or in any way increase the scope of the warranties in this Agreement.

Force Majeure

Neither party will be deemed in breach hereunder for any cessation, interruption or delay in the performance of its obligations due to causes beyond its reasonable control, including earthquake, flood, or other natural disaster, act of God, labor controversy, civil disturbance, terrorism, war (whether or not officially declared), cyber attacks (e.g., denial of service attacks), or the inability to obtain sufficient supplies, transportation, or other essential commodity or service required in the conduct of its business, or any change in or the adoption of any law, regulation, judgment or decree.

Government Terms

Wherobots provides the Wherobots Service, including related software and technology, for ultimate federal government end use solely in accordance with the terms of this Agreement. If Customer is an agency, department, or other entity of any government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Wherobots Service, or any related documentation of any kind, including technical data, software, and manuals, is restricted by the terms of this Agreement. All other use is prohibited and no rights than those provided in this Agreement are conferred. The Wherobots Service was developed fully at private expense.