

# AWEbase TERMS of Use

Effective date: October 22nd, 2020. v. 1.01.

These terms of use (hereafter "TERMS") apply to your account with **AWEbase, Inc.**, a Delaware Corporation (hereafter "AWEBASE") and to the SERVICES, as later defined, and constitute a binding agreement between you and AWEBASE as of the effective date on which you first create an account, access, or use the SERVICES.

## 1.0 Acceptance

By agreeing to these TERMS, or by otherwise accessing or using our SERVICES, you accept these TERMS and agree to be a party to this binding agreement. If you do not agree, then you do not have the right to access or use the SERVICES.

You agree to these TERMS on behalf of the legal entity for which you are acting as an employee, agent, or contractor; or, if you do not represent a legal entity, then on behalf of yourself as an individual.

If acting on behalf of another legal entity (such as a company), you represent and warrant that you have the right and authority to act on behalf of and bind the legal entity to these TERMS. If you are acting on behalf of yourself, you represent and warrant that you are legally able to enter into and bind yourself to these TERMS.

Both you and the legal entity represented by you (if any) will herein be referred to aggregately as "USER".

## 2.0 Other Agreements

One or more written agreements between USER and AWEBASE may exist that supplement or amend these TERMS. If there is a conflict between another such written agreement and the TERMS, the sections of the other written agreement will take precedence in relation to its subject matter.

## 3.0 Services

AWEBASE is an online platform that provides its users with a selection of online tools accessible through select web browsers. Such tools and functionality may include, but are not limited to, contractor recruitment, product release management, project and workflow management, deliverables review, e-signature solutions, database tracking, organizational delegation, and related data storage (hereafter, in aggregate, the "SERVICES").

Users of the SERVICES also have access to the documentation and support material found on the [www.AWEBASE.com](http://www.AWEBASE.com) website (subject to the websites Terms of Use and Privacy Policy).

AWEBASE offers two types of access to the SERVICES:

- i) **Organization Access** is available by subscription fee. Organization Access to the SERVICES is limited to the individual function (i.e. modules) selected by each subscribing organization as part of the subscription sign-up process.
- ii) **Contributor Access** is available at no charge. Contributor Access to the SERVICES is intended for contributors to communicate and interact with

subscribing organizations in the context of select SERVICES. Access is limited to such parts of the SERVICES as determined by AWEBASE (an example being the “Freelancer” module of the SERVICES).

These TERMS apply universally to the USER regardless of access type, except where indicated.

The SERVICES may change from time-to-time with or without notice. All new features introduced to the SERVICES are subject to these TERMS.

## 4.0 Account

### 4.1 Account Responsibilities

A USER with Organization Access may, subject to additional subscription fees, enable one or more other persons to access USER’s organization account (hereafter “STAFF USERS”) hereby granting such persons access to the subscribed SERVICES and USER CONTENT, as later defined.

The USER is responsible for compliance of the TERMS by anyone who obtains, accesses to or uses the SERVICES through USER’s AWEBASE organization account, including STAFF USERS (if any).

In certain cases, STAFF USERS may be required to set up individual accounts or otherwise agree to applicable terms in order to obtain access to the SERVICES. This does not affect USER’s responsibility for STAFF USERS.

The USER is responsible for the security of USER’s account and all activity associated with USER’s account. As such, USER will ensure that only USER and STAFF USERS (if any) use the SERVICES and will secure and will not share user IDs or passwords (except with authorized account administrators).

The USER must ensure that all of USER’s account information (including that of STAFF USERS, if any) is, and continues to be, true and complete.

### 4.2 Account Subscription

*This section applies only if USER has Organization Access.*

The price of the SERVICES are published on [www.AWEBASE.com](http://www.AWEBASE.com) at the time of purchase, and are detailed on the confirmation statement made available by email to USER at the time of purchase or renewal.

The term of the subscription will commence on the date the subscription is purchased and shall continue for the subscription term selected by USER, and any renewal thereof, until terminated.

Additions of modules, STAFF USERS, or service level upgrades to USER’s subscription, will be charged to USER on a pro-rated basis equal to the fraction remaining of USER’s current subscription term (calculated on a daily basis).

