

Terms of Service

These terms are out of date and will not apply to those Customers who have entered into agreements with HowGood after January 1, 2025 as such Customers shall be subject to the terms of service available at <https://legal.howgood.com/#terms-of-service>.

Last Modified: October 1, 2023

This HowGood Terms of Service (“**Agreement**”) is entered into by and between HowGood, Inc. (“**HowGood**”) and the entity or person (i) executing an Order Form for or (ii) accessing the Service (“**Customer**” or “**you**”). This Agreement consists of the terms and conditions set forth below and any Order Forms as applicable. Certain capitalized terms are defined in Section 20 (Definitions) and others are defined contextually in this Agreement. If you are accessing or using the Service 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.

The “**Effective Date**” of this Agreement is the date which is the earlier of (a) Customer’s initial access to the Service through any online provisioning, registration or portal access or (b) the effective date of the first Order Form. HowGood may modify this Agreement from time to time as permitted in Section 18.1 (Modifications to Agreement).

By indicating your acceptance of this Agreement or accessing or using the Service, you are agreeing to be bound by the terms and conditions of this Agreement. Each party expressly agrees that this Agreement is legally binding upon it.

1. Overview. The Service is a sustainability intelligence platform, currently known as “Latis,” that allows Customer to gain insights or share information with its partners who also use the Service (“**Partners**”).

2. The Service.

2.1. Permitted Use. During the Subscription Term, Customer may access and use the Service in accordance with the Documentation and this Agreement, including any usage limits in an Order Form. All use of HowGood Outputs is subject to the following:

2.1.1. If a Customer’s product SKU and/or ingredient, where applicable, meets the eligibility requirements for an Output, Customer may use the Output during the Term where applicable, solely in relation to that applicable product SKU or ingredient and solely for the Permissible Use identified in the Order Form herein. HowGood reserves the right to modify these requirements from time to time.

2.1.2. Outputs are accessible via the Platform. HowGood calculates whether a Customer product SKU or ingredient meets the eligibility requirements to receive the Output based on data and information Customer inputs into the Platform. Customer understands and acknowledges that Customer is solely responsible for the accuracy, correctness, and completeness of the data and information provided to HowGood, and that inaccurate, dated, or incomplete data or information may result in inaccurate assessments of a Customer product SKU’s eligibility to receive the Output. HowGood is not responsible for any Output erroneously assigned to a Customer product SKU or ingredient.

2.1.3. HowGood will reassess whether the Customer product SKU’s and/or ingredients meet the eligibility requirements for any previously determined Output after the earlier of (a) 12 months from the date the product SKUs and/or ingredients were eligible to receive the Output or (b) when there is a change in the data supporting a particular product SKU or ingredient. For all Customer product SKUs and/or ingredients that meet the eligibility requirements for the Output, Customer may use the Output solely in relation to those product SKUs and/or ingredients and solely for the Permissible Use identified in the Order Form herein until the first to occur of (a) 12 months from the date the product SKUs and/or ingredients are eligible to receive the Output, (b) a change in the data supporting a particular product SKU or ingredient, or (c) the termination or expiration of the Order Form. It is Customer’s responsibility to share with HowGood when product SKU and/or ingredient data change.

2.2. Users. Only Users may access or use the Service. Each User must keep its login credentials confidential and not share them with anyone else. Customer is responsible for its Users’ compliance with this Agreement and actions taken through their accounts (excluding misuse of accounts caused by HowGood’s breach of this Agreement). Customer will promptly notify HowGood if it becomes aware of any compromise of its User login credentials. HowGood uses User account information as described in its privacy policy, but

that policy does not apply to Customer Data.

2.3. **Administrators.** Customer may designate a User as an administrator with control over Customer's Service account, including management of Users and Customer Data, as described in the Documentation. Customer is fully responsible for its choice of administrators and any actions they take with respect to the Service. Customer agrees that HowGood's responsibilities do not extend to the internal management or administration of the Service for Customer.

2.4. **Restrictions.** Unless authorized by HowGood in an Order Form, Customer will not (and will not permit anyone else to) do any of the following: (a) provide access to, distribute, sell or sublicense the Service to a third party, (b) use the Service on behalf of, or to provide any product or service to, third parties, (c) use the Service to develop a similar or competing product or service, (d) reverse engineer, decompile, disassemble or seek to access the source code or non-public APIs to the Service, (e) modify or create derivative works of the Service or copy any element of the Service, (f) remove or obscure any proprietary notices in the Service, (g) publish benchmarks or performance information about the Service, (h) interfere with the Service's operation, circumvent its access restrictions or conduct any security or vulnerability test of the Service or (i) transmit any viruses or other harmful materials to the Service.

2.5. **SLA and Support.** During the Subscription Term, the Service will be subject to the SLA and HowGood will provide support in accordance with the SLA.

