

Terms of Service

Hedgehog - Carbon Accounting Dashboard
Version : TOS.01.2023



1 Introduction

- 1.1 These terms of service ("**Terms**") govern your access to and use of the carbon accounting dashboard owned and operated by Hedgehog Company B.V., and any other software, tools or services provided by us in connection with this service (collectively, the "**Service**").
- 1.2 Our Service is provided as software-as-a-service through the Internet via our website <https://dashboard.hhc.earth> ("**Website**").
- 1.3 Features, services and functionalities included depend on whether you have obtained access to the free version ("**Free Version**") or paid version ("**Paid Version**") of our Service. On our Website is described which (extra) features or services you can obtain by purchasing our Paid Version. Key difference between the two versions is that our Paid Version includes a certain amount of assistance from us in submitting the required customer specific data to the Service needed to generate certain output, e.g., your carbon footprint.
- 1.4 In these Terms, "you", "your" refers to the individual, organization or company that concludes an agreement ("**Agreement**") with us in respect of the Service.
- 1.5 In these Terms, "we", "us", "ours" or "Hedgehog" refers to the entity indicated in Clause 1.1 above.

2 Applicability and Interpretation

- 2.1 These Terms apply to all our offers in respect of the Service and the performance of Agreements by us or in our name and the conclusion and performance of any (future) Agreements with you.
- 2.2 The applicability of any conditions stipulated by you is excluded. Deviations from and additions to the Terms shall only be valid if we have accepted those in writing.
- 2.3 If any provision of the Agreement is null and void or is annulled, the remaining provisions of the Terms will stay in full force and effect. We will then replace the null and void or annulled provisions by new provisions, whereby the purpose and purport of the null and void or annulled provision will be taken into account as much as possible.

3 Our Agreement

- 3.1 Our Service is provided on the basis of a subscription for either our Free Version or Paid Version of the Service. Available features may vary depending on the subscription acquired by you.
- 3.2 Agreements in respect of the Service are concluded upon the completion of the (online) registration process as indicated on our Website and subsequent confirmation by us (automated or otherwise) that your registration is accepted.

4 Account

- 4.1 After conclusion of the Agreement, we will provide you during the agreed term (access to) an account ("**Account**") which you must use to access the Service. Each Account is connected to a specific email address, and only approved email addresses can be used to gain access to the Service.
- 4.2 On each occurrence, when you try to logon to your Account by entering your email address within the Service, we will sent a one-time login link and token (collectively "**Login Link**") to the email address submitted. The Login Link is valid for the period as mentioned by us, and can be clicked on and used to gain access the Service. No further credentials shall be required, unless mentioned otherwise.
- 4.3 If agreed, you can use your Account to create a certain amount of sub-Accounts for use by additional end-users of the Service. You are solely responsible for end user management, granting or revoking rights and creating or deleting sub-Accounts. The same conditions apply to such sub-Accounts as to the main Account.

- 4.4 Please do note that you are not authorized to generate sub-Accounts for the benefit of third parties outside your organization, as the Service is provided to you and may only be used by you for your own internal business purposes. You may not rent, sell, sublicense or otherwise enable third parties to use the Service for their own purposes and benefits. You are fully responsible for the actions and omissions of any third parties (including your end-users) that are using the Service on your behalf.
- 4.5 Each Account is strictly personal and may not be shared. We are not responsible for misuse of Accounts and may assume that any user logged in to an Account is actually the authorized user that is associated with the Account. We may trust that all actions performed from an Account are performed under your direction, supervision and with your approval.
- 4.6 If Login Links or other credentials used for accessing an Account are (presumably) lost or leaked, you shall (cause your end-users to) immediately take all available measures reasonably necessary, desirable and possible to prevent misuse of the Account. In any case, you will immediately report this to us so that any additional measures can be taken to prevent misuse of the Account.
- 4.7 You agree to keep the information in each Account up to date. In case of any changes that are relevant for us to become aware of, you shall promptly update the outdated information.