The USER’s subscription will automatically renew at the end of each subscription term. Therefore, the USER acknowledges and agrees that:

**AWEBASE MAY AUTOMATICALLY RENEW USER’S SUBSCRIPTION AND CHARGE USER’S ACCOUNT ON THE LAST DAY (THE “SUBSCRIPTION DATE”) OF USER’S**

EXISTING SUBSCRIPTION TERM, UNLESS USER CANCELS THE SUBSCRIPTION PRIOR TO THE SUBSCRIPTION DATE.

THE RENEWAL PRICE WILL BE THE CURRENT RATE IN EFFECT AT THE TIME OF RENEWAL. USER WILL RECEIVE A NOTICE PRIOR TO RENEWAL OF ANY CHANGES IN SUBSCRIPTION PRICE.

To cancel automatic renewal, USER must notify AWEBASE by email at [cancellations@AWEBASE.com](mailto:cancellations@AWEBASE.com) or by following any other official directions that may be found on [www.AWEBASE.com](http://www.AWEBASE.com) or elsewhere in the SERVICES.

AWEBASE will provide the SERVICES to USER for the period of USER's subscription term, subject to these TERMS, USER's compliance with these TERMS, and USER's payment obligations. USER may access and use the SERVICES solely (i) in accordance with these TERMS, (ii) for USER's internal business purposes, and (iii) within the scope of USER's subscription, including the permitted number of users, modules, territory, and other attributes specified for the type and level that USER selected when subscribing to the SERVICES.

AWEBASE will make the SERVICES available to USER consistent with the manner in which AWEBASE makes such Web Services generally commercially available to users with the same subscription as USER (including level, modules, geography and other attributes).

For avoidance of doubt, all subscriptions are subject to these TERMS.

#### 4.3 Usage Fees

*This section applies only if USER has Organization Access.*

USER's data storage limits are contingent on USER's subscription service level plus additional capacity optionally purchased by USER from AWEBASE. Information related to USER's data storage, as well as USER's current limits, is located in the administrative section of the SERVICES, updated daily.

Modules providing additional storage and bandwidth capacity is published on [www.AWEBASE.com](http://www.AWEBASE.com) and are subject to change.

**USER HEREBY ACKNOWLEDGES THAT DATA STORAGE AND BANDWIDTH LIMITATIONS EXIST AND ARE VARIABLE BY ACCOUNT SERVICE LEVEL AND USER-INITIATED MODULE PURCHASES.**

#### 4.4 Charge Method

*This section applies only if USER has Organization Access.*

Subscription costs and usage fees will automatically be charged by the method of payment set in USER's AWEBASE administrative panel, which USER agrees to keep current.

#### 4.5 No Refund

Subscriptions and fees will not be prorated upon cancellation or termination. All charges paid through the date of cancellation or termination are nonrefundable.

### 5.0 USER Ownership to USER CONTENT

USER retains all right, title and interest in and to the legally protectable elements of the USER CONTENT, as later defined.

Solely for the purposes of providing the SERVICES to USER, USER grants AWEBASE a worldwide, limited, non-exclusive, royalty-free license to process, host, copy, transmit, display, modify, adapt, distribute, reproduce, use, and sublicense the USER CONTENT, in any and all media or distribution methods (whether now known or later developed).

### 6.0 Privacy

AWEBASE's [Privacy Policy](http://www.AWEBASE.com), found on [www.AWEBASE.com](http://www.AWEBASE.com), describes how AWEBASE may collect, use, store, and process personal information of or relating to USER.

USER HEREBY ACKNOWLEDGES THAT USER HAS READ AND UNDERSTANDS THE PRIVACY POLICY.

### 7.0 Access to and Use of AWEBASE

#### 7.1 General

USER will be required to log into USER's account via the internet to activate, access or use (or to continue accessing or using) the SERVICES. By doing so, USER agrees to the Terms of Service for the website in addition to these TERMS. Only USER, including STAFF USERS, may access or use the SERVICES. Access to and use of all SERVICES is contingent on (among other things) USER's timely payment of all applicable amounts with respect to the SERVICES, and compliance with these TERMS.