3. Customer Obligations.

3.1. **Generally.** Customer is responsible for its Customer Data, including its content and accuracy, and agrees to comply with Laws and any relevant policies shared with it in using the Service. Customer represents and warrants that it has made all disclosures and has all rights, consents and permissions necessary to (i) use its Customer Data with the Service, (ii) grant HowGood the rights in Section 10.2 (Customer Proprietary Rights) and (iii) share its Customer Data with Partners or other third parties under Section 10.2.1 (Sharing Data), all without violating or infringing Laws, third-party rights (including intellectual property, publicity or privacy rights) or any terms or privacy policies that apply to the Customer Data.

3.2. **Partner Relationships.** Customer is solely responsible for managing its own relationships with its Partners, including if applicable any necessary agreements governing Partner use and protection of Customer Data shared with Partner consistent with its use obligations outlined herein. Customer hereby releases and discharges HowGood of and from any and all claims, causes of action, damages, losses, liabilities and demands whatsoever, arising out of Partner's use of any data transferred in accordance herein.

3.3. **Suspension of Service.** HowGood may suspend Customer's access to the Service and related services if Customer breaches Section 10.4 (License Restrictions) or Section 3 (Customer Obligations), if Customer's account is 30 days or more overdue or if Customer's actions risk harm to other customers or the security, availability or integrity of the Service. Where practicable, HowGood will use reasonable efforts to provide Customer with prior notice of the suspension. Once Customer resolves the issue requiring suspension, HowGood will promptly restore Customer's access to the Service in accordance with this Agreement.

4. **Third-Party Platforms.** Customer may choose to use the Service with Third-Party Platforms. Use of Third-Party Platforms is subject to Customer's agreement with the relevant provider and not this Agreement. HowGood does not control and has no liability for Third-Party Platforms, including their security, functionality, operation, availability or interoperability or how the Third-Party Platforms or their providers use Customer Data. If Customer enables a Third-Party Platform with the Service, HowGood may access and exchange Customer Data with the Third-Party Platform on Customer's behalf.

5. **Professional Services.** Any purchased Professional Services are as described in the relevant Order Form. Customer will give HowGood timely access to Customer Data and related materials reasonably needed for the Professional Services, and if Customer fails to do so, HowGood's obligation to provide Professional Services will be excused until access is provided. HowGood will use Customer Data only for purposes of providing Professional Services. Any Professional Services deliverables relate to the configuration or use of the Service. Customer may use Professional Services deliverables only as part of its authorized use of the Service, subject to the same terms as for the Service in Section 2 (The Service) and Section 3 (Customer Obligations).

6. Term and Termination.

6.1. **Term.** This Agreement starts on the Effective Date and continues until expiration or termination of all Subscription Terms unless earlier terminated as provided herein. The Service shall automatically renew for successive periods of twelve (12) months each (each a

“**Renewal Term**”), unless, in the case of the Customer, written notice of non-renewal is provided to HowGood at least sixty (60) days prior to the expiration of the then-current term, and in the case of HowGood, written notice of non-renewal is provided to Customer at least thirty (30) days prior to the expiration of the then-current term.

6.2. **Termination.** Either party may terminate this Agreement (including all Order Forms) if the other party (a) fails to cure a material breach of this Agreement (including a failure to pay fees) within 30 days after notice, (b) ceases operation without a successor or (c) seeks protection under a bankruptcy, receivership, trust deed, creditors’ arrangement, composition or comparable proceeding, or if such a proceeding is instituted against that party and not dismissed within 60 days.

6.3. **Effect of Termination.** Upon expiration or termination of this Agreement or an Order Form, Customer’s access to the Service will cease and all licenses granted hereunder shall immediately terminate. At the disclosing party’s request upon expiration or termination of this Agreement, the receiving party will delete all of the disclosing party’s Confidential Information. Customer Data and other Confidential Information may be retained in the receiving party’s standard backups after deletion but will remain subject to this Agreement’s confidentiality restrictions.

6.4. **Survival.** These Sections survive expiration or termination of this Agreement: 3 (Customer Obligations), 6.3 (Effect of Termination), 6.4 (Survival), 7 (Fees and Taxes), 9 (Warranties and Disclaimers), 10 (Proprietary Rights), 11 (Usage Data and Personal Data), 12 (Limitations of Liability), 13 (Indemnification), 14 (Confidentiality), 19 (General Terms) and 20 (Definitions). Except where an exclusive remedy is provided, exercising a remedy under this Agreement, including termination, does not limit other remedies a party may have.

