BreezoMeter API Terms of Use

The following terms of use ("**Terms**") govern Company's license, access to, and use of BreezoMeter's materials, which are designed to improve health using air quality and other environmental data. These Terms, together with the Purchase Order which you have signed (the "**PO**") constitute a binding agreement (the "**Agreement**"). All capitalized terms used but not defined herein shall have the meaning ascribed to such term in the PO. These Terms and the Agreement are between you (the "**Company**") and the BreezoMeter entity listed in your PO ("**BreezoMeter**").

By accessing or using any part of the BreezoMeter Materials (defined below), Company acknowledges that it has reviewed, and agrees to be bound by, this Agreement. Furthermore, if Company is acting on behalf of an entity, Company represents that it is authorized to act on behalf of, and bind to this Agreement, such entity. If Company does not agree to this Agreement, it may not access or use any part of the Materials.

1. **Account and Server Key.** Promptly following the Effective Date, BreezoMeter shall create an account for Company to obtain a unique code or credential provided by BreezoMeter ("**Server Key**") that permits Company to access and use of the Service API. The Company undertakes to ensure that no person other than its employees and agents (collectively, the "**Authorized Users**") access or use the Service API. Company shall be liable for the activity that occurs in connection with its account and/or use of the Service.

2. **License.** Subject to the terms of this Agreement, BreezoMeter grants to Company a limited, non-exclusive, non-sublicensable, non-transferable (except pursuant to Section 15) license to:
   2.1. internally use, make calls to (subject to the API call threshold referenced in the PO) and display the Service API, the Service Interaction Code and the Documentation, solely as necessary for Company to develop, maintain, support and exploit the Implementation, in accordance with any specifications provided;
   2.2. reproduce, publish, distribute, export and publicly display the BreezoMeter Data solely in the Implementation, and pursuant to an agreement with an end user of the Implementation (the "**End User Agreement**" and the "**End User**" respectively);
   2.3. use and display BreezoMeter's Marks, in accordance with the Documentation and other guidelines provided from time to time, solely for the purpose of publicizing or advertising that Company is using the Service in the Implementation. All use of BreezoMeter's Marks (including any goodwill arising therefrom) shall solely benefit BreezoMeter; and
   2.4. to the extent included under the applicable PO, use the Intelligence Platform as further defined in <u>Section 16 below</u>.

3. **Restrictions of Use.** Company shall not (and shall not permit any Authorized User or other third party to):
   3.1. reproduce, (sub)license, disclose, distribute, sell, rent, lease, lend, transfer, assign, export, publicly display, publicly perform, or otherwise commercially exploit, modify, alter, adapt, arrange, translate, or create a derivative work of, BreezoMeter Materials;
   3.2. allow access, linking, calling or querying to, or any other interaction with, the Service from any source other than the Implementation;
   3.3. reverse engineer, decompile, disassemble, or derive (or attempt to derive) the source code or the algorithm (such as, but not limited to the BreezoMeter Algorithms), or underlying structure, sequence, organization or other non-literal aspects of, BreezoMeter Materials;
   3.4. systematically or repeatedly call the Service API in an abusive manner;
   3.5. use data caching or archiving in a manner that may expose End Users to an inaccurate data;
   3.6. use BreezoMeter Materials to develop a service or product (such as, but not limited to, the Implementation, BreezoMeter algorithm or Heat Maps) that is substantially similar to or that otherwise imitates the Service (as BreezoMeter determine at its discretion);
   3.7. remove, obscure, or alter BreezoMeter's, or any third party's, proprietary notices or legends displayed in/on BreezoMeter Materials;
   3.8. use BreezoMeter Materials in any way that is unlawful, infringing, deceptive, harassing, or defamatory, or for any inappropriate purpose (as BreezoMeter may determine at its sole and absolute discretion, but which shall always include direct marketing and spamming).

4. **Ownership.**
   4.1. As between the parties, BreezoMeter is, and shall remain, the sole and exclusive owner of the Intellectual Property Rights in and to the BreezoMeter Materials and any upgrade, update, fix, modification and/or improvement ("**Enhancements**") thereto. Any rights not expressly granted to Company in this Agreement

are hereby reserved by BreezoMeter. Subject to the foregoing, Company shall be the sole and exclusive owner of the Intellectual Property Rights in and to each Implementation. In addition, Company acknowledges and agrees that certain data is provided under license from third parties and use of or reliance upon such data is at Company's sole risk.