AWEBASE does not include access to the internet or any other network or to any communications services or any hardware necessary for accessing or using the SERVICES. USER, USER's suppliers and service providers are responsible for acquiring all such items and for their reliability, security and performance.

#### 7.2 AWEBASE API

Select subscription levels may have access to AWEBASE's applications programming interfaces and similar for the SERVICES (collectively, "APIs").

For any APIs made available to USER, subject to compliance with these TERMS and all payment obligations, AWEBASE grants USER the right to use such APIs only (i) in conjunction with and for USER's own internal use, and (ii) in accordance with any documentation provided by AWEBASE for the APIs.

All APIs are confidential and proprietary to AWEBASE and may not be distributed or disclosed to any third party or used for any purpose other than as permitted by the provided API documentation or these TERMS (and any such other use is unauthorized).

USER may develop applications, processes, reporting, or software components

using all or any portion of the APIs with third-party software, provided that such use is exclusively for USER's internal use.

### 7.3 Excessive Bandwidth Use

USER's operation of the SERVICES is subject to bandwidth limitations (i.e. limitations to USER's download traffic as part of the SERVICES). Use of the SERVICES is considered excessive when USER's monthly download activity consistently exceeds 50% of USER's "Active Storage" ceiling (hereafter "Excessive Bandwidth Use").

AWEbase, at its sole discretion, may determine whether instances of Excessive Bandwidth Use violates these TERMS. AWEbase may, but is not required to, inform USER of its Excessive Bandwidth Use and seek to remedy the issue prior to terminating USER's access to the SERVICES.

## 8.0 Use of Content

- 8.1 In order for USER to access or use certain SERVICES, or for AWEbase to provide USER with certain services, USER may wish to enter or upload data and files (herein "USER CONTENT").

AWEbase personnel will not view or use USER CONTENT except (i) at USER's request or with USER's consent—for example, when providing USER support, or addressing a technical issue or other request; (ii) in connection with providing and improving SERVICES (including maintaining, securing, updating, or otherwise modifying SERVICES); (iii) in connection with legal-related obligations, enforcement, investigations, or proceedings.

Generally, AWEbase does not screen or review content entered or uploaded to the SERVICES by USER. Notwithstanding the foregoing, AWEbase reserves the right to screen and review USER CONTENT, and may block or remove content for any reason, including because it is not in compliance with these TERMS (for example, illegal, offensive, or phishing-related postings or spam).

USER authorizes AWEbase and its designees to use, reproduce, modify, distribute and make available USER CONTENT **solely** in connection with providing USER with the SERVICES and allowing AWEbase to fulfill its obligations, provide customer support, provide maintenance, and as otherwise permitted by these TERMS.

- 8.2 USER (a) is responsible for all USER CONTENT and for ensuring that USER CONTENT comply with all applicable laws and regulations and these TERMS, and (b) warrant that USER CONTENT will not infringe or misappropriate any intellectual property or proprietary rights of any person or violate any applicable laws or regulations.
- 8.3 USER acknowledges that online services may suffer occasional disruptions or outages, and USER may not be able to retrieve USER CONTENT as a result.

AWEbase recommends that USER regularly backup USER CONTENT to USER's own storage. USER is at all times responsible for storing and maintaining any such backup copies of USER CONTENT.

- 8.4 Select SERVICES permit USER to collaborate with others, including sharing USER CONTENT or publishing USER CONTENT—for example, to another organization,

contractor, or contributor also using the SERVICES. If USER chooses to share some or all of USER CONTENT (whether by collaboration on or sharing files within AWEBASE, emailing, sharing a link, sharing files with other applications or services, posting in a portfolio, gallery, or similar), any later suspension or termination of sharing access will not delete or inhibit access to any of USER CONTENT that was earlier copied, transferred or otherwise shared or published by others. If USER does not want others to have any such access or any of those rights, do not use the sharing, publishing, or other collaboration features of the SERVICES.

USER is responsible for ensuring the appropriate level of access to USER CONTENT. If USER authorizes any USER CONTENT to be shared with any STAFF USER or third party, AWEBASE will have no responsibility or liability for the actions of such parties, and all governing terms and conditions, including those regarding privacy, shall be between USER and parties.

