

Terms of Service

Welcome to BEAPWater! BEAPWater is a brand of BEAPCapital Limited (“**BEAPCapital**” “**we**” or “**us**”). By signing up for a BEAPWater Account or by using any BEAPWater Services (as defined below), you are agreeing to be bound by the following terms and conditions (the “**Terms of Service**”).

BEAPWater includes website, software as a service (“**SaaS**”) application, products, solutions, services, features, analysis, reports, and content that measure and report on water generation and consumption, energy generation and consumption or combined energy and water generation and consumption (the “**Services**”). The Services are designed to enable our customers (“**End User**”), distributors or partners (“**Business Partner**”) and suppliers (“**Vendor**”) to meet their respective obligations and needs and to monitor water and energy generation and usage, sales and/or purchase of energy generation systems and water generation systems where applicable (the “**Devices**”) provided by BEAPCapital: at End User premises through Business Partner; sold to or leased to Business Partners; and sold to and leased from Vendors.

The Services are intended to be used by End User, Business Partner and Vendor. A customer is someone that rents, leases or purchases and/or installs a Device and/or uses the Services (“**Customer**” or the “**End User**”). A partner is generally a distributor that resells, rent or leases the Services to the End User (“**Business Partner**”). Some Business Partner may install the Devices outdoor or indoor in customer residences or commercial buildings. A supplier is someone that leases or rents the Devices to BEAPCapital. The End User, Business Partner and Vendor are hereby collectively referred to as the “**Stakeholders**” and individually as the “**Stakeholder**”. These Terms place obligations on the Stakeholders with respect to their use of the Device(s) and/or the Services.

These Terms constitute a legally binding agreement between each Stakeholder who uses the Services (“**you**”), on the one hand, and BEAPCapital on the other hand. If you are a representative of each Stakeholder, you are hereby affirming that you are authorized to bind the Stakeholder to these Terms before proceeding. By creating or accessing an account, logging into the SaaS application and/or continuing to use the Services, you acknowledge that you have read and understood these Terms and that you agree to be bound by (and you agree to bind the Stakeholder to) all of these Terms. We specifically prohibit the use of our Services and/or Devices for any illegal or unauthorized purpose or for uses that violate any laws in your jurisdiction (including but not limited to copyright and privacy laws).

1. Acceptance of Terms

- (a) By registering for and/or using the Services, you hereby confirm your acceptance of and agreement to these Terms and all other operating policies that may be published from time to time within the Services by BEAPCapital, each of which is incorporated by reference and may be updated from time to time without notice to you.
- (b) As a consideration for your acceptance of these Terms and Conditions, we shall offer the Service on the terms designated, at the agreed fees.

2. Eligibility

- (a) Our Services are for use by persons who are at the age of eighteen (18) years or above.
- (b) You represent and warrant that you are at eighteen (18) years of age or above.

- (c) We may, in our sole discretion, cease to offer the Services to any person or entity and shall reserve the right to change eligibility criteria at any time.
- (d) You undertake to use the Device and Services in compliance with these Terms as well as all laws, rules and regulations applicable to the Devices and Services .

3. Privacy

- (a) For information about BEAPCapital's privacy and data protection practices, please read and sign the BEAPCapital's privacy policy contained in the Customer Privacy Notice ("**Customer Privacy Policy**") found at beapwater.org/legal.
- (b) The Customer Privacy Policy comprises our data collection, processing, protection and Security policies in relation to BEAPCapital Devices and Services and your information as our Customer.
- (c) You undertake that your use of any information obtained via the Services will not violate the Customer Privacy Policy.
- (d) As a Business Partner, you are liable and responsible for our own corporate privacy practices and the use by your own customers in respect of the Service.
- (e) You undertake that you shall not in any circumstances whatsoever use any information provided via the Services to SPAM, harass, embarrass or harm anyone.
- (f) You shall not sell any information you obtain via the Services and shall only use it as expressly permitted under these Terms.
- (g) You shall use all reasonable measures to secure and protect the information received by your use of the Devices and Services and shall at all times cooperate with BEAPCapital to ensure compliance with applicable privacy laws.