7. **Fees and Taxes.** Fees are as described in each Order Form and all payments shall be made to HowGood in U.S. dollars in immediately available funds. Any administrative or bank fees incurred as a result of wire transactions or other means of paying HowGood shall be the obligation of Customer. Customer will reimburse HowGood for reasonable pre-approved travel and living expenses incurred by HowGood in performing Professional Services at sites other than HowGood facilities at Customer’s request (including without limitation, any Professional Services relating to setup, training, technical support, and consulting). Fees are invoiced on the schedule in the Order Form and reimbursable expenses are invoiced in arrears. Unless the Order Form provides otherwise, all fees and expenses are due within 30 days of the invoice date. Late payments are subject to a service charge of 1.5% per month or the maximum amount allowed by Law, whichever is less. All fees and expenses are non-refundable except as set out in Section 9.3 (Warranty Remedy), Section 13.5 (Mitigation and Exceptions), and Section 18 (Modifications). Customer is responsible for any sales, use, value-added, property, withholding or similar taxes or levies that apply to its Order Forms, whether domestic or foreign (“Taxes”), other than HowGood’s income tax. Fees and expenses are exclusive of Taxes.

8. **Affiliate Order Forms.** An Affiliate of Customer may enter its own Order Form(s) as mutually agreed with HowGood. This creates a separate agreement between the Affiliate and HowGood incorporating this Agreement with the Affiliate treated as “Customer”. Neither Customer nor any Customer Affiliate has any rights under each other’s agreement with HowGood, and breach or termination of any such agreement is not breach or termination under any other.

9. Warranties and Disclaimers.

9.1. **Mutual.** Each party represents and warrants that: (a) such party is duly organized, validly existing, and in good standing under the laws of the state of its organization, and has the full power and authority to enter into and perform its obligations under this Agreement; (b) the execution of this Agreement by such party, and the performance by such party of its obligations and duties hereunder do not and will not violate any other agreement to which such party is a party or by which it is otherwise bound; and (c) when executed and delivered by such party, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.

9.2. **HowGood Limited Warranty.** HowGood warrants to Customer that: (a) the Service will perform materially as described in the Documentation and HowGood will not materially decrease the overall functionality of the Service during a Subscription Term (the “Performance Warranty”) and (b) HowGood will perform any Professional Services in a professional and workmanlike manner in accordance with industry standards (the “Professional Services Warranty”).

9.3. **Warranty Remedy.** If HowGood breaches Section 9.2 (HowGood Limited Warranty) and Customer makes a reasonably detailed warranty claim within 30 days of discovering the issue, then HowGood will, at its own expense, either: (i) promptly replace the Service with a solution that materially conforms to the Documentation; (ii) promptly repair the Service so that it materially conforms to the

Documentation; or (iii) if HowGood cannot promptly repair or replace the Service as provided for in (i) or (ii) herein, HowGood may terminate this Agreement. These procedures are Customer's exclusive remedy and HowGood's entire liability for breach of the warranties in Section 9.2 (HowGood Limited Warranty). These warranties do not apply to (a) issues caused by misuse or unauthorized modifications, (b) issues in or caused by Third-Party Platforms or other third-party systems or (c) Trials and Betas or other free or evaluation use.

9.4. **Customer.** Customer represents and warrants to HowGood that Customer owns all rights, title and interest in and to the Customer Data, or that Customer has otherwise secured all necessary rights in the Customer Data as may be necessary to permit the access and use thereof as contemplated by this Agreement.

9.5. **Disclaimers.** Except as expressly provided in Section 9.2 (HowGood Limited Warranty), the Service, Professional Services and all related HowGood services are based on assumptions, estimates, and best practices employed by HowGood's team, and information provided to HowGood by the Customer, third party sources and other customers. Neither HowGood nor its licensors or suppliers make any representations or warranties concerning any methodology, technology, content, or information contained in or accessed through the Service, and HowGood will not be responsible or liable for the accuracy, completeness, legality or decency of material contained in or accessed through the Service. THE SERVICE (OR ANY PORTION THEREOF), HOWGOOD MATERIALS, AND ALL RELATED METHODOLOGY, TECHNOLOGY, CONTENT, INFORMATION, AND SERVICES PROVIDED BY OR ON BEHALF OF HOWGOOD (AND ITS LICENSORS AND SUPPLIERS) ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES OR ANY KIND, EITHER EXPRESS OR IMPLIED, AND HOWGOOD EXPRESSLY DISCLAIMS ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF ADVISED OF THE PURPOSE), ACCURACY, COMPLETENESS, TITLE, NON-INFRINGEMENT, AND/OR THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. HOWGOOD DOES NOT GUARANTEE THAT THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES OR DELIVERABLES WILL BE EFFECTIVE, RELIABLE OR ACCURATE OR WILL MEET CUSTOMER'S REQUIREMENTS. HOWGOOD SHALL NOT BE RESPONSIBLE FOR THE ACCURACY, RELIABILITY, TIMELINESS OR COMPLETENESS OF INFORMATION PROVIDED BY CUSTOMER, THIRD PARTY SOURCES, OR OTHER CUSTOMERS OF THE SERVICE OR ANY OTHER DATA OR INFORMATION PROVIDED OR RECEIVED THROUGH THE SERVICE. HowGood is not liable for delays, failures or problems inherent in use of the Internet and electronic communications or other systems outside HowGood's control. Customer acknowledges that HowGood has no control over how Customer may interpret or use the HowGood Materials or content, or what actions Customer may take as a result of having been exposed to the HowGood Materials or content. Customer releases HowGood from all liability relating to Customer's use or inability to use any HowGood Materials or content.