## **9.0 Use at no Charge**

AWEBASE may make available or deliver the SERVICES, or select portions thereof, as “free,” “evaluation,” “trial,” “beta,” or another similar designation (collectively, “FREE USE”). USER may access the FREE USE only during the period expressly permitted by AWEBASE.

Notwithstanding anything contained in these TERMS or otherwise, (a) AWEBASE makes no commitments with respect to FREE USE of the SERVICES regarding any features, functions, service levels or data and provides no warranties of any kind.

Subscriptions to FREE USE do not include any stated or implied benefits, and AWEBASE reserves the right, without any further notice, to end FREE USE access to the SERVICES at any time.

## **10.0 Websites**

Separate from the SERVICES, AWEBASE may provide information on its website at [www.AWEBASE.com](http://www.AWEBASE.com). USER agrees to use this website in accordance with the terms of use posted there.

## **11.0 Feedback**

USER has no obligation to provide AWEBASE with ideas for improvement, suggestions, or other feedback (collectively, “FEEDBACK”), whether in connection with FREE USE access or otherwise. If, however, USER provides any FEEDBACK, USER hereby grant to AWEBASE a non-exclusive, transferable, irrevocable, worldwide, royalty-free license (with rights to sublicense) to make, use, sell, offer to sell, reproduce, modify, distribute, make available, publicly display and perform, disclose and otherwise exploit the FEEDBACK and any products or services using the FEEDBACK.

## **12.0 Limitations on Use**

### **12.1 General**

The SERVICES are made available only to assist USER with USER's professional activities and are not a substitute for USER's professional judgment or USER's independent design, analysis, simulation, estimation, or other activities, including those with respect to safety and compliance with laws. The SERVICES have not been designed or tested for any specific uses, and it is USER's responsibility to

determine whether use of the SERVICES is appropriate for USER's purposes.

USER is responsible for USER's (including STAFF USERS') use of the SERVICES and any results produced by the SERVICES. USER's responsibilities include, without limitation, the determination of appropriate uses for the SERVICES.

USER ACKNOWLEDGES THAT THE SERVICES MAY NOT ACHIEVE THE RESULTS USER DESIRES.

## 12.2 Storage of Personal Information

The data storage associated with the SERVICES is not suitable for the storage of Social Security numbers, credit or debit card numbers, financial account numbers, driver's license numbers, medical information or health insurance information; or other personal information, such as race or ethnic origin, religion or philosophical beliefs, political affiliation or opinions, genetic or biometric data, sexual orientation or trade union membership; or other information that may expose, or pose a risk of harm to, an individual if improperly disclosed.

Except as expressly required by AWEBASE (for example, a credit card number used to purchase a subscription), or to the minimum extent necessary for USER to utilize the SERVICES internally (such as information used in a contract between USER and a third party), USER will not upload or otherwise make available to AWEBASE any Sensitive Personal Information, including any files containing Sensitive Personal Information, in connection with USER's use of the SERVICES.

## 12.3 Prohibited Use

Except as expressly authorized by these TERMS, or as otherwise expressly permitted in writing by AWEBASE, USER hereby agrees to not:

- i) Access or attempt to access the SERVICES by any means other than the interface or APIs that AWEBASE provides or authorizes;
- ii) Reproduce, modify, adapt, translate, port, or create derivative works of all or any portion of the SERVICES, except as expressly permitted by applicable law;
- iii) Sublicense, transmit, sell, lease, rent, loan, or otherwise grant access available to the SERVICES, other than to STAFF USERS;
- iv) Remove any copyright, trademark, confidentiality, or other proprietary rights notice from any of the SERVICES, documentation, or related material;
- v) Remove, disable, or otherwise limit the effectiveness of any technical protection used by AWEBASE to manage, monitor, control, or analyze, use or access to the SERVICES;
- vi) Enter, post, upload, or transmit data using the SERVICES that is:
  - (a) false, libelous, defamatory, fraudulent, or otherwise unlawful or tortious;
  - (b) threatening, harassing, degrading, hateful, or intimidating, or that otherwise fail to respect the rights and dignity of others;
  - (c) obscene, indecent, or pornographic;