4.2. If Company provides BreezoMeter with any feedback, ideas or suggestions regarding any BreezoMeter Materials (the "**Feedback**"), Company hereby grants BreezoMeter a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, fully paid, sublicensable and transferable license to use, edit, aggregate, reproduce, distribute, prepare derivative works of, display, perform, and otherwise fully exploit such Feedback, for any use or purpose whatsoever.

4.3. "**Intellectual Property Rights**" shall mean all rights, title and interests in and to trade secrets, patents, copyrights, Marks, designs, know-how, utility models, databases, topography and semiconductor maskworks, internet domains, and other intellectual property (such as, but not limited to, software, inventions, improvements, algorithms, formulas, processes, discoveries, conceptions, ideas, techniques, products, specifications, methods, drawings, diagrams, models, data and data analysis) anywhere in the world, whether registered or unregistered, and including all applications, registrations, renewals, extensions, continuations, divisions or reissues thereof; as well as any and all moral rights, rights of privacy, publicity and similar rights relating to the foregoing, under any laws of any country.

4.4. Portions of the BreezoMeter Materials may include third party open source software that are subject to third party terms and conditions ("**Third Party Terms**"). A list of any third party open source software and related Third Party Terms is available upon request. If there is a conflict between any Third Party Terms and the terms of this Agreement, then the Third Party Terms shall prevail but solely in connection with the related third party open source software.

5. Fees and Payments.

5.1. The fees payable under this Agreement are set out in the PO (the "**Fees**"). In determining the applicable Service API Calls per day for a particular calendar month, BreezoMeter shall, at the end of such month, calculate the number of daily API Calls per month. Company shall be able to notify BreezoMeter of its desire to upgrade the selected plan listed in the PO to a higher service plan at any time, and the parties shall agree the time at which such upgrade will take effect. Company shall not be entitled to downgrade its serviceplan to a lower level service plan.

5.2. Company shall pay BreezoMeter the Fees, which shall be non-cancellable and non-refundable. Company will reimburse BreezoMeter for all transaction fees related to the wire transfer. Company shall pay BreezoMeter interest on any amount which is not paid when due, at a rate equal to the lower of: (a) one and one half percent (1.5%) per month, or (b) the maximum rate of interest allowable under applicable law.

5.3. All payments under this Agreement are exclusive of any and all taxes and duties (other than taxes that are based on BreezoMeter's net income), including without limitation any VAT or similar sales, use or purchase tax or duty. All payments shall be paid free and clear of any deductions, set offs and/or withholdings.

6. **Responsibility for the Implementation.** Company is, and shall always remain, solely responsible and liable for the Implementation (including the provision of support, maintenance and other technical assistance in relation thereto). In no event must any End User Agreement grant any rights, impose any obligations, or make any statements that conflict or are inconsistent with any of the terms and conditions of this Agreement. Company shalladd an explicit link to BreezoMeter's website as the provider of the services within any End User Agreement and shall maintain such link through the Term.

7. **Support.**

7.1. Company shall be solely responsible for providing the following first level support to End Users:

- Receiving and responding to all End User technical inquiries regarding the use of the Service Interaction Code and Service API;
- Implementing and passing through updates and upgrades to the Service Interaction Code and/or Service API made available by BreezoMeter;
- Receiving and classifying End User inquiries regarding suspected errors in the Service Interaction Code and Service API, including the collection of all relevant technical error identification information;
- Error tracking and communication to End Users;
- Where possible, implementing error resolutions that do not require second level support from BreezoMeter; and
- Escalating unresolved errors to BreezoMeter for second level support.

7.2. Company shall use commercially reasonable efforts to keep BreezoMeter informed as to any errors or problems

encountered with the Service Interaction Code and Service API. If Company is not able to correct an error reported to it by an End User, Company shall refer same to BreezoMeter for second level support and shall precisely describe the error and all relevant technical information.

7.3. BreezoMeter will use commercially reasonable efforts to respond to and resolve errors in the Service Interaction Code and Service API which Company has notified to BreezoMeter, in accordance with the Service Package identified in the PO. For the avoidance of doubt, BreezoMeter shall not be under any obligation to communicate with End Users.

