These Apollo GraphQL Terms of Service (these “Terms”) describe your rights and responsibilities as a customer of the non-enterprise Apollo Service (as defined below). For clarity, these Terms do not apply to Apollo's enterprise offering, which is governed by the separate Master Services Agreement or other written agreement. To upgrade or discuss Apollo’s enterprise offering, please click here.

These Terms are between you and Apollo Graph, Inc. (“Apollo”, “we” or “us”). “You” or “Customer” means the subscriber to the Apollo Service which has agreed to a Self-Service Order or, in the case of the use of a free version of the Apollo Service, by creating an account to access the Apollo Service. If you are accepting on behalf of your employer or another entity, you represent and warrant that: (i) you have full legal authority to bind your employer or such entity to these Terms; (ii) you have read and understand these Terms; and (iii) you agree to these Terms on behalf of the party that you represent. PLEASE NOTE THAT IF YOU SIGN UP FOR AN APOLLO SERVICE USING AN EMAIL ADDRESS FROM YOUR EMPLOYER OR ANOTHER ENTITY, THEN (A) YOU WILL BE DEEMED TO REPRESENT SUCH PARTY, (B) YOUR CLICK TO CREATE ACCOUNT WILL BIND YOUR EMPLOYER OR THAT ENTITY TO THESE TERMS, AND (C) THE WORD “YOU” OR “CUSTOMER” IN THESE TERMS WILL REFER TO YOUR EMPLOYER OR THAT ENTITY.

The "Effective Date" of this Agreement is the earlier date of Customer’s initial access to any Apollo Service through any online provisioning, any future purchases made through a Self-Service Order; and (b) does not have to be binding. You indicate your assent to these Terms by clicking “Create Account” or “I agree” (or similar button or checkbox) at the time you register for an Apollo Service, create an Apollo Service account, or place a Self-Service Order.

1. DEFINITIONS

“Agreement” means these Terms and, if applicable, a Self-Service Order.

“Apollo SDK/API” means any software development kit and application programming interfaces provided by Apollo as a mechanism for access to and utilization of the Apollo Service.

“Apollo Service” means Apollo’s software-as-a-service offering(s) identified in the applicable Self-Service Order or in the applicable Apollo Service interface.

“Apollo Technology” means the Apollo Service, Apollo SDK/API, Apollo Source Available Software (as defined below), Documentation, Service Data, and any and all related and underlying technology and documentation; and any derivative works, modifications, or improvements of any of the foregoing, including any Feedback that may be incorporated.

“Customer Data” means all data and information submitted by or on behalf of Customer into the Apollo Service, and any modifications made thereto in the course of the operation of the Apollo Service as provided to Apollo.

“Documentation” means Apollo’s then-current technical documentation, specifications, and user manuals for the Apollo Service, as made available by Apollo.

“Subscription Term” means, unless otherwise agreed by Apollo, a purchased, minimum twelve-month subscription access period to the Apollo Service (which may be invoiced monthly or annually).

“Self-Service Order” means Apollo’s online or written order form or account setup form or other registration or written agreement, as submitted by Customer and accepted by Apollo, that specifies the pricing and any commercial terms for the use of the Apollo Service (including by reference to Apollo’s standard pricing), and that references these Terms prior to such registration or submission.

“Use Limits” means any numerical limits on the units of measure referenced in the Apollo Service interface, on the Self-Service Order, or otherwise provided by Apollo, including but not limited to the number of authorized Users or certain traffic processed by the Apollo Service or any other Apollo Technology in use by Customer (whether procured under this Agreement, under an earlier agreement with Apollo, or as an open-source component).

“User” means an individual employee or agent of Customer who has been assigned unique credentials to access and use the Apollo Service, whether or not that individual is accessing or using the Apollo Service at any particular time.

2. APOLLO SERVICE

2.1. Authorization to Use. Subject to Customer’s compliance with the Agreement, including payment of all Fees due, Apollo will provide Users with access to and use of the Apollo Service which Customer has purchased and for which Customer pays, solely for Customer’s internal business purposes. The Apollo Service (and including all Apollo Technology used in combination) may be used only in accordance with the Documentation. Customer must establish one or more accounts for Users to use the Apollo Service and any applicable Apollo Technology. Customer must keep the registration information accurate and complete. Customer and its Users will access the Apollo Service and all applicable Apollo Technology using the login credentials and key(s) assigned by Apollo. Apollo may monitor the use of the Apollo Service and all applicable Apollo Technology to ensure quality, improve the Service and all Apollo offerings, and verify compliance with the Agreement. The use of the Apollo Service is further subject to any applicable Use Limits.