4. Intended Use

- (a) You undertake and agree not to allow any unauthorized third-party use or access to the SaaS application.
- (b) You undertake and agree to maintain the confidentiality of the usernames and passwords by which you access the Services via the SaaS application, including water generation and consumption information and / or energy generation and consumption information, you may access.
- (c) You shall respect and comply with applicable law regarding any information received via the Services, and shall only use such information for the "**Permitted Purpose**"
- (d) For the purpose of this Terms, 'Permitted Purpose' shall have the meaning as may be described by BBEAPCapital and shall include the following
 - i. water reading and water billing information provided via the SaaS application;

- ii. energy reading and energy billing information provided via the SaaS application:
- iii. contacting a Stakeholder for the purpose of securing, reporting, using or upgrading the Services:
- iv. Contacting Device's or residence's owner (or the owner's personnel in the case of a commercial building) to offer mitigation or remediation services in the event of an identified water or energy issue at the residence or commercial building where the Device(s) is installed in order to improve operational performance of the Device or service quality to the End User,
- v. scheduling and/or coordinating a service call to address an identified Device fault:
- vi. and making payment for the Services.

5. Account, Settings and Notifications

- a. Where applicable, you shall follow instructions to authenticate your account and this may include submitting your mobile number and/or email and entering the verification code that we send to you.
- b. Note that our ability to provide access to the SaaS application and/or Services to you may depend upon you authenticating your user account and associating your device with your account.
- c. You are responsible for all usage and activity on your account and for loss, theft or unauthorized disclosure of your account credentials.
- d. By using the SaaS application and Services, you opt-in, consent to and grant us the right to send you emails, text messages, app notifications and other forms of communications relating to your account, customer service inquiries, payment information, promotional opportunities and third-party notices.

6. Downtime and Suspensions

- (a) Your access to and use of the SaaS application and/or Services may be interrupted for the duration of any scheduled, unscheduled, or unanticipated downtime, suspension or other unavailability, for any reason and in our sole discretion, including but not limited to:
 - i. power outages, system failures or other interruptions:
 - ii. permitted maintenance or modifications to the SaaS application and/or Services:

- iii. denial of service, attack or other attack or any risk that in our discretion is perceived to be capable of affecting us, you, the Devices or Services, any of our users, customers, or licensees: and
 - iv. any Service that is prohibited by applicable law or otherwise is necessary or prudent to be suspended or interrupted for legal or regulatory reasons.
- (b) We shall have no and totally disclaim liability whatsoever for any damage, liabilities, losses (including any loss of data or profits), loss of reputation or goodwill, or any other consequences that you may incur as a result of any downtime, suspension or other unavailability of the SaaS application and/or Services.
- (c) We cannot and shall not be liable to always foresee or anticipate technical or other difficulties which may result in failure to obtain data or loss of data, settings or other service interruptions and do not assume responsibility for the timeliness, accuracy, deletion, non-delivery or failure to store any user data, communications or settings.

7. Termination

- (a) We reserve the right to cancel and/or terminate your user account and/or your access to all or any part of the SaaS application and/or Services for any violation of these Terms.
- (b) Fraudulent behavior, spamming, flaming, use of profanity or abusive language, on our Website, SaaS application, or in connection with your receipt of the Services, or while contacting any BEAPCapital personnel, is totally disallowed.
- (c) We reserve the right to terminate and cancel your access to all or any part of the SaaS application and/or Services at any time, with or without cause, with or without notice, effective immediately, and shall not be liable for any destruction or deletion of any part of or all the information associated with your use of the SaaS application and/or Services.
- (d) Upon termination of your user account, you shall not have access to the SaaS application and/or Services.
- (e) All provisions of these Terms which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

8. Proprietary Rights/License

- a) BEAPCapital solely owns and retains all intellectual property rights to the SaaS application and/or Services, including but not limited to design, artwork, technology, software, functionality, and documentation.

- b) You undertake not to and shall not directly or indirectly:
 - i. copy, modify, or reverse engineer any part of the SaaS application or Service:
 - ii. decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the SaaS application or Services
 - iii. modify, translate, or otherwise create derivative works of any part of the SaaS application or Services: and/or
 - iv. copy, rent, lease, distribute, or otherwise transfer any of the rights that you receive hereunder.
- c) You agree that you have and obtain no proprietary rights in our trademarks, service marks, trade names, URLs, copyrighted material, patents, and patent applications.
- d) The compilation of all Data included in or made available through the SaaS application, Services and/or Devices is and shall be and remain the exclusive property of BEAPCapital and by your use of the SaaS application and Services, you opt-in, consent to grant to us a perpetual and irrevocable assignment of all your data/information imputed in the SaaS Application and grant us the license to use the Data in the course of our business subject to applicable laws and regulations.
- e) We and our successors and assigns own all rights to all data collected via the SaaS application, Service and/or Device (collectively, the “**Data**”).
- f) BEAPCapital grants to you a non-exclusive, non-transferable, non-assignable license (without the right to sublicense or distribute) to install and use the Device, the SaaS application and Services.