5 Provision of the Service

- 5.1 After the Agreement has been concluded and for the term ("**Term**") of the Agreement, we will make every effort to provide you with continued access to the Service, and will do so due observance of sufficient care and expertise.
- 5.2 We deploy the Service on resilient computing infrastructure designed to maintain service availability and continuity in the case of an incident affecting the Service. We will use reasonable endeavors to ensure a significant uptime of the Service, although we do not guarantee that the Service will be uninterrupted or error free.
- 5.3 From time to time, we may perform maintenance and make changes to the Service in the form of updates or upgrades. Such updates or upgrades may result in a change or loss in the functionality of the Service. Suggestions from you in this respect are always welcome, but in the end, we may solely determine which changes will be made.
- 5.4 The performance of maintenance-related activities may result in interruptions in the availability of the Service. In case we are able to foresee this, we may notify you on this in advance but are not required to do so. In any case, we will use reasonable endeavors to ensure that maintenance-related activities are performed as quickly as possible.
- 5.5 Information on how to use our Service may be made available by us to you via our Website. Unless agreed otherwise, the Service is provided without any support from us.

6 Responsibilities

- 6.1 You will provide us with all the support and cooperation needed and desirable to enable the correct and timely delivery of the Service. You will provide us with all information we indicate as necessary, or which you should reasonably understand are essential for us to be able to provide the Service as agreed.
- 6.2 You shall be solely responsible for the accuracy, correctness, and completeness of any data submitted by you (or by us on your request) to our Service. We are not required to verify the accuracy, correctness, or completeness of any such data.
- 6.3 You acknowledge that any output from our Service is logically determined or influenced by the data submitted by you to our Service. You agree that we are not responsible nor liable for any incorrect output of our Service, e.g., incorrect or incomplete carbon footprint calculations, if such is (partly) caused by data submitted by you.

7 Restrictions

- 7.1 You are prohibited to use the Service in a manner that is violating these Terms and/or any applicable laws and regulations.
- 7.2 You shall not use the Service in a manner that may cause hindrance or loss and/or damage to is or any third party.
- 7.3 You will follow all reasonable instructions issued by us related to the use of the Service.
- 7.4 You shall not access, store, distribute or transmit any information during the course of your use of the Service that:
 - a. is libelous, defamatory, insulting, racist or discriminating, or incites hate;
 - b. infringes third-party rights, in any case including but not limited to intellectual property rights;
 - c. violates the privacy of third parties, in any case including but not limited to distributing third-party personal data without a legal basis;
 - d. contains hyperlinks, torrents or similar information of which you are aware or should be aware that it refers to material that infringes third-party rights; or
 - e. is otherwise illegal or causes damage or injury to any person or property;
 - f. is in violation with any reasonable (usage-) instruction given by us.
- 7.5 If, in our reasonable opinion, the operation of the computer systems or network of us or third parties and/or provision of services via the Internet is obstructed, impaired or otherwise at risk, in particular as a result of the transmission of excessive amounts of data to our Service, leaked personal data or virus activity, Trojan horses and similar software, we are authorized to take any and all measures we deem reasonably necessary to avert or prevent such risk. These measures include, but are not limited to, suspension of the Service.
- 7.6 If we determine that you (or your end-users) have violated these Terms or applicable laws and regulations or if we have received a complaint from a third party of the same, we may take measures to end such violation. These measures may, without limitation, include the suspension of the Service.
- 7.7 We may recover from you any loss or damage sustained as a result of a breach of these Terms. You shall indemnify and hold us harmless against any and all third-party claims pertaining to loss and/or damages arising from your violation of the Agreement.

8 Intellectual Property Rights

- 8.1 All intellectual property rights vested in the Service, including the Website, and other materials developed and/or made available by us belong to us or our licensors.
- 8.2 We solely grant you for the Term, a non-exclusive, non-transferable and non-sublicensable right of use with regard to the Service and the materials provided by us under the Agreement.
- 8.3 All data submitted by you to the Service will remain your property or that of your suppliers. We will not make any proprietary claims with regard to any such data.
- 8.4 You warrant and represent that you are rightful owner or rightful licensee of any intellectual property rights vested in the data submitted by you to the Service. You shall indemnify and will hold us harmless from any claims from third parties in relation to or arising from intellectual property rights vested in aforementioned data.
- 8.5 You provide us with a Term-limited license to use any data submitted by you to the Service, insofar such use is required for the correct provision of Service by us. In addition, you provide us with an irrevocable right to use aforementioned data to perform analysis and to use and share the statistical results of such analysis at an aggregated level with third parties.
- 8.6 You provide us a limited perpetual license to use your company's name, logo, trademark, and your general business description for the purposes of marketing our Service.