2.2. License to Downloadable Software; Source Available Software. Any downloadable software made available by Apollo, including any software elements of the Apollo SDK/API, is subject to the license terms accompanying such software. Customer further acknowledges that Apollo makes available certain software packages under the brand names "Apollo Federation" and "Apollo Source" (as hereafter rebranded by Apollo in its sole discretion) under the Elastic License ("Elastic License"). To the extent that Apollo uses and delivers the Source Available Software as part of the Apollo Service or otherwise in connection with the Service, such Source Available Software will be subject to the terms of this Agreement and not the Elastic License. The foregoing notwithstanding, Customer acknowledges that any violation of the conditions of the Elastic License for Apollo Source Available Software will be considered a material breach of this Agreement.

2.3. Restrictions. Customer may not: (a) copy, reproduce, modify, decompile, disassemble, or reverse engineer the Apollo Service or any associated or underlying software or materials (except to the extent that applicable law prohibits or restricts reverse engineering restrictions, in which case Customer must first notify Apollo); (b) sell, rent, lease, license, distribute, provide direct access to, sublicense, or otherwise make available the Service to any third parties (except as set forth in the Documentation for Service features expressly intended to enable Customer to provide third-parties with access to Customer Data); (c) provide any third parties with access to, or use the Apollo Service for, time sharing or similar purposes for the benefit of any third party, including without limitation by selling, renting, licensing or otherwise disclosing any elements of the Apollo Service; (d) remove any copyright or proprietary notices contained in the Apollo Service; (e) breach, disable or tamper with, or develop, use or attempt any workaround for, any security measure or monitoring system provided or used by Apollo.
Apollo in connection with the Apollo Service or any Apollo Technology; (f) access the Apollo Service via any automated system, web crawler or non-human user other than access through and as implemented in the applicable Apollo Technology; (g) introduce into the Apollo Service any software, virus, worm, "back door," Trojan Horse, or similar harmful code; (h) access or use (or permit a third party to access or use) the Apollo Service for any unlawful purpose or for purposes of monitoring the availability, performance or functionality of the Apollo Service or for any other benchmarking or competitive purposes or for the purpose of building a competitive product or service; or (i) interfere or attempt to interfere in any manner with the proper workings of the Apollo Service, or engage in any activities that adversely affect the functionality or performance of the Apollo Service. Customer agrees to use the Service in accordance with laws, rules and regulations directly applicable to Customer and the Customer Data. All rights in the Apollo Technology (including the Apollo Service) not expressly granted herein are reserved.

2.4. Third-Party Integrations. Apollo may offer Customers the option of sending data and information processed by the Apollo Service to, and receiving data and information to be processed for Customer by the Apollo Service from, analytics or other services provided by third parties ("Third-Party Integration Providers"). Such functionality may be subject to the payment of additional fees if not part of Apollo’s standard offering. Customer is solely responsible for establishing a contractual relationship with any such Third-Party Integration Providers and complying with the terms of such contractual relationship. Apollo shall not be responsible or liable for any loss, destruction, alteration, unauthorized disclosure or corruption of Customer Data or any other harm to Customer or any other party caused by any Third-Party Integration Providers, including without limitation, by Apollo’s integration with such Third-Party Integration Providers and the use of any data or information received from such Third-Party Integration Provider.

3. CUSTOMER OBLIGATIONS

3.1. Responsibilities in Using Apollo Service. Customer is responsible for: (a) maintaining the confidentiality of any User IDs, passwords and other credentials associated with its Apollo Service account; (b) all activities that occur with respect to Customer’s account; (c) Customer’s use of the Apollo Service and compliance with the Agreement; and (d) the Customer Data, and any other information Customer provides to Apollo through any mechanism. Customer is and shall remain liable for all actions and omissions of its Authorized Users hereunder or under any applicable separate agreement.

3.2. Compliance. Customer shall use the Apollo Service exclusively for proper and legal purposes. In connection with its use of the Apollo Service and all instructions to Apollo concerning the processing of data using Apollo Service, Customer will comply with all applicable laws, regulations, the rights of others, and all policies of and Customer agreements with the owner or operator of any platform with which Customer integrates (or requests that Apollo integrate) the Apollo Service. Customer shall not collect or process in the Apollo Service any data: (a) consisting of personal data or personal information under the General Data Protection Regulation (Regulation (EU) 2016/679), the California Consumer Privacy Act or any other applicable data privacy law; or (b) that is subject to heightened restrictions relating to the transmission or processing of data for the jurisdictions in which Apollo and Customer operate, such as (by way of example only) the Health Insurance Portability and Accountability Act, the Children’s Online Privacy Protection Act, and the standards promulgated by the PCI Security Standards Council. Without limiting the generality of the foregoing, Customer is prohibited from using the Apollo Service to collect or process transmit data that, if inadvertently disclosed, would trigger federal or state data breach notification laws (e.g., social security number, financial account access information, driver’s license number) Customer shall not use the Apollo Service to transmit any bulk unsolicited commercial communications.