10. Proprietary Rights.

10.1. **HowGood.** HowGood and its licensors are, and shall remain, the sole and exclusive owner of all right, title (including all proprietary and Intellectual Property Rights) in and to all HowGood Materials, Service, and any deliverables provided herein, including all ideas, concepts, inventions, systems, data, software, interfaces, tools, utilities, templates, forms, dashboards techniques, methods, processes, algorithms, know-how, trade secrets and other technologies, implementations and information that are used by HowGood in providing the Service, including any modifications or improvements to these items. To the extent that the Service incorporates any HowGood Materials, HowGood hereby grants Customer a non-exclusive, non-assignable, non-transferable, non-sublicensable royalty-free, fully paid-up, worldwide right and license to use HowGood Materials solely for Customer's internal business purposes during the applicable Subscription Term, unless otherwise modified in an applicable Order Form.

10.2. **Customer.** Customer and its licensors shall remain, the sole and exclusive owner of all right, title and interest in and to any documents, Customer Data, and other materials, including any updates, modifications, or improvements thereto, and any derivations therefrom, provided by the Customer to HowGood, including all Intellectual Property Rights therein ("**Customer Materials**"). Customer hereby grants to HowGood a worldwide, non-exclusive, royalty-free license to use, copy, store, access, process, reproduce, perform, display, transmit, operate, maintain, modify and prepare derivative works of the Customer Materials as required by HowGood to provide the respective Service to Customer under this Agreement. This includes sharing Customer Data with Customer's Partners as configured by Customer.

10.2.1. **Sharing Data.** Subject to the terms of this Agreement and as indicated in writing between the parties, Customer may use the Service to share Customer Data and or Outputs, with Partners so that the Partners may evaluate Customer's products, services, and

other offerings using the Customer Data and Outputs in conjunction with the HowGood services to which such Partners have subscribed. Once the relevant data is shared, it may be viewed, used to generate reports or otherwise exported by the respective Partner from the Service. HowGood has no liability for how a Partner may access or use the shared data as a result of Customer's (including its Users') sharing decisions.

10.3. **General Knowledge; Feedback.** Customer agrees that HowGood is free to disclose aggregate measures of usage and performance, and to reuse all general knowledge, experience, know-how, works and technologies (including ideas, concepts, processes and techniques) acquired during provision of the Service hereunder, including that it could have acquired performing the same or similar services for another customer. All Customer suggestions for correction, change or modification to the HowGood Platform and any relevant Service, evaluations, benchmark tests, and other feedback, information and reports provided to HowGood hereunder (collectively, "**Feedback**"), will be the property of HowGood and Customer shall and hereby does assign any rights in such Feedback to HowGood. Customer agrees to assist HowGood, at HowGood's expense, in obtaining intellectual property protection for such Feedback, as HowGood may reasonably request.

10.4. **License Restrictions.**

10.4.1. **HowGood.** Except as described herein, HowGood will not use Customer Data or other Customer Confidential Information for any purpose other than providing the Service as contemplated by this Agreement and Order Forms in effect from time to time between HowGood and Customer.

10.4.2. **Customer.** Without limiting Customer's rights under the foregoing license, Customer will not, and will not permit any third party to: (A) sublicense, lease, sell, rent, loan or otherwise transfer the HowGood Materials to any third party, except in the case of Outputs, Customer may share them with Partners consistent with Section 10.2.1 (Sharing Data); (B) alter, obscure or remove any copyright, trademark or any other notices that are provided on or in connection with any HowGood Materials; (C) reverse engineer, decompile, disassemble or otherwise attempt to derive the source code, underlying data, or method of operation of the HowGood Materials; (D) combine, merge, link, or layer any HowGood Materials with any other data or datasets, whether or not provided by HowGood, unless specifically authorized in writing by HowGood; or (E) otherwise use or copy the HowGood Materials except as expressly allowed in this Section.

11. **Usage Data and Personal Data.**

11.1. **Usage Data.** HowGood may collect Usage Data and use it to operate, improve and support the Service and for other lawful business practices, such as analytics, benchmarking and reports. However, HowGood will not disclose Usage Data externally, including in benchmarks or reports, unless it has been (a) de-identified so that it does not individually identify Customer, its Users or any other person and (b) aggregated with usage data across other HowGood customers.

