

Terms of Service

Terms and Conditions of Bleemeo SAS, a simplified joint-stock company with a capital of 15,000 € Registered at French Trade Register (RCS) in Toulouse under the number RCS Toulouse 811 540 632. Its headquarters is located at Batiment 11 - Technoparc III, 1202 l'Occitane, 31670 Labège, France. VAT Number: FR 90 811 540 632.

Please read carefully this agreement before using Bleemeo. By clicking the check box on the sign-up form Customer agree to become bound by the Terms of Service of this agreement, to the exclusion of all other terms.

1. Definitions

Access Code(s) shall mean the identification material, and in particular login(s), password(s), authorization code relating either to the End user Administrator User Account or to the User Account. The End user Administrator User Account Access Codes are provided by Bleemeo to the End user upon signature of this Agreement enabling access to a private End user Administrator User Account dedicated to the End user. The Access Codes are created either by Bleemeo or by the End user to enable the creation by the End user of the User Accounts. Each Access Code is linked to one unique User Account. Such Access Code is strictly personal to the User Account, and shall be considered as Confidential Information under this Agreement.

Affiliates shall mean any corporation or other entity which, directly or indirectly, through stock ownership or through any other arrangement, controls, is controlled by or is under common control with a Party. The term "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of such entity, whether by reason of ownership of voting stock or other equity interests, by contract or otherwise. Notwithstanding the foregoing, an affiliate of End user which would reasonably be considered as a competitor of Bleemeo shall not be considered an Affiliate for the purpose of this Agreement.

Agent shall mean a server (whether physical or virtual), system, workstation, computer, or device upon which or through the Services are used and/or on which the Software is installed.

Agreement shall mean the Software Services Agreement, any applicable Product Addendum, and the Order Form.

Bleemeo Monitoring Platform shall mean the products and services offered by Bleemeo under the name "Bleemeo Monitoring Platform" or successor branding, that End user order under an Order Form and that Bleemeo make available online via password - protected end user login, including associated offline components, as described in the User Documentation.

Confidential Information shall mean, without limitation, any and all information, data, ideas, discoveries, inventions, specifications, formulae, programs, plans, drawings models, requirements, standards, presentations, analysis, compilations of a technical, economic, financial or business nature disclosed in written, tangible, oral, visual, magnetic, electronic, or any intangible form. Confidential Information may not be marked or identified as such and shall still be considered Confidential Information so long as it is treated as confidential at the time of disclosure, or at the time of disclosure is designated as confidential (or like designation), or is disclosed in circumstances of confidence, or would be understood by the parties exercising reasonable business judgment to be confidential, including information viewed or learned by a party during a visit to the other party's facilities. The terms and conditions of this Agreement are hereby designated as Confidential Information of both Parties. The terms and conditions of this Agreement, the Access Codes, the Bleemeo Monitoring Platform and the relating data, documentation and any information stored by the End user on the Servers during the usage of the Bleemeo Monitoring Platform are, amongst others, hereby designated as Confidential Information.

MSP shall mean a managed service provider.

Order Form shall mean mean the Bleemeo order page, product information dashboard, or other Bleemeo ordering document that specifies Customer purchase of the Services, pricing, and other related information.

Force Majeure shall mean any act of God, fire, natural disaster, earthquake, accident, act of government, or any act that is beyond the reasonable control of the Party affected by such circumstances.

Services shall mean the products and software services, including any application programming interface that accesses functionality, that are provided to Customer by Bleemeo.

Software shall mean the object code versions of any downloadable software provided by Bleemeo solely for the purpose of accessing the Services, including but not limited to an agent, together with the updates, new releases or versions, modifications or enhancements, owned and provided by Bleemeo to Customer pursuant to this Agreement.

User shall mean an individual authorized by Customer to use the Services, Software, and Documentation, for whom Customer has purchased a subscription or to whom Customer has supplied a user identification and password. User(s) may only include Customer employees, consultants, and contractors, unless Customer are an MSP, in which case the User(s) may include Customer employees, consultants, contractors, agents, and Clients.

User Documentation shall mean the official user documentation prepared and provided by Bleemeo to Customer on the use of the Services or Software (as updated from time to time). For the avoidance of doubt, any online community site; unofficial documentation, videos, white papers, or related media; or feedback do not constitute Documentation.