- (d) protected by copyright, trademark, design rights, trade secret rights, right of publicity or privacy, or any other proprietary right, without the express prior written consent of the applicable owner;
  - (e) a national or state secret, classified information or any other information or material (including any photograph, drawing, plan or model) that is subject to official confidentiality treatment;
  - (f) advertising or spam.
- vii) Use any malware or other computer code, file, or program that is potentially harmful or invasive or intended to damage, hack, or hijack the operation of, limit the use of, or monitor the SERVICES or the activity of AWEBASE or its suppliers;
  - viii) Interfere with or disrupt the operation of the servers or networks used by the SERVICES;
  - ix) Seek to circumvent any security or authentication measure;
  - x) Misrepresent USER's affiliation with any person or entity;
  - xi) Collect content from the SERVICES using automated means (such as any robot, spider, "data scrape," or similar);
  - xii) Engage any automated script, code, "bot", or mechanical device to enter, upload, or transmit data to, or through, the SERVICES;
  - xiii) Impose an unreasonable or disproportionate load on the infrastructure of the SERVICES.

Further, if USER has Organization Access (i.e. is a subscriber) to the SERVICES, then USER, including the USER STAFF, may not facilitate, encourage, or direct any of USER's employees, affiliates, representatives, or agents in using Contributor Access accounts to the SERVICES in order to circumvent paid use of the SERVICES by USER.

## 13.0 Confidentiality

### 13.1 General

Whereas AWEBASE and USER, in context of the SERVICES may gain access to information and trade secrets related to the business of the other party that is confidential and proprietary (hereinafter "CONFIDENTIAL INFORMATION");

AWEBASE will, and USER agrees to, not to use any CONFIDENTIAL INFORMATION of the other party in any way, or to manufacture or test any product embodying CONFIDENTIAL INFORMATION, except for the purpose of (on AWEBASE's part) provide the SERVICES, and (on USER's part) to use the SERVICES.

Both parties will use their best efforts to prevent the CONFIDENTIAL INFORMATION, or any part thereof, from being revealed or disclosed to any person other than those of their respective employees, advisors, or suppliers, if any, and then only as needed in connection with the SERVICES. AWEBASE and USER will take all steps reasonably necessary to protect the secrecy of the CONFIDENTIAL INFORMATION, and to prevent the CONFIDENTIAL INFORMATION from falling into the public domain or into the possession of

unauthorized persons.

### 13.2 Limits on CONFIDENTIAL INFORMATION

CONFIDENTIAL INFORMATION shall not be deemed proprietary and neither AWEbase nor USER shall have any obligation with respect to such information where it:

- i) Was known to the receiving party prior to receiving the CONFIDENTIAL INFORMATION;
- ii) has become publicly known through no wrongful act of the receiving party;
- iii) was received, without breach of these TERMS, from a third party without restriction as to the use and disclosure of the information;
- iv) was independently developed by the receiving party without use of the CONFIDENTIAL INFORMATION; or,
- v) was ordered to be publicly released by the requirement of a government agency.

### 13.3 Ownership of CONFIDENTIAL INFORMATION

AWEbase and USER agrees that all CONFIDENTIAL INFORMATION shall remain the property of its respective owner. Nothing contained herein shall be construed as granting or implying any transfer of rights to the other party in the CONFIDENTIAL INFORMATION, or any patents or other intellectual property protecting or relating to the CONFIDENTIAL INFORMATION.

### 13.4 Subpoenas

Either party may disclose CONFIDENTIAL INFORMATION in accordance with judicial or other governmental orders, provided the disclosing party give the affected party reasonable notice prior to such disclosure, and where the disclosing party shall comply with any applicable protective order or equivalent issued on behalf of the affected party.

## 14.0 AWEbase's Proprietary Rights

USER acknowledges and agrees that AWEbase and its suppliers have ownership of, and all rights with respect to, the SERVICES, the related documentation, APIs, and other material made available by AWEbase to USER, unless specified otherwise in writing and where separate from the USER CONTENT.

USER has only such rights in the SERVICES as expressly granted in these TERMS. All rights not expressly granted are reserved by AWEbase and its suppliers.