11.2. **Personal Data.**

11.2.1 **Compliance with Data Protection Laws.** Each party will comply with the provisions and obligations imposed on them by Data Protection Laws at all times when processing Personal Data in connection with this Agreement. To the extent that a party shares Personal Data with another, it warrants and represents that it has the right under applicable Data Protection Laws to do so and that it has obtained all necessary consents from the relevant data subjects whose Personal Data is being shared.

11.2.2 **Record keeping.** Each party will maintain records of all processing operations under its responsibility that contain at least the minimum information required by Data Protection Laws, and shall make such information available to any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Laws on request.

11.2.3 **Notification of complaints and notices.** If either party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data by the other party or to either party's compliance with the Data Protection Laws, it will as soon as reasonably practicable notify the other party and it will provide the other party with reasonable co-operation and assistance in relation to any such complaint, notice or communication

11.2.4 **Personal Data in Customer Data.** Customer will not include or allow to be included in the Customer Data any Personal Data.

11.2.5 **HowGood as controller.** The parties agree that HowGood acts as a "controller" when processing any Personal Data of data

subjects in the UK or European Economic Area in connection with this Agreement, including but not limited to contact information and login credentials concerning Users or prospective Users.

12. Limitations of Liability.

12.1. **Consequential Damages Waiver.** Except for Excluded Claims, neither party (nor its suppliers) will have any liability arising out of or related to this Agreement for any damages for damages for loss of profits, revenue, data, or data use, failure of security mechanisms, interruption of business or any indirect, special, incidental, exemplary, punitive, special, reliance or consequential damages of any kind, even if informed of their possibility in advance, including, without limitation, any liability related to the procurement of substitute goods. The foregoing limitations form an essential basis for this agreement and shall survive regardless of the failure of any remedy of its essential purpose.

12.2. **Liability Cap.** Except for Excluded Claims, each party's (and its suppliers') entire liability arising out of or related to this Agreement will not exceed in aggregate the amounts paid or payable by Customer to HowGood during the prior 12 months under this Agreement preceding the first event giving rise to such liability.

12.3. **Excluded Claims.** "Excluded Claims" means: (a) Customer's breach of Sections 3 (Customer Obligations) or 10.4 (License Restrictions), (b) either party's breach of Section 14 (Confidentiality) (but excluding claims relating to Customer Data) or (c) amounts payable to third parties under the indemnifying party's obligations in Section 13 (Indemnification).

12.4. **Nature of Claims and Failure of Essential Purpose.** The waivers and limitations in this Section 12 apply regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and will survive and apply even if any limited remedy in this Agreement fails of its essential purpose.

13. Indemnification.

13.1. **Indemnification by HowGood.** HowGood will defend Customer from and against any third-party claim to the extent alleging that the Service, when used by Customer as authorized in this Agreement, infringes a third party's U.S. patent, copyright, trademark or trade secret, and will indemnify and hold harmless Customer against any damages or costs awarded against Customer (including reasonable attorneys' fees) or agreed in settlement by HowGood resulting from the claim. If the Service becomes or, in HowGood's opinion, is likely to become the subject of any injunction or other court order or similar restriction preventing its use as contemplated herein, HowGood may, at its option (A) obtain for Customer the right to continue using the Service or (B) replace or modify the infringing portions of the Service so that it becomes non-infringing without substantially compromising its principal functions. If (A) and (B) are not reasonably available to HowGood, then it may (C) terminate this Agreement upon written notice to Customer and refund to Customer any fees for the Service that were pre-paid for the then-current term, pro-rated for the remainder thereof. The foregoing states the entire liability of HowGood, and Customer's exclusive remedy, with respect to any actual or alleged violation of Intellectual Property Rights by the Service, any part thereof or its use or operation.

13.2. **Exclusions.** HowGood shall have no liability or obligation hereunder with respect to any claim based upon (i) any use of the Service not strictly in accordance with this Agreement or in an application or environment for which it was not designed or contemplated; (ii) any Customer Data; (iii) modifications, alterations, combinations or enhancements of the Service not created by or for HowGood; (iv) any portion of the Service that implements Customer's requirements; (v) Customer's continuing allegedly infringing activity after being notified thereof or its continuing use of any Service after being provided modifications that would have avoided the alleged infringement; or (vi) any Intellectual Property Rights in which Customer or any of its Affiliates has an interest.

13.3. **Indemnification by Customer.** Customer will defend HowGood from and against any third-party claim to the extent resulting from Customer Data, Customer Materials, Customer's breach or alleged breach of Section 3 (Customer Obligations), as well as any claims excluded in Section 13.2 (Exclusions) above. Customer will indemnify and hold harmless HowGood against any damages or costs awarded against HowGood (including reasonable attorneys' fees) or agreed in settlement by Customer resulting from the claim.