Customer Data shall mean data, files, or information accessed, used, communicated, stored, or submitted by Customer or Customer Users related to Customer or Customer User's use of the Services or Software.

2. Free Trial

Bleemeo may make the Bleemeo Monitoring Platform available to Customer on a trial basis free of charge until the end of the TrialPeriod for which customer registered or are registering to use the Bleemeo Monitoring Platform. Additional trial terms and conditions may appear on the trial registration web page or other trial registration document entered into by Customer. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding.

IF CUSTOMER SELECT TO USE THE BLEEMEO MONITORING PLATFORM FOR THE TRIAL PERIOD AND DO NOT PURCHASE SERVICE CREDITS BEFORE THE END OF THE TRIAL PERIOD, CUSTOMER TRIAL SUBSCRIPTION FOR THE BLEEMEO MONITORING PLATFORM WILL EXPIRE AT THE END OF THE TRIAL PERIOD AND SHALL NOT AUTO-RENEW. ANY DATA ENTERED INTO THE BLEEMEO MONITORING PLATFORM BY CUSTOMER OR RECEIVED BY CUSTOMER IN CONNECTION WITH CUSTOMER USE OF THE BLEEMEO MONITORING PLATFORM, WILL BE PERMANENTLY LOST UNLESS CUSTOMER PURCHASE SERVICE TO REACTIVATE THE SAME BLEEMEO MONITORING PLATFORM ACCOUNT AS THOSE COVERED BY THE TRIAL BEFORE THE END OF THE TRIAL PERIOD. NOTWITHSTANDING SECTION 10 (WARRANTIES AND DISCLAIMERS), DURING THE FREE TRIAL THE BLEEMEO MONITORING PLATFORM IS PROVIDED "AS-IS" WITHOUT ANY WARRANTY OR LIABILITY OR SUPPORT.

Please review the User Documentation during the trial period so that Customer become familiar with the features and functions of the Bleemeo Monitoring Platform before Customer make purchase.

3. Use of the Bleemeo Monitoring Platform

3.1. Our Protection of Customer Data. We shall not: (a) modify Customer Data; (b) disclose Customer Data except as compelled by law in accordance with Section 9.3 (Compelled Disclosure) or as expressly permitted in writing by Customer; or (c) access Customer Data except to provide the Bleemeo Monitoring Platform and prevent or address service or technical problems, or at Customer request in connection with end user support matters.

3.2. Customer Responsibilities. Customer shall: (i) be responsible for Users' compliance with this Agreement; (ii) be responsible for the accuracy, quality and legality of Customer Data and of the means by which Customer acquired Customer Data; (iii) use commercially reasonable efforts to prevent

unauthorized access to or use of the Bleemeo Monitoring Platform, and notify Us promptly of any such unauthorized access or use; and (iv) use the Bleemeo Monitoring Platform only in accordance with the User Documentation and applicable laws and government regulations. Customer shall not: (a) make the Bleemeo Monitoring Platform available to anyone other than Users; (b) sell, resell, rent, or lease the Bleemeo Monitoring Platform (c) use the Bleemeo Monitoring Platform to store or transmit infringing, libellous , or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (d) use the Bleemeo Monitoring Platform to store or transmit Malicious Code; (e) interfere with or disrupt the integrity or performance of the Bleemeo Monitoring Platform or third-party data contained therein; or (f) attempt to gain unauthorized access to the Bleemeo Monitoring Platform or their related systems or networks. If the Bleemeo Monitoring Platform is configured by Customer or on Customer behalf to use cookies to track Users' online activities, Customer shall be responsible for providing notice and or obtaining consent, as required by law, for such use of cookies.

3.3. Bleemeo is entitled to prevent the End user from using the Access Codes, and the corresponding User Account at any time and without prejudice, where any breach of the conditions of use set out in Sections 3.3 occurs, or in the event that any breach of the security and confidentiality has occurred in connection with the Bleemeo Monitoring Platform. Prompt notification shall be provided and End user shall have a reasonable period to cure any such breach as stated in Sections 11.3.2.

3.4. The End user shall promptly notify Bleemeo of any unauthorized use of the Bleemeo Monitoring Platform of which the End user becomes aware and shall immediately change the Access Codes it has generated or request Bleemeo to change any Access Codes created by Bleemeo or any other authentication material which the End user believes may have been compromised. In any event, the End user shall make all reasonable efforts to mitigate any loss or damages caused by such unauthorized use of the Bleemeo Monitoring Platform.