9 Confidentiality

- 9.1 Information in the sense of this Clause 9 (“**Information**”) means any information disclosed in connection with the Agreement by one party (the “**Disclosing Party**”) to the other party (the “**Receiving Party**”), for example data submitted by you to the Service.
- 9.2 Confidential information in the sense of this Clause 9 (“**Confidential Information**”) relates to all Information marked as confidential or which the Receiving Party knows or should reasonably suspect that the Information was intended to be confidential.
- 9.3 The Receiving Party will treat confidentially Confidential Information received under this Agreement, and not disclose, publish or otherwise distribute such Confidential Information to any person other than such of the Receiving Party’s employees, agents or contractors whose knowledge of the same is essential for the operation of this Agreement without the prior written consent of the Disclosing Party.
- 9.4 The Receiving Party shall be permitted to disclose Confidential Information to the extent that it is required (i) by its auditors or other professional advisers in order to discharge its professional obligations; or (ii) to be disclosed by law or by a regulatory authority or by any court of competent jurisdiction provided that the Receiving Party shall, to the extent practicable and legally permissible, (a) provide the Disclosing Party with notice of the Receiving Party’s duty to disclose; and (b) cooperate with the Disclosing Party in seeking to maintain confidential treatment of such Confidential Information at the Disclosing Party’s cost and expense.
- 9.5 The duty of confidentiality does not apply to Confidential Information which (a) is public or is made public without the Receiving Party violating its duty of confidentiality; (b) is lawfully made available to the Receiving Party by a third party without any obligation of confidentiality; (c) was legally already in the possession of the Receiving Party before it was received; and/or (d) has been designated non-confidential by the Disclosing Party in a written document.

10 Fees and payment

- 10.1 All prices that are quoted by us, such as fees payable for the Paid Version of the Service, are in euros and exclusive of VAT and other government taxes and duties, and are subject to programming and typographical errors.
- 10.2 We will issue invoices for all amounts due and are entitled to invoice electronically. Invoices have a payment term of fourteen (14) calendar days from the invoice date, unless indicated otherwise.
- 10.3 You shall pay any fees payable under the Agreement in advance, unless agreed otherwise. In case of periodic payment obligations, which may be the case for the Paid Version of our Service, you shall pay the periodic fees each applicable billing cycle in advance.
- 10.4 Applicable fees are to be paid via the payment methods accepted by us which methods may change during the Term.
- 10.5 If we request so, you shall grant us an (SEPA) authorization to automatically collect the (periodic) amounts due by you under the Agreement. In such case, you shall periodically ensure an adequate balance on the bank account designated by you for collection. If a collection turns out to be unsuccessful, we are authorized to suspend provision of the Service until payment is received in full.
- 10.6 We are entitled to change our (periodic) fees at the start of each renewal period or billing cycle, upon fourteen (14) days’ prior written notice to you. In the event of an increase of fees, you shall have the right to terminate the Agreement in writing until and against the moment the changes take effect.
- 10.7 If you fail to pay the amounts when due, you shall be in default by operation of law, without notice of default being required. If the amount due is not paid within the term of payment, you will be liable for payment of the statutory commercial interest, referred to in section 6:119a of the Dutch Civil Code, on the outstanding amount, as well as any extrajudicial costs, including costs for lawyers, bailiffs and legal experts, without notice of default being required.

11 Liability

- 11.1 Our liability for damages resulting from any breach of the Agreement, whether in tort or otherwise, is per event (whereby a series of consecutive events is regarded as a single event) limited to the amount (excluding VAT) we have received from you in respect of the Service over a period of three (3) months preceding the (first) damaging event. In case no payment has been received in the aforementioned period, this amount will be capped at one hundred (100) euros.
- 11.2 Our liability for an attributable failure to perform the Agreement only arises if you give us prompt and proper written notice of default, giving us a reasonable time period to remedy the default, and we continue to fail to perform our obligations even after that time period has elapsed. The notice of default must contain a description of the breach as detailed as possible, so that we are able to respond adequately.
- 11.3 Any right to claim compensation is at all times subject to the condition that you have notified us of the loss and/or damage in writing within no more than thirty (30) days of your discovery.
- 11.4 Any limitation of liability as included in the Agreement shall lapse if and insofar the damage is the result of intent or deliberate recklessness on the part of our management personnel.