13.4. **Procedures.** The indemnifying party's obligations in this Section 13 are subject to receiving (a) prompt notice of the claim, provided that the failure to provide such notice shall not relieve the indemnifying party of its indemnification obligations hereunder except to the extent of any material prejudice directly resulting from such failure (b) the exclusive right to control and direct the investigation, defense and settlement of the claim and (c) all reasonably necessary cooperation of the indemnified party, at the

indemnifying party's expense for reasonable out-of-pocket costs. The indemnifying party may not settle any claim without the indemnified party's prior consent if settlement would require the indemnified party to admit fault or take or refrain from taking any action (other than relating to use of the Service, when HowGood is the indemnifying party). The indemnified party may participate in a claim with its own counsel at its own expense.

14. Confidentiality.

14.1. **Obligations.** As receiving party, each party will (a) hold Confidential Information in confidence and not disclose it to third parties except as permitted in this Agreement and (b) only use Confidential Information to fulfill its obligations and exercise its rights in this Agreement. The receiving party may disclose Confidential Information to its employees, agents, contractors and other representatives having a legitimate need to know (including, for HowGood, the subcontractors referenced in Section 19.10), provided it remains responsible for their compliance with this Section 14 and they are bound to confidentiality obligations no less protective than this Section 14. The receiving party shall promptly notify the disclosing party of any actual or suspected misuse or unauthorized disclosure of any of the Confidential Information. In the event of any termination or expiration of this Agreement, each receiving party will either return or, at the disclosing party's request, destroy the Confidential Information of the other disclosing party; provided however, that each receiving party may retain copies of the disclosing party's Confidential Information for routine backup and archival purposes subject to the confidentiality obligations set forth herein.

14.2. **Exclusions.** These confidentiality obligations do not apply to information that the receiving party can document (a) is or becomes public knowledge through no fault of the receiving party, (b) it rightfully knew or possessed prior to receipt under this Agreement, (c) it rightfully received from a third party without breach of confidentiality obligations or (d) it independently developed without using the disclosing party's Confidential Information.

14.3. **Remedies.** Unauthorized use or disclosure of Confidential Information may cause substantial harm for which damages alone are an insufficient remedy. Each party may seek appropriate equitable relief, in addition to other available remedies, for breach or threatened breach of this Section 14.

14.4. **Required Disclosures.** Nothing in this Agreement prohibits either party from making disclosures, including of Customer Data and other Confidential Information, if required by Law, subpoena or court order, provided, if practicable, the receiving party provides adequate notice and assistance to the disclosing party for the purpose of enabling the disclosing party to prevent and/or limit such disclosure.

15. Information Security. HowGood uses reasonable technical and organizational measures designed to protect the Service and Customer Data as described in its security policies.

16. Trials and Betas. If Customer receives access to the Service or Service features on a free or trial basis or as an alpha, beta or early access offering ("Trials and Betas"), use is permitted only for Customer's internal evaluation during the period designated by HowGood (or if not designated, 30 days). Trials and Betas are optional and either party may terminate Trials and Betas at any time for any reason. Trials and Betas may be inoperable, incomplete or include features that HowGood may never release, and their features and performance information are HowGood's Confidential Information. Notwithstanding anything else in this Agreement, HowGood provides no warranty, indemnity, or support for Trials and Betas and its liability for Trials and Betas will not exceed US\$50.

17. Publicity. Each party grants the other party a limited, non-transferable, non-exclusive license to include such party's name and standard logo within marketing and promotional materials, provided such materials are approved in writing by the other party prior to public distribution or dissemination. Notwithstanding the foregoing, without further approval, HowGood may use and display Customer name and logo on HowGood's website and other materials solely for the purposes of identifying Customer as a customer.

18. Modifications. HowGood may modify this Agreement from time to time with notice to Customer. Modifications take effect at Customer's next Subscription Term or Order Form unless HowGood indicates an earlier effective date. If HowGood requires modifications with an earlier effective date and Customer objects, Customer's exclusive remedy is to terminate this Agreement with notice to HowGood, in which case HowGood will provide Customer a refund of any pre-paid Service fees for the terminated portion of the current Subscription Term. To exercise this termination right, Customer must notify HowGood of its objections within 30 days after

HowGood's notice of the modified Agreement. Once the modified Agreement takes effect Customer's continued use of the Service constitutes its acceptance of the modifications. HowGood may require Customer to click to accept the modified Agreement.

19. General Terms.

19.1. **Assignment.** Neither party may assign this Agreement without the prior consent of the other party, except that either party may assign this Agreement in connection with a merger, reorganization, acquisition or other transfer of all or substantially all its assets or voting securities. Any non-permitted assignment is void. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns.