4. Warranty

4.1. Bleemeo warrants that:

- a. To its knowledge, the Bleemeo Monitoring Platform provided under this Agreement is free and clear of any and all security interests, liens, charges and encumbrances of any kind or nature whatsoever, together with full power and lawful authority to, where applicable, either license, sell, deliver and perform the Bleemeo Monitoring Platform required to be provided hereunder.
- b. All Bleemeo Monitoring Platform to be provided by Bleemeo hereunder shall be rendered in a professional and workmanlike manner that is generally acceptable in the industry for performance of such type of services.
- c. To its knowledge at the time this Agreement is executed by the Parties, the Bleemeo Monitoring Platform provided under this Agreement constitutes the original work of Bleemeo's employees or subcontractors.
- d. To its knowledge at the time this Agreement is executed by the Parties, there are no legal actions that have been brought or threatened against Bleemeo relating to the Bleemeo Monitoring Platform based on any third party intellectual property rights infringement.

4.2. BLEEMEO DOES NOT WARRANT THAT THE BLEEMEO MONITORING PLATOFRM OR ANY MATERIAL PROVIDED UNDER THIS AGREEMENT WILL BE UNINTERRUPTED OR ERROR FREE, AND IN PARTICULAR BLEEMEO DISCLAIMS ANY AND ALL WARRANTIES LINKED TO THE INTERRUPTION OR UNAVAILABILITY OF THE BLEEMEO MONITORING PLATFORM, FAILURE OF ANY THIRD PARTY NETWORK, LOSS OF DATA OR OF INFORMATION OR FORCE MAJEURE.

4.3. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT BLEEMEO MAKES NO WARRANTIES OF ANY KIND REGARDING THE BLEEMEO MONITORING PLATFORM EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. THE THIRD PARTY(IES) OWNING THE THIRD PARTY TECHNOLOGY DISCLAIM(S) ALL WARRANTIES EXPRESS OR IMPLIED WITH RESPECT OF THE USE OF SUCH THIRD PARTY TECHNOLOGY IN CONNECTION WITH THE BLEEMEO MONITORING PLATFORM.

4.4. THE CUSTOMER SHALL NOT MAKE ANY REPRESENTATION OR WARRANTY WITH REGARD TO THE BLEEMEO MONITORING PLATFORM THAT IS INCONSISTENT WITH OR IN EXCESS OF THE LIMITED WARRANTIES SET FORTH BY BLEEMEO IN THIS AGREEMENT.

4.5. THE DISCLAIMERS OF WARRANTY SET OUT IN THIS SECTION 5 CONSTITUTE AN ESSENTIAL PART OF THIS AGREEMENT.

5. Proprietary Rights

5.1. Ownership of Bleemeo Intellectual Property. The Services, Software, and Documentation are licensed, not sold. Use of “purchase” in conjunction with licenses of the Services, Software and Documentation shall not imply a transfer of ownership. Except for the limited rights expressly granted by Bleemeo to Customer, Customer acknowledge and agree that all right, title and interest in and to all copyright, trademark, patent, trade secret, intellectual property (including without limitation algorithms, business processes, improvements, enhancements, modifications, derivative works, information collected and analyzed in connection with the Services) and other proprietary rights, arising out of or relating to the Services, the Software, the provision of the Services or Software, and the Documentation, belong exclusively to Bleemeo or its suppliers or licensors. All rights, title, and interest in and to content, which may be accessed through the Services or the Software, is the property of the respective owner and may be protected by applicable intellectual property laws and treaties. This Agreement gives Customer no rights to such content, including use of the same. Bleemeo and its Affiliates are hereby granted a royalty-free, fully-paid, worldwide, exclusive, transferable, sub-licensable, irrevocable and perpetual license to use or incorporate into its products and services any information, data, suggestions, enhancement requests, recommendations or other feedback provided by Customer or Customer Users relating to the Services or Software. All rights not expressly granted under this Agreement are reserved by Bleemeo.

5.2. Ownership of Customer Data. Customer and Customer Users retain all right, title, and interest in and to all copyright, trademark, patent, trade secret, intellectual property and other proprietary rights in and to Customer Data. Bleemeo’s right to access and use the same are limited to those expressly granted in this Agreement. No other rights with respect to Customer Data are implied.