12 Force majeure

- 12.1 We cannot be obliged to perform any obligation under the Agreement if the performance is prevented due to force majeure. We are not liable for any loss and/or damage due to force majeure.
- 12.2 Force majeure is considered to exist, without limitation, in case of power outages, Internet failures, telecommunication infrastructure failures, network attacks (including D(DOS) attacks), attacks by malware or other harmful software, civil commotion, natural disaster, terror, mobilization, war, import and export barriers, strikes, stagnation in supplies, fire, floods and global pandemics.
- 12.3 If a force majeure situation has lasted for more than ninety (90) days, you and we will be entitled to give notice to terminate (*ontbinden*) the Agreement in writing with immediate effect.

13 Term and termination

- 13.1 Unless otherwise stipulated in the Agreement, the Term of the Agreement is as follows:
 - 13.1.1 a subscription for the Free Version of our Service is entered into for an indefinite period of time;
 - 13.1.2 a subscription for the Paid Version of our Service is entered into for a fixed period of twelve (12) months which subscription cannot be terminated in the interim.
- 13.2 Subscriptions for our Paid Version of the Service will automatically renew at the end of the initial subscription term for subsequent renewal periods equal in length to the initial subscription term, unless:
 - 13.2.1 you cancel your subscription prior to the moment of renewal via the applicable cancellation procedure as made available within the Service, taking into account the applicable notification period, in which case the subscription will terminate upon the expiry of the remaining term;
 - 13.2.2 by lack of a cancellation procedure as meant in previous paragraph, you are entitled to cancel your subscription by written notice to us taking into account a notice period of at least fourteen (14) days before the moment of renewal, in which case the subscription will then terminate upon the expiry of the remaining term;
 - 13.2.3 we notify you in writing that the subscription will be terminated taking into account a notice period of at least five (5) days, in which case the subscription will then terminate upon the expiry of the remaining term.
- 13.3 You and we are both entitled to terminate subscriptions for the Free Version of our Service at any time (even in the interim), with immediate effect and without notice being required.
- 13.4 We shall provide you either with, on your request, a copy of the data submitted by you or generated by making use of the Service, or else with the opportunity within the Service to export the aforementioned data yourself. The scope of data available for export, the file format and durable medium on which the data is provided

shall be selected solely by us. It shall be solely your responsibility to obtain a copy of your data upon termination or before expiry of the Agreement.

- 13.5 Upon termination or expiry of the Agreement, all licenses granted by us shall immediately terminate and we shall be entitled to delete any of the data submitted by you or generated by making use of the Service as in our possession at the moment of termination or expiry.
- 13.6 Termination of the Agreement will in no case affect any amounts owed or payable to us by you under the Agreement. Furthermore, termination or expiry of the Agreement will in no case result in restitution of any amounts paid by you to us under the Agreement.
- 13.7 In the event that the Agreement is terminated, any amounts owed by you to us will become immediately due and payable, irrespective of the reason for the termination.

14 Amendments

- 14.1 We may amend these Terms at any time. We will announce changes to you in writing at least fourteen (14) days before the date they take effect, to enable you to take note of them. If you do not wish to accept the proposed changes, you may give written notice to terminate the Agreement until the effective date of the amended Terms. Use of the Service after the effective date shall constitute your acceptance of the amended Terms.

15 Miscellaneous

- 15.1 This Agreement is governed exclusively by Dutch law. Any dispute in connection with or arising from the Agreement will be submitted to the competent court in the Netherlands in the district where we are legally established.
- 15.2 Where in these Terms "written" or "in writing" is used, this also includes email communication and communication via the Service, provided that the identity of the sender and the integrity of the message can be adequately established.
- 15.3 The version of any communication of information as recorded by us will be deemed to be authentic unless you supply proof to the contrary.
- 15.4 You are not authorized to transfer and assign this Agreement or any of its rights and obligations arising therefrom to a third party without our written consent. We are authorized to transfer and assign this Agreement and all its rights and obligations arising therefrom to a third party that acquires the business operations to which this Agreement is subject.
- 15.5 The application of sections 227b (1), 227c and 271 et seq. of Book 6, and section 408 (1) of Book 7 of the Dutch Civil Code is excluded.