USER agrees not to take any action, or to authorize or encourage any third party to take any action (or cooperate with any third party in taking any action) inconsistent with the foregoing.

## 15.0 Limited Warranty

Subject to other sections of these TERMS, AWEbase warrants that, for any paid subscription by USER, that the SERVICES will provide the general features and functions described on [www.AWEbase.com](http://www.AWEbase.com) and in the related documentation of the SERVICES. AWEbase's entire obligation and liability, and USER's sole and exclusive remedy, for AWEbase's breach of this warranty will be for AWEbase, at its option, (i) to attempt reasonably to remedy the breach or (ii) to refund amounts received for the affected subscription and terminate such subscription.

## 16.0 Disclaimers

EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 15.0 HEREOF, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED “AS IS,” AND AWEBASE MAKES, AND USER RECEIVES, NO WARRANTIES, REPRESENTATIONS, CONDITIONS OR COMMITMENTS OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY OF THE SERVICES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR NON INFRINGEMENT OR OTHER WARRANTIES OR CONDITIONS IMPLIED BY STATUTE.

AWEBASE DOES NOT WARRANT OR OTHERWISE COMMIT THAT (A) THE SERVICES , OR ACCESS TO THE SERVICES, WILL BE AVAILABLE, UNINTERRUPTED, ERROR-FREE, SECURE, ACCURATE, RELIABLE OR COMPLETE, (B) THE SERVICES WILL MEET ANY PARTICULAR PERFORMANCE OR AVAILABILITY CRITERIA, (C) USER CONTENT WILL NOT BE LOST OR DAMAGED OR (D) ERRORS WILL BE CORRECTED OR ANY PARTICULAR SUPPORT REQUESTS WILL BE RESOLVED TO MEET USER’S NEEDS.

Any reference to “unlimited” access, use, storage or otherwise with respect to the SERVICES are subject to the technical limitations of the SERVICES.

## 17.0 E-Signature and Contracts

The SERVICES may include tools for USER to generate, transmit, and sign legal documents, and for USER-designated third-party recipients (with Contributor Access to the SERVICES) to countersign legal documents electronically. AWEBASE is not responsible for authenticating any signature generated using the SERVICES. The SERVICES are provided solely to facilitate the electronic execution of documents between USERS.

**USER, INCLUDING STAFF USERS, HEREBY AGREE TO USE AND BE BOUND BY ELECTRONIC SIGNATURES IN CONNECTION WITH THE SERVICES.**

Nothing in these TERMS shall be construed to make AWEBASE a signatory to any document processed through this portion of the Services, and AWEBASE makes no representation or warranty regarding the transactions sought to be enforced by any electronically signed document.

Certain agreements may not be signed electronically pursuant to applicable law, including without limitation wills and other testamentary documents, and electronic signatures may be subject to specific regulations promulgated by various governmental agencies regarding electronic signatures and electronic records. AWEBASE is not responsible for nor shall it be liable for determining whether a particular document is subject to an exception to laws providing the validity of electronic signatures, or whether such agreement can legally be formed by electronic signatures.

AWEBASE is not responsible for determining the length of storage or record retention applicable to any document electronically signed through the Services under any applicable law, rule, or regulation, and AWEBASE shall have no obligation to produce any USER documents to any third parties absent an applicable Court Order.

Special requirements regarding electronic transactions may be imposed by one or more applicable laws or regulations, including without limitation requirements that a USER consent to the method of contracting and/or that the USER be provided with a copy of, or access to a copy of, a paper or other non-electronic written record. By using the SERVICES, each USER consents to use electronic signatures to the extent permitted by applicable law. AWEBASE is not responsible for determining whether a particular transaction requires any further consents or if any such consent has been withdrawn, or for providing any copies of, or access to, any electronically signed documents, except as expressly provided in the SERVICES.

AWEBASE does not provide legal assistance or advice. AWEBASE does not warrant the validity, applicability, or enforceability of any legal templates provided with the SERVICES and does not review the legal accuracy or sufficiency of any contracts created by USER with the SERVICES. The SERVICES are a tool, not a substitute for qualified legal advice in the relevant jurisdictions.