6. Termination and Suspension

6.1. The term of this Agreement shall be as described in the applicable Order Form, unless earlier terminated as described in this Section 6 (the “Term”). The Order Form may provide that the initial term of this Agreement (“Initial Term”) will automatically renew for an additional term that is equal in length to the Initial Term (and continue to automatically renew in the same manner thereafter) (each, a “Renewal Term”); either party may prevent such auto-renewal by giving the other party thirty (30) days written notice of its intent not to renew prior to the end of the then-current Initial or Renewal Term (as applicable).

6.2. Bleemeo may temporarily suspend the provision of the Services to Customer without liability under the following circumstances: (i) for scheduled or emergency maintenance; (ii) if Bleemeo believes that the Services are being used in violation of this Agreement or applicable law; (iii) if Bleemeo believes that the use of the Services by Customer may pose a security risk to Bleemeo or a Bleemeo customer; (iv) if ordered by a law enforcement or government agency, or otherwise in order to comply with applicable law; or (v) if Customer fails to fulfill its payment obligations with respect to the Services.

6.3. Either party may terminate this Agreement for a party’s material breach of this Agreement, upon fifteen days’ prior written notice to the non-breaching party (provided such breach remains uncured at the end of such fifteen (15) days period). Bleemeo may terminate this Agreement for Bleemeo’s convenience upon thirty days’ prior written notice to Customer. Upon expiration or termination of this Agreement, Customer’s right to use the Services will immediately cease, provided that to the extent any Report has been provided to Customer hereunder Customer may continue to use such Report for its own internal business purposes, and for no other reason. The following Sections shall survive any termination of this Agreement: 3, 4.1, 4.2, 4.3 (except for the first sentence thereof), 5 (as it relates to amounts due hereunder incurred prior to termination), 6, 8-10, and 12.

7. Fees and Payment

7.1. The Services are provided on a subscription basis. The term of Customer's subscription is set forth in the applicable Order Form (the "Subscription Term"). Subscription fees for each Subscription Term (the "Subscription Fees") must be paid in full on or before the first day of the applicable Subscription Term. Customer shall pay all such Subscription Fees via the payment method set forth in the applicable Order Form.

7.2. Customer is responsible for keeping all payment information accurate and up-to-date; failure to do so may prevent Bleemeo from collecting amounts due hereunder. Bleemeo may suspend access to the Services or any portion thereof if Customer is late in making any payment when due. Late payments will bear interest at the rate of 1.5% per month (or the highest rate allowed by applicable law, whichever is lower) until paid. All amounts paid hereunder are non-refundable and non-creditable.

7.3. Customer is responsible for withholding, filing, and reporting all taxes, duties, and other governmental assessments associates with its activity in connection with the Services.

8. Force majeure

8.1. No party shall be liable to the other for any delay or non-performance of its obligations under this agreement arising from any cause beyond its control including, without limitation, any of the following: act of God, governmental act, war, fire, flood, explosion or civil commotion. For the avoidance of doubt, nothing in this clause 12 shall excuse the Customer from any payment obligations under this agreement.

9. Confidentiality and Publicity

9.1. Each party shall, during the term of this agreement and thereafter, keep confidential all, and shall not use for its own purposes (unless in accordance with clause 13.4 above) nor without the prior written consent of the other disclose to any third party, any information of a confidential nature (including, without limitation, trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party, unless such information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this agreement, or subsequently comes lawfully into the possession of such party from a third party.

9.2. The provisions of this clause 14 shall remain in full force and effect for 1 year after the termination of this agreement for any reason.

10. Insurence

10.1. Both Parties shall take all reasonable precautions to prevent and to insure any occurrence of damage, accident or injurious exposure to conditions of this Agreement. Each Party undertakes to produce to the other, upon reasonable request, evidence of such adequate insurances.

11. Independant Relationship

11.1. The non-exclusive relationship of the Parties is that of independent contractors. Nothing in this Agreement shall be construed as authorizing either Party to act as agent of the other or as creating a joint venture or partnership. Both Parties recognize that this Agreement does not hinder them from carrying out any activities with any third party within the same field of technology and/or products as intended under this Agreement.

12. Governing law and jurisdiction

12.1. This agreement, its subject matter or its formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with French law and submitted to the non-exclusive jurisdiction of the French courts.

This Agreement was last modified on February 15, 2017