9. Governing Law

These Terms and Conditions and any rights and obligations arising out of or in connection therewith shall be governed by and construed in accordance with the laws of the Federal Republic of Nigeria and any dispute arising therefrom shall be resolved in accordance therewith.

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10. Dispute Resolution

- (a) In the event of a dispute or difference between the parties in connection with or in relation to this Terms and Conditions or its performance, construction or interpretation, the party alleging the dispute shall give a written notice of the particulars of the Dispute (the Notice of Dispute) to the other party.
- (b) The parties shall make effort as soon as possible to resolve the dispute amicably, in good faith and with absolute fair play within 30 days of Notice of Dispute.

- (c) In the event that the Parties were unable to resolve the dispute with 30 days of the Notice of Dispute, the Dispute shall be referred to and resolved by arbitration to be conducted under the Arbitration and Conciliation Act, Chapter A19, Laws of the Federation of Nigeria, 2004 (the “**Act**”) by a single arbitrator to be appointed by the Parties or in default to be appointed by the President for the time being of the Chartered Institute of Arbitrators (UK) Nigeria Branch whose decision shall be binding and conclusive on the Parties hereto.
- (d) The notice of arbitration shall be served in accordance with the Act.
- (e) The place and seat of the arbitration shall be Lagos, Nigeria, and the language of the arbitral proceedings shall be English.
- (f) The Parties hereby agree that the commencement of arbitration as herein provided for shall not affect the payment of the Consideration under this Agreement.
- (g) Any claim or dispute or cause of action or Notice of Arbitration arising out of, related to or connected with these Terms and Condition or the use of the SaaS application and/or Services or with these Terms must be filed within one (1) year from the time the claim or Cause of action or dispute arose and shall be barred after the said one (1) year.
- (h) This arbitration agreement shall survive the termination of this Terms and Condition your relationship with us.
- (i) BEAPCapital shall be at liberty to seek injunctive relief and preservative orders of Court or any other provisional or remedial orders from courts of competent jurisdiction against you pending arbitration, particularly with respect to matters relating to its name, proprietary information, trade secrets, know-how, or any other intellectual property rights

11. WAIVER OF CLASS ACTION/ARBITRRATION

- (a) Class Action or Class Arbitration shall not be binding on BEAPCapital.
- (b) You undertake to waive and not to participate in a class action or class-wide arbitration or representative action for any claims covered by these Terms and Condition..

12. Warranty Disclaimer

- a) We make no representations concerning any Data contained in or accessed through any Device, the SaaS application and/or Services
- b) We are not be responsible or liable for the accuracy, copyright compliance, or legality of Data contained in or accessed through the Device, SaaS application and/or Services.
- c) THE SAAS APPLICATION AND SERVICES ARE PROVIDED "AS IS", "AS AVAILABLE" AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE.
- d) WE, INCLUDING OUR DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, PARTNERS AND PROVIDERS DO NOT WARRANT THAT: (I) THE SAAS APPLICATION AND SERVICES WILL BE SECURE OR AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; (II) ANY DEFECTS OR ERRORS WILL BE CORRECTED; (III) ANY CONTENT OR SOFTWARE AVAILABLE AT OR THROUGH THE SAAS APPLICATION AND SERVICES IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; OR (IV) THE RESULTS OF USING THE SAAS APPLICATION AND SERVICES WILL MEET YOUR REQUIREMENTS.
- e) YOUR USE OF THE SAAS APPLICATION AND SERVICES IS SOLELY AT YOUR OWN RISK. AND BEAPCAPITAL MAY AT ANY TIME AND AT ITS OWN DISCRETION, DISCONTINUE TO OFFER THE SERVICES WITH OR WITHOUT PRIOR NOTICE TO YOU AND IN SUCH CASE, YOU WILL NOT BE ENTITLED TO CLAIM ANY COMPENSATION, REIMBURSEMENT, DIRECT OR INDIRECT LOSSES, EXPENSES OR DAMAGES FROM BEAPCapital.