## **18.0 Limitations of Liability**

Neither AWEBASE nor any of its suppliers will have any liability (directly or indirectly) for any incidental, special, indirect, consequential, or punitive damages; loss of profits or revenue; business interruption or loss of use; cost of procurement of substitute goods or services or other cover; failure of or defects; loss, corruption or deletion of (or failure to delete) the USER CONTENT; or damages resulting from a FORCE MAJEURE, as later defined.

In addition, the aggregate liability of AWEBASE and its suppliers with respect to the SERVICES will in no event exceed the amount paid or payable by USER for the SERVICES in the one-year period before the events or circumstances giving rise to the liability.

The limitations on liability in these TERMS will apply to the maximum extent permitted by applicable law to any damages or other liability, however caused and regardless of the theory of liability, whether based on contract, tort (including negligence and strict liability), indemnification, recourse, statute or otherwise.

USER acknowledges that the amounts payable for the SERVICES are based in part on and reflective of the disclaimers of warranties and limitations on liability in these TERMS and that such disclaimers and limitations are an essential element of the bargain between USER and AWEBASE.

Nothing in these TERMS purports to restrict or exclude AWEBASE's liability for (i) death or personal injury caused by AWEBASE's willful intent or gross negligence or (ii) USER's damages or losses caused by AWEBASE's fraud.

## **19.0 Indemnification**

USER will indemnify and hold harmless (and, at AWEBASE's request, defend) AWEBASE against any and all losses, liabilities, expenses (including reasonable attorneys' fees) suffered or incurred by AWEBASE by reason of any claim, suit, or proceeding arising out of or relating to (i) USER CONTENT; (ii) USER's (including USER STAFFS') use of SERVICES, and (iii) USER's (including USER STAFFS') breach of these TERMS, the website Terms of Service, or the Privacy Policy.

## **20.0 AWEBASE's right to terminate**

AWEBASE may terminate USER's or any individual STAFF USER's account with respect to the SERVICES, or may terminate any subscription, if (i) USER has no current paid subscriptions; (ii) USER has failed to timely pay any amounts owed with respect to the SERVICES or otherwise owed to AWEBASE; or (iii) USER, or a STAFF USER, is in breach of these TERMS.

### **20.1 Termination of FREE USE.**

AWEBASE may terminate access to any FREE USE of the SERVICES at any time, and correspondingly may delete any USER CONTENT resulting from the FREE USE access.

Without prejudice to the foregoing, it is AWEBASE's policy to terminate any FREE

USE account that has been inactive (e.g. has not accessed the SERVICES via a login) for 180 days.

## 20.2 Suspension

Rather than termination, AWEBASE may elect to suspend a subscription if it suspects that USER, or USER STAFF, is in violation of these TERMS. AWEBASE will in this case contact USER to seek any necessary remedy or verification, as determined at AWEBASE's sole discretion, to either i) terminate the subscription and related accounts, or ii) remove the suspension.

## 21.0 Effect of termination

### 21.1 Effects

Upon expiration or termination of a subscription:

- i) USER's, and STAFF USERS', access to its AWEBASE account and the SERVICES, will immediately terminate.
- ii) USER, and STAFF USERS will cease all access to the SERVICES.
- iii) All outstanding balances and obligations owed by USER to AWEBASE shall become immediately due.

Upon expiration or termination, as a convenience to USER, AWEBASE may, at its sole discretion, provide USER with a brief period (for example, 30 days) in which USER may retrieve USER CONTENT. In connection with such access, or other requested assistance by USER, AWEBASE may charge its then-current professional services fees for any assistance it provides, as detailed on [www.AWEBASE.com](http://www.AWEBASE.com), or as otherwise quoted to USER from AWEBASE.

This does not relieve USER of responsibility for retaining and securing complete backup copies of USER CONTENT at all times.

Notwithstanding the above, AWEBASE may delete, without notice, any or all of USER CONTENT upon expiration or termination of a subscription.

## 22.0 Changes to the SERVICES

AWEBASE reserves the right to, and USER acknowledges that AWEBASE may at any time:

- i) modify, update, or discontinue all or part of the SERVICES
- ii) modify or discontinue features, functionality, or supporting