3.3. Use Obligations. Customer shall not directly or indirectly, in connection with the use of the Apollo Service: (a) facilitate or promote illegal activity or distribute illegal content; or (b) infringe upon or violate any right of any third party, including, without limitation, any intellectual property, privacy, or publicity rights.

3.4. Suspension of Apollo Service. If Customer’s use of the Apollo Service is deemed by Apollo, in its sole discretion, to not meet the letter or spirit of the standards set forth in the Agreement, Apollo may request that Customer makes changes to bring its practices into compliance. If Customer fails to make the necessary changes immediately upon request, and without limiting any of the other remedies available to Apollo at law or in equity, Apollo is authorized to suspend Customer’s access to the Apollo Service. Customer agrees and acknowledges that Apollo shall have the right to monitor Customer’s use of the Apollo Service from time to time. Apollo reserves the right to immediately suspend, in whole or in part, Customer’s access to the Apollo Service and Apollo’s provision of the Apollo Service in order to prevent imminent harm to Apollo or a third party. For clarity, Apollo shall have no liability for any damages, liabilities or losses as a result of any suspension pursuant to this Section 3.4.

3.5. Use Limit Overages; Upgrade to Enterprise Plan. Notwithstanding anything to the contrary in Section 3.4, Apollo reserves the right to suspend Customer’s access to the Apollo Service, upon written notice (email sufficing) if Apollo deems such suspension necessary as a result of (a) substantial Use Limit overages or (b) Customer continuing to exceed Use Limits after receiving prior notice about such Use Limit overages. If Customer is, in Apollo’s reasonable discretion, unable or unlikely to cure such Use Limit overages, Apollo may require Customer to upgrade to Apollo’s enterprise offering. For clarity, Apollo shall have no liability for any damages, liabilities or losses as a result of any suspension pursuant to this Section 3.5.

4. DATA, CUSTOMER LICENSES, OWNERSHIP

4.1. Service Account Data. Customer’s Apollo Service account data (e.g., login ID, contact information, payment information) is subject to the Apollo Privacy Policy, currently located https://www.apollographql.com/privacy-policy, which Privacy Policy may be modified by Apollo from time to time.

4.2. Customer Data. Customer hereby grants to Apollo a royalty-free, worldwide, perpetual, irrevocable and fully transferable right and license to use both (a) internal Apollo Service analytic and log data regarding the processing of Customer Data and use of the Apollo Service, and (b) Customer Data solely in a de-identified, aggregated form (in which neither an individual person nor Customer can feasibly be identified), to improve the Apollo Service, including in connection with the improvement of user interface and experience, and the creation and development of analytical and statistical analysis tools related to collected data.

4.3. Treatment of Customer Data. Customer is ultimately responsible for making and keeping current copies of all Customer Data. Apollo will retain Customer Data subject to any time or storage limitations set forth in Apollo’s data retention policies and may delete or decline to store Customer Data older than the prescribed age for deletion, or in excess of the disclosed storage limitation. Apollo will use reasonable industry standard security procedures to prevent unauthorized disclosure of or access to the Customer Data, and will not disclose the Customer Data to any third party except (a) as directed by Customer, (b) if such disclosure is made by Apollo in response to a court order, subpoena or other legal process, and provided that Apollo has given Customer reasonable notice of such court order, subpoena or other legal process, (c) if such disclosure is made to Apollo’s service providers in order for such service providers to assist Apollo in the operation of the Apollo Service as provided to Customer, or (d) if such disclosure is in aggregate non-personally identifiable form.

4.4. Ownership; Feedback. Apollo agrees that as between Apollo and Customer, Customer will own the Customer Data. As between Apollo and Customer, the Apollo Service and all Apollo
Technology embodied in or used to provide the Apollo Service, including data and information that is not Customer Data, and all derivative products and intellectual property rights in or relating to any of the foregoing, is owned by Apollo and its licensors or suppliers. Customer may choose to submit comments, suggestions, enhancement requests, or recommendations (collectively, “Feedback”) about the Apollo Service or other Apollo offerings. Apollo shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate any Feedback into the Apollo Technology or other Apollo offerings.