7.4. BreezoMeter shall have no obligation under this Agreement to create any Enhancements to the Service.

8. **Confidential Information.** Each party (the "**Recipient**") may have access to certain non-public or proprietary information and materials of the other party (the "**Discloser**"), whether in tangible or intangible form ("**Confidential Information**"). This Agreement and each of its terms are Confidential Information. Confidential Information shall not include information which: (a) at the time of disclosure to Recipient is in the public domain; (b) after disclosure to Recipient becomes part of the public domain through no fault of the Recipient; (c) was rightfully in the Recipient's possession at the time of disclosure other than under obligations of confidentiality; (d) is disclosed to the Recipient by a third party having the lawful right to do so; or (e) independently developed by the Recipient without use of or reliance upon Confidential Information received from the Discloser. The Recipient shall not disclose the Discloser's Confidential Information to any third party, except to its employees, advisers, agents and investors, subject to substantially similar written confidentiality undertakings. Recipient shall take commercially reasonable measures, at a level at least as protective as those taken to protect its ownConfidential Information of like nature, to protect the Discloser's Confidential Information from disclosure to a third party. The Recipient shall use Confidential Information solely for the purposes of this Agreement. In the event that Recipient is required to disclose Confidential Information pursuant to any law or judicial order, the Recipient will promptly notify Discloser in writing, reasonably cooperate with Discloser in opposing suchdisclosure and only disclose to the extent legally required.

9. **Reference.**

9.1. Company hereby grants to BreezoMeter a worldwide, irrevocable royalty-free, fully-paid, non-exclusive license to use Company's Marks for the purpose of publicizing that Company is using the Service. All use of Company's Marks (including any goodwill arising therefrom) shall solely benefit Company.

9.2. Promptly following the Effective Date, the parties shall agree in good faith the wording of a joint press release announcing Company's use of the Service.

10. **Representations and Warranties.** Each party hereby represents and warrants that it has the full power and authority to enter into this Agreement; and is not bound by any agreements, obligations or restrictions that would interfere with its obligations under this Agreement.

11. **Disclaimer of Warranties**.
   11.1. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 10, BREEZOMETER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT AND QUALITY, ALL OF WHICH ARE HEREBY DISCLAIMED BY BREEZOMETER.
   11.2. IN ADDITION, (I) ALL BREEZOMETER MATERIALS AND/OR THE PROFESSIONAL SERVICES ARE PROVIDED ON AN "AS IS" AND"AS AVAILABLE" BASIS; AND (II) BREEZOMETER MAKES NO REPRESENTATION OR WARRANTY REGARDING THE CONTENT, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE BREEZOMETER MATERIALS AND/OR THE PROFESSIONAL SERVICES, OR THAT COMPANY'S USE OF THE BREEZOMETERMATERIALS WILL MEET COMPANY'S REQUIREMENTS, OR WILL BE UNINTERRUPTED OR ERROR-FREE.
   11.3. COMPANY HEREBY CONFIRMS ITS FULL UNDERSTANDING THAT THE SERVICE RENDERED HEREUNDER ARE BASED ON DATA SOURCES WHICH MAY BE UNAVAILABLE FROM TIME TO TIME OR PERMANENTLY WHICH MAY PREVENT BREEZOMETER FROM PROVIDING THE SERVICE IN ACCORDANCE WITH THIS AGREEMENT.
   11.4. BREEZOMETER DOES NOT GUARANTEE THAT THE REPORTS PROVIDED IN THE BREEZOMETER MATERIALS WILL ACCURATELY REFLECT LOCATION OF FIRES AND/OR POLLUTION LEVELS, INCLUDING ACTIVE FIRE AND SMOKE POLLUTION, INSIDE STRUCTURES OR IN THE IMMEDIATE VICINITY OF SITES ASSOCIATED WITH HIGH RISKS OF POLLUTION OR TOXICITY, SUCH AS, BUT NOT LIMITED TO, INDUSTRIAL AREAS, CONSTRUCTION SITES, LABS OR RESEARCH FACILITIES OR WASTE COLLECTION, DISPOSAL OR TREATMENT SITES. YOU SHALL NOT RELY ON, AND WE MAKE NO WARRANTY

REGARDING, REPORTS OR ADVICE FROM THE BREEZOMETER'S MATERIALS AND/OR PROFESSIONAL SERVICES IN CONNECTION WITH ANY OF THE FOREGOING.