19.2. **Arbitration.** Except with respect to claims for injunctive or other equitable relief, which may be brought at any time before any court of competent jurisdiction, all disputes arising from or relating to the subject matter of this Agreement shall be finally settled by arbitration in English in New York City, New York, USA, in accordance with the Arbitration Rules and Procedures of the Judicial Arbitration and Mediation Service, Inc. ("JAMS") then in effect, by an arbitrator selected in accordance with said JAMS' rules. Judgment upon the award so rendered may be entered in a court having jurisdiction.

19.3. **Governing Law, Jurisdiction and Venue.** This Agreement is governed by the laws of the State of New York and the United States without regard to conflicts of laws provisions and without regard to the United Nations Convention on the International Sale of Goods. The jurisdiction and venue for actions related to this Agreement will be the state and United States federal courts located in New York County, New York State and both parties submit to the personal jurisdiction of those courts.

19.4. **Attorneys' Fees and Costs.** The prevailing party in any action to enforce this Agreement will be entitled to recover its attorneys' fees and costs in connection with such action.

19.5. **Notices.** Except as set out in this Agreement, any notice or consent under this Agreement must be in writing, addressed to the applicable party at its address and contact information set forth in the applicable Order Form, and shall be deemed effectively delivered only: (a) upon personal delivery, (b) upon delivery by a courier service as confirmed by written delivery confirmation, (c) upon delivery by facsimile or email as confirmed by transmission receipt, or (d) three (3) business days after being deposited in the regular mail as certified or registered mail (airmail if sent internationally) with postage prepaid. Either party may change its address for notice by giving notice to the other party in accordance with this Section 19.5. If to HowGood, a copy of any required notice must be sent via email delivery to accounts@howgood.com and legal@howgood.com [Attn: Legal Notice]. HowGood may also send operational notices to Customer by email or through the Service.

19.6. **Entire Agreement.** This Agreement (which includes all Order Forms) is the parties' entire agreement regarding its subject matter and supersedes any prior or contemporaneous agreements regarding its subject matter. In this Agreement, headings are for convenience only and "including" and similar terms are to be construed without limitation. This Agreement may be executed in counterparts (including electronic copies and PDFs), each of which is deemed an original and which together form one and the same agreement.

19.7. **Amendments.** Except as otherwise provided herein, any amendments, modifications or supplements to this Agreement must be in writing and signed by each party's authorized representatives or, as appropriate, agreed through electronic means provided by HowGood. The terms in any Customer purchase order or business form will not amend or modify this Agreement and are expressly rejected by HowGood; any of these Customer documents are for administrative purposes only and have no legal effect.

19.8. **Waivers and Severability.** Waivers must be signed by the waiving party's authorized representative and cannot be implied from conduct. The failure of either party to enforce its rights under this Agreement at any time for any period will not be construed as a waiver of such rights, and the exercise of one right or remedy will not be deemed a waiver of any other right or remedy. If any provision of this Agreement is held invalid, illegal or unenforceable, it will be limited to the minimum extent necessary so the rest of this Agreement remains in effect.

19.9. **Force Majeure.** Neither party is liable for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) due to events beyond its reasonable control, such as a strike, blockade, war, act of terrorism, riot, Internet or utility failures, refusal of government license or natural disaster. Such party shall use commercially reasonable efforts to cure any such failure or delay in performance arising from such a condition, and shall timely advise the other party of such efforts. If such delay continues for

more than ninety (90) days, the performing party may, upon not less than ten (10) days prior written notice to the non-performing party, terminate this Agreement.

19.10. **Subcontractors.** HowGood may use subcontractors and permit them to exercise HowGood's rights, but HowGood remains responsible for their compliance with this Agreement and for its overall performance under this Agreement.

19.11. **Independent Contractors.** The parties are independent contractors, not agents, representatives, partners, or joint venturers. Neither party shall have any right or authority to assume or create any obligations or to make any representations or warranties on behalf of any other party, whether express or implied, or to bind the other party in any respect whatsoever.

19.12. **Export.** Customer agrees to comply with all relevant U.S. and foreign export and import Laws in using the Service. Customer (a) represents and warrants that it is not listed on any U.S. government list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a "terrorist supporting" country, (b) agrees not to access or use the Service in violation of any U.S. export embargo, prohibition or restriction and (c) will not submit to the Service any information controlled under the U.S. International Traffic in Arms Regulations.

20. Definitions.

"Affiliate" means an entity directly or indirectly owned or controlled by a party, where "ownership" means the beneficial ownership of fifty percent (50%) or more of an entity's voting equity securities or other equivalent voting interests and "control" means the power to direct the management or affairs of an entity.

"Confidential Information" means information disclosed to the receiving party under this Agreement that is designated by the disclosing party as proprietary or confidential or that should be reasonably understood to be proprietary or confidential due to its nature and the circumstances of its disclosure. Confidential Information includes, without limitation, information related to: research, product plans, products, developments, inventions, processes, designs, markets, business plans, agreements with third parties, services, customers, marketing or finances of either party, the content or existence of any negotiations, and pricing. Notwithstanding the foregoing, HowGood's Confidential Information includes the terms and conditions of this Agreement as well as any technical or performance information about the Service. Customer's Confidential Information includes Customer Data.