5. CONFIDENTIALITY.

5.1. Confidential Information. For purposes of this Agreement, “Confidential Information” means all non-public information disclosed by Apollo to Customer, whether disclosed orally or in writing, that is designated confidential or should be reasonably known by Customer to be confidential given the nature of the information or the circumstances of the disclosure. For clarity, Confidential Information includes all Apollo Technology. Confidential Information does not include any information that: (i) was rightfully known to Customer prior to disclosure by Apollo without breach of any obligation owed to Apollo; (ii) is or becomes public knowledge without breach of any obligation owed to Apollo; (iii) is lawfully received from a third-party without breach of any obligation owed to Apollo; or (iv) is independently developed by Customer without use of or reference to Apollo’s Confidential Information.

5.2. Confidentiality Obligations. Customer will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to: (a) not use any of the Confidential Information for any purpose outside the scope of this Agreement; and (b) except as otherwise authorized by Apollo in writing, limit access to Confidential Information to those of its employees and contractors and advisors who need that access for purposes consistent with this Agreement and who are bound by confidentiality obligations to Customer containing protections not materially less protective of the Confidential Information than those herein. If Customer is required by law or court order to disclose Confidential Information, then Customer shall, to the extent legally permitted, provide Apollo with advance written notification and cooperate in any effort to obtain confidential treatment of the Confidential Information. Customer acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by Customer, Apollo will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

6. TERM AND TERMINATION

6.1. Term of Agreement. The Agreement will become effective on the Effective Date and will continue in full force and effect until terminated by either party as set forth herein.

6.2. Termination by Customer. Customer may terminate this Agreement at any time upon written notice to Apollo at support@apollographql.com or using the relevant Apollo Service interface (when such function is available). Except for Apollo’s material breach of the Agreement, if Customer terminates the Agreement pursuant to the prior sentence, Customer will promptly pay any outstanding fees through the original remainder of the Subscription Term.

6.3. Termination by Apollo. Apollo may terminate this Agreement at any time immediately upon written notice to Customer. Except for Customer’s material breach of the Agreement, if Apollo terminates the Agreement pursuant to the prior sentence, Apollo will refund that portion of any prepayments made to Apollo related to the Apollo Service not yet provided. For clarity, exceeding the Use Limits shall be considered a material breach of the Agreement. Nothing contained herein shall limit any other remedies that Apollo may have for Customer’s default under this Agreement nor relieve Customer of any of its obligations incurred prior to such termination.

6.4. Effects of Termination; Survival. Upon expiration or termination of the Agreement for any reason, Customer will immediately cease use of the Apollo Service, shall delete all User accounts, and shall return or destroy all Confidential Information. The following provisions will survive expiration or termination of the Agreement: Sections 2.3 (Restrictions), 4 (Data, Customer Licenses, Ownership), 5 (Confidentiality), 6.4 (Effects of Termination; Survival), 7 (Fees and Payment; Taxes; Payment Disputes) (to the extent of any payments due), 8 (Disclaimer), 9 (Indemnification; Limitation of Liability), and 11 (Miscellaneous).

7. FEES AND PAYMENT; TAXES; PAYMENT DISPUTES

7.1. Fees. In consideration for Apollo providing the Apollo Service, Customer shall pay to Apollo the corresponding fees set forth in the Self-Service Order. Fees may include additional fees based on any use of the Apollo Service beyond the Use Limits purchased, which may include use of additional User accounts, use overages beyond any applicable threshold, or use of optional feature or third-party integrations. Apollo may charge the fees for the use of the Apollo Service upon 30 days prior notice. Except as expressly stated in this Agreement, all payment obligations are non-cancellable, and Fees are non-refundable and payable in United States dollars.

7.2. Payment. Fees will be calculated and billed according to the Self-Service Order, typically monthly or annually in advance. Apollo’s preferred payment method is through a credit card. Other payment arrangements are subject to Apollo’s approval which approval may be granted, withheld or withdrawn at Apollo’s sole discretion. Customer’s credit card will be charged automatically for Customer’s use of the Apollo Service. Apollo uses a third-party payment processor (the “Payment Processor”) for credit card payments. Apollo’s current Payment Processor includes Braintree. The processing of payments will be subject to the terms, conditions and privacy policies of the Payment Processor in addition to this Agreement. Apollo is not responsible for errors made by the Payment Processor, or otherwise in connection with the processing of transactions. Overdue payments will accrue interest at the rate of 1.5% per month, but in no event greater than the highest rate of interest allowed by law. Late payments or nonpayment may result in suspension of Customer’s access to the Apollo Service, as determined by Apollo in its sole discretion.