13. Limitation of Liability

- (a)** WE AND OUR DIRECTORS, SUPPLIERS AND LICENSORS WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY LOSSES, EXPENSES OR DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES (EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES), RESULTING FROM YOUR USE OF THE SAAS APPLICATION AND SERVICES.
- (b)** UNDER NO CIRCUMSTANCES WILL THE TOTAL LIABILITY OF US, OUR AFFILIATES, DIRECTORS, OUR SUPPLIERS AND LICENSORS OF ALL KINDS ARISING OUT OF OR RELATED TO YOUR USE OF THE SAAS APPLICATION AND SERVICES (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED ONE HUNDRED THOUSAND NAIRA (N100,000).
- (c)** BECAUSE SOME PLACES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

14. Indemnification,

You agree to defend, indemnify, and hold harmless us, our affiliates and each of our and their respective employees, contractors, directors, suppliers and representatives from all liabilities, claims, damages, judgments, awards, losses, costs and expenses, including reasonable attorneys' fees, that arise from or relate to your use or misuse of, or access to the Device, SaaS application and/or Services, or your violation of these Terms. We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will assist and cooperate with us in asserting any available defenses.

15. Miscellaneous.

a) Entire Agreement and Severability.

- i. These Terms are the entire agreement between you and us with respect to the SaaS application and/or Services and supersede all prior or contemporaneous communications and proposals (whether oral, written or electronic) between you and us with respect to the SaaS application and/or Services.
- ii. If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these Terms will otherwise remain in full force and effect and enforceable.
- iii. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.

b) Force Majeure.

- i. We shall not be liable for any loss suffered by you arising out of delay in or prevention of performance of our obligations on these Terms and Conditions due to any cause the adverse effects of which we could not and cannot reasonably and practicably avoid in the ordinary conduct of such our business such as a Force Majeure Event.
- ii. If our performance is delayed or prevented we shall immediately give you notice in writing.
- iii. If our performance is delayed by such a cause, we shall be entitled to a reasonable extension not less than sixty (60) days for performance and If performance is or will be delayed for longer than this period the performance shall be regarded as having been prevented.

c) Feedback. You agree that we may use your feedback, suggestions, or ideas in any way, including in future modifications of the Service, other products or services, advertising or marketing materials and you grant us an irrevocable and royalty free license to use the feedback you provide to us in any way.

d) Modification.

- i. We reserve the right, in our sole discretion, to modify or replace any of these Terms, or change, suspend, or discontinue the Services at any time by posting updates and/or changes to the Services or by sending you notice through the

Services, via email or by another appropriate means of electronic communication.

- ii. We may also impose limits on certain features and services or restrict your access to parts or all of the SaaS application and/or Services without notice or liability.
 - iii. You shall be responsible for reviewing and becoming familiar with any such modifications, including by checking these Terms periodically for changes.
 - iv. Your continued use of the Services following notification of any changes to these Terms constitutes acceptance of those changes
- e) **Assignment.** These Terms are personal to you, and are not assignable, transferable or sublicensable by you except with our prior written consent. We may assign, transfer or delegate any of our rights and obligations hereunder without your consent.
- f) **Agency.** No agency, partnership, joint venture, or employment relationship is created as a result of these Terms and neither party has any authority of any kind to bind the other in any respect.
- g) **No Waiver.** Our failure to enforce any part of these Terms shall not constitute a waiver of our right to later enforce that or any other part of these Terms. Waiver of compliance in any particular instance does not mean that we will waive compliance in the future. In order for any waiver of compliance with these Terms to be binding, we must provide you with written notice of such waiver through one of our authorized representatives.
- h) **Headings.** The section and paragraph headings in these Terms are for convenience only and shall not affect their interpretation.
- i) **Notices.** Unless otherwise specified in these Terms, all notices under these Terms will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or email; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service. Electronic notices should be sent to beapwater@beapcapital.org
- j) **Contact.** To contact BEAPCapital by mail you can address your letter to BEAPCapital Limited, **T-2, Third Floor, 32 A.E. Ekuinam St, Utako, Abuja, Nigeria**, Attn: Customer Engagement.