"Customer Data" means any information, data, content or materials that Customer (including its Users) submits to HowGood for use in connection with the Service, including from Third-Party Platforms, whether the information and/or data is in its original form or as it may be subsequently modified by HowGood, Customer, or any third party. Customer Data shall not include Usage Data or information (including but not limited to contact details) that Customer submits to HowGood regarding Users, prospective Users or past Users.

"Data Protection Laws" means any applicable laws and regulations in any relevant jurisdiction relating to the use or processing of personal data including: (a) EU Regulation 2016/679 ("GDPR"); (b) GDPR as it forms part of the law of England and Wales by virtue of section 3 of the European Union (Withdrawal) Act 2018; (c) any laws or regulations ratifying, implementing, adopting, supplementing or replacing the GDPR; (d) in the UK, the Data Protection Act 2018; (e) any laws and regulations implementing or made pursuant to EU Directive 2002/58/EC (as amended by 2009/136/EC); and (f) in the UK, the Privacy and Electronic Communications (EC Directive) Regulations 2003; in each case, as updated, amended or replaced from time to time.

"Documentation" means any user guide, help information and other documentation and information regarding the applicable Service that is delivered by HowGood to Customer in electronic or other form, if any, including any updates provided by HowGood from time to time.

"HowGood Materials" means (a) all trademarks, tradenames, or logos of HowGood, (b) all software, software interfaces, software updates and changes, tools, designs, documentation, data, information, ideas, inventions, routines, tools, methodologies, processes, know-how or technologies, and other material owned or developed by or for HowGood prior to or outside of the scope of this Agreement as may be necessary to provide the Service hereunder; and (d) derivatives, improvements, or modifications of the foregoing. For the avoidance of doubt, HowGood Materials include, without limitation and to the extent applicable, the HowGood Platform, Platform Data, Outputs, and any Confidential Information of HowGood.

“HowGood Platform” means HowGood’s platform currently known as “Latis” and its solutions (including, in each case, any successor solutions thereto with substantially similar functionality such as the “Ingredient Supplier Portal” and the “Product Sustainability Portal”).

“Intellectual Property Rights” means all rights of the following types, under the laws of any jurisdiction worldwide: (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, and moral rights; (b) trade secret rights; (c) trademark rights; (d) patent rights; (e) mask work, *sui generis* database rights, and industrial property rights; (f) other proprietary rights of every kind and nature; and (g) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the above.

“Laws” means all relevant local, state, federal and international laws, regulations and conventions, including those related to data privacy and data transfer, antitrust and unfair competition, international communications and export of technical or personal data.

“Order Form” means an order for access to the Service, Professional Services or related HowGood services referencing this Agreement that is executed by the parties or that Customer completes through a HowGood-provided online order flow. **“Outputs”** means any documents, reports, graphics, or other content created or developed by on behalf of Customer or its Authorized User’s through use of Services, which connects Customer Data with Platform Data, including but not limited to HowGood’s proprietary product sustainability ratings and certification marks, sustainability attributes, impact metrics and assessments based on ingredient, sourcing geography, standard, or other, non-Customer impact assessments.

“Personal Data” means any information relating to an identified or identifiable natural person (which shall include for the avoidance of doubt, any personally identifiable information) or as otherwise defined in Data Protection Laws.

“Platform Data” means, with the exception of Customer Data, all software, data, information, reports, or other materials or content, including all text, audio, video, photographs, illustrations, graphics and other content or media provided through the Platform, including sustainability attributes, impact metrics and assessments based on ingredients and sourcing geography, standard, or other, non-Customer impacts assessments. Platform Data shall include data provided by HowGood to the Customer via the Service (to the extent applicable), flat files, API call or other data exchanges.

“Service” means any products, services, and/or data made available by HowGood to Customer and or specified in an Order Form and as modified from time to time. The Service includes HowGood Materials and Documentation as well as any applicable Professional Services deliverables, but it does not include Third-Party Platforms.

“SLA” means the HowGood Service Level Agreement, the current version of which is available at <https://howgood.com/SLA/>.

“Subscription Term” means the term for Customer’s use of the Service as identified in an Order Form.

“Professional Services” means any training, enablement or other Professional Services provided by HowGood related to the Service, as identified in an Order Form. Professional Services includes services HowGood provides to Customer by a HowGood Customer Success Manager.

“Third-Party Platform” means any platform, add-on, service or product not provided by HowGood that Customer elects to integrate or enable for use with the Service.

“Usage Data” means HowGood’s technical logs, data and learnings about Customer’s use of the Service, but excluding Customer Data.

“User” means any employee or contractor of Customer or its Affiliates that Customer allows to use the Service on its behalf.