7.3. Taxes. The fees are exclusive of taxes, duties, levies, tariffs, and other governmental charges (including, without limitation, VAT) (collectively, “Taxes”). Customer shall be responsible for payment of all Taxes and any related interest and/or penalties resulting from any payments made hereunder, other than Apollo’s U.S. federal and state income taxes.

8. DISCLAIMER

8.1. Disclaimer. The Apollo Service (and any Apollo Technology used in provision of the Service) is provided “as is” and “as available,” without warranty of any kind, whether express, implied, statutory or otherwise. To the maximum extent permitted by law, Apollo disclaims all warranties with respect to the Apollo Service (and any Apollo Technology used in provision of the Service), including without limitation any warranties of merchantability or fitness for a particular purpose.

9. INDEMNIFICATION; LIMITATION OF LIABILITY

9.1. Indemnification by Customer. Customer will indemnify, defend, and hold Apollo and its affiliates against any claims, demands, suits, or proceedings made or brought by a third party and all associated losses, liability, damages, costs or expenses (including without limitation reasonable attorneys’ fees) arising from or related to: (a) any Customer Data or the use of the Apollo Service by Customer or Users in violation of the Agreement, applicable laws, rules or regulations, or the Documentation, or (b) any dispute between Customer and any third-party.

9.2. Waiver of Certain Damages. To the maximum extent permitted by applicable law, Apollo shall
9.3. Liability Cap. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, APOLLO’S TOTAL LIABILITY FOR DAMAGES ARISING FROM OR RELATED TO THE AGREEMENT SHALL NOT EXCEED THE GREATER OF (A) $100 OR (B) THE AMOUNT OF FEES PAID BY CUSTOMER TO APOLLO UNDER THE AGREEMENT DURING THE 12 MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

10. NO SERVICE LEVEL COMMITMENTS – ENTERPRISE OFFERING ONLY. For clarity, no service level commitments shall apply under this Agreement and shall only be made available via Apollo’s enterprise offering.

11. MISCELLANEOUS

11.1. Assignment. Customer may not assign the Agreement without Apollo’s prior written consent. Any attempt to assign the Agreement except as permitted under this Section, will be null and of no effect. Subject to the foregoing, this Agreement will bind and inure to the benefit of each Party’s successors and permitted assigns.

11.2. Government End Users. The Apollo Service and related documentation are “Commercial Items”, as that term is defined at 48 C.F.R. §2.101, consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation”, as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

11.3. Force Majeure. Neither party shall be liable for any delay or failure in performance (other than nonpayment of amounts owing) due to causes beyond its reasonable control.

11.4. Export Compliance. Customer agrees to comply fully with all relevant export laws and regulations of the United States and other applicable jurisdictions to ensure that neither the Apollo Service, nor any direct product thereof, are: (a) exported or re-exported directly or indirectly in violation of such export laws and regulations; or (b) used for any purposes prohibited by the such export laws and regulations.

11.5. Severability. If any part of the Agreement is held to be unenforceable or invalid, in whole or in part, by a court of competent jurisdiction, the remaining provisions of the Agreement will remain in full force and effect, and the provision affected will be construed so as to be enforceable to the maximum extent permissible by law.

11.6. Waiver. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach of that or any other provision.

11.7. Notices. All notices permitted or required under the Agreement shall be in writing, will reference the Agreement, and shall be delivered in person, by overnight courier or express delivery service, or by first class, registered or certified mail, postage prepaid, or by confirmed email delivery, to the address of the party specified on the Self-Service Order or such other address as either party may specify in writing. Such notice shall be deemed to have been given upon receipt.

11.8. Governing Law. The Agreement will be governed by both the substantive and procedural laws of California, excluding its conflict of law rules and the United Nations Convention for the International Sale of Goods. Any legal action or proceeding arising under the Agreement will be brought exclusively in the federal or state courts located in the Northern District of California and the parties irrevocably consent to the personal jurisdiction and venue therein.

11.9. Revisions to Terms. Apollo may change these Terms and its policies from time to time. We may inform you of any such changes by posting the revised version(s) to our website at the same URL as the original version(s) (or directing you to a new URL) or providing notice to you by email or through the Apollo Service. Any such changes will take effect immediately or in accordance with the notice, as applicable.

11.10. Entire Agreement. This Agreement, including all Self-Service Orders, is the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all prior and contemporaneous agreements, proposals, or representations, written or oral, relating to the subject matter of this Agreement. Except as permitted in Section 11.9, no modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by each of the Parties. No terms or conditions stated in any Customer purchase order, vendor onboarding process or web portal, or any other Customer order documentation (excluding Self-Service Orders) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void, notwithstanding any language to the contrary therein, whether signed before or after this Agreement.