11.5.   YOU HEREBY ACKNOWLEDGE THAT YOUR USE OF THE BREEZOMETER MATERIALS IS VOLUNTARY AND AT YOUR OWN RISK, AND YOU AGREE THAT BREEZOMETER WILL NOT BE HELD RESPONSIBLE OR LIABLE FOR ANY CONSEQUENCES (SUCH AS, BUT NOT LIMITED TO, HEALTH PROBLEMS, PERSONAL INJURY, OR DEATH) TO YOU OR ANY THIRD PARTY THAT RESULT FROM YOUR USE OF (OR INABILITY TO USE) THE BREEZOMETER MATERIALS, AND/OR PROFESSIONAL SERVICES.

11.6.   THE CONTENT PROVIDED AND DISPLAYED WITHIN THE BREEZOMETER MATERIALS IS NOT INTENDED TO BE, AND SHALL NOT BE CONSIDERED BY YOU TO BE, A SUBSTITUTE FOR THE TESTING OR REPORTING OF THE CONCENTRATION OF POLLUTION ELEMENTS, INCLUDING ACTIVE FIRE AND SMOKE POLLUTION ELEMENTS, BY THE APPLICABLE INSTITUTION(S) OR SERVICE PROVIDER(S) AUTHORIZED TO DO SO UNDER APPLICABLE LAWS AND REGULATIONS.

12. **LIMITATION OF LIABILITY.**

12.1.   IN NO EVENT SHALL BREEZOMETER OR ITS AFFILIATES BE LIABLE UNDER, OR IN CONNECTION WITH, THIS AGREEMENT FOR: (A) ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES; (B) ANY LOSS OF PROFITS, BUSINESS, REVENUE, OR ANTICIPATED SAVINGS; (C) ANY LOSS OF, OR DAMAGE TO, DATA, REPUTATION, OR GOODWILL; AND/OR (D) THE COST OF PROCURING ANY SUBSTITUTE GOODS OR SERVICES. THE COMBINED AGGREGATE LIABILITY OF BREEZOMETER AND ITS AFFILIATES UNDER, OR OTHERWISE IN CONNECTION WITH, THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF FEES PAID BY COMPANY TO BREEZOMETER IN THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

12.2.   The foregoing exclusions and limitations shall apply: (i) even if BreezoMeter or its Affiliates have been advised, or should have been aware, of the possibility of losses or damages; (ii) even if any remedy in this Agreement fails of its essential purpose; and (iii) regardless of the theory or basis of liability.

13. **Term and Termination**.

13.1.   The Initial Term and each Renewal Terms (as defined in the PO) shall collectively be referred to as the "**Term**".

13.2.   Either party may terminate this Agreement: (a) immediately upon written notice to the other party, if the other party materially breaches this Agreement and, if curable, fails to cure that breach within thirty (30) days after receipt of written notice specifying the breach; and/or (b) immediately upon written notice to the other party, if the other party is declared bankrupt, or, in the event an involuntary bankruptcy action is filed against such other party, it has not taken, within sixty (60) days from service of such action to such party, any action under applicable law for such filed action to be dismissed.

13.3.   Upon the effective date of termination of this Agreement: (a) Company's Server Keys will be revoked; (b) all license rights granted to Company hereunder shall terminate and Company shall cease all access to and use of any and all BreezoMeter Materials; and (c) Company will promptly pay to BreezoMeter any amounts outstanding on such date.

13.4.   Any provision of this Agreement that, in order to fulfill the purpose of such provision, needs to survive the termination of this Agreement, shall be deemed to survive for as long as necessary to fulfill such purpose.

14. **Governing Law and Jurisdiction.** If you have entered into a PO with BreezoMeter Inc., this Agreement shall be governed by the laws of the State of New York and all disputes arising out of this Agreement shall be subject to, and each party hereby consents to, the sole and exclusive jurisdiction of the competent courts located in New York, New York. If you have entered into a PO with BreezoMeter Ltd., this Agreement shall be governed by the laws of the State of Israel and all disputes arising out of this Agreement shall be subject to, and each party hereby consents to, the sole and exclusive jurisdiction of the competent courts located in Tel Aviv, Israel. Notwithstanding the foregoing, each party may seek injunctive relief or specific performance in any court worldwide that has jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods is hereby disclaimed.

15. **General**. References to BreezoMeter also include BreezoMeter's Affiliates. This Agreement (including the PO) constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes any and all prior or contemporaneous oral or written statements regarding such subject matter. BreezoMeter reserves the right, at BreezoMeter's discretion, to modify these Terms at any time. Such modification(s) will be effective 10 days following posting of the modified Terms on the BreezoMeter website, and Company's use of any part of the Service thereafter means that Company accepts those modifications. BreezoMeter therefore encouragesCompany

to check the website regularly to see the most current Terms. Neither party may assign this Agreement (in whole or in part) without the prior express written consent of the other party, except that each party may assign this Agreement, in whole or in part, with written notice to the other party, to an Affiliate or to any successor to or purchaser of all or substantially all of its business and assets relating to the subject matter of this Agreement. Any assignment in breach of this Section shall be null and void. Subject to the foregoing, this Agreement shall bind and benefit each party and its respective successors and permitted assigns. All notices, consents and other communications required or permitted to be given under this Agreement will be in writing and delivered by email transmission, by courier or overnight delivery service, or by certified mail, and in each instance will be deemed given upon receipt. No failure or delay by either party in exercising or enforcing any right under this Agreement will operate as a waiver thereof. Any waiver of any provision of this Agreement shall only be valid if in writing. If any court rules that any provision of this Agreement is invalid, this will not affect any remaining provisions of this Agreement, which shall remain in full force and effect. Except for payment obligations, neither party shall be liable for any failure to perform due to causes beyond its reasonable control. The relationship of the parties is solely that of independent contractors and neither party has any authority to enterinto agreements of any kind on behalf of the other party.

16. **Definitions.**

16.1. "**Affiliate**" means any company or other entity which, directly or indirectly, controls a party or is controlled by the party or is under common control with the party. Without limiting the foregoing, control shall be deemed to exist when a person, organization or entity (i) owns or directly controls more than fifty percent (50%) of the outstanding voting stock or other ownership interest of the other organization or entity, or (ii) possesses, directly or indirectly the power to elect or appoint more than fifty percent (50%) of the members of the governing body of the other organization or entity.

16.2. "**BreezoMeter Data**" means any type of content and/or data which is part of the service plan agreed between the parties as set out in the PO, and which is accessed via the relevant API on a case by case basis. Such data includes but is not limited to air quality generated (whether by BreezoMeter or its third party suppliers) and retrieved through Service API Calls.

16.3. "**BreezoMeter Materials**" means all data content within the Service, along with any related Documentation and technology, including but not limited to the BreezoMeter Data, the Service API, the Service Interaction Code, the Intelligence Platform and the Service itself

16.4. "**Documentation**" means BreezoMeter's proprietary programming tools and other instructional documentation for the BreezoMeter Materials, in the form generally made available by BreezoMeter for use therewith, and as posted at https://docs.breezometer.com (or any successor URL designated).

16.5. "**Implementation**" means Company's any of products and services, unless otherwise specified in the PO.

16.6. "**Intelligence Platform**" means BreezoMeter's proprietary software product suite that includes a specific set of capabilities which transform environmental data into meaningful actions, for example health recommendations and highly customizable real-time alerts. The suite can be configured and accessed by either an API or UI.

16.7. "**Marks**" means trademarks, trade names, logos, design marks, service marks, service names, trade dress, and other business names or brand names.

16.8. "**Professional Services**" means the professional services detailed in the PO (if any).

16.9. "**Service**" means BreezoMeter's software that is behind the Service API, and which BreezoMeter will provide hereunder (via a Server Key) for integration or embedding into an Implementation. For clarity, the Service includes the Intelligence Platform but does not include the Professional Services.

16.10. "**Service API**" means the application programming interface software that is called or queried under a Service API Call.

16.11. "**Service API Call**" means a call or query from the Implementation to the Service API, invoked by or on behalf of an End User (as measured by BreezoMeter's servers).

16.12. "**Service Interaction Code**" means the BreezoMeter's software code that interacts with the Service, and which BreezoMeter will provide hereunder (via a Server Key) for integration or embedding "as is" into an Implementation and without any further customization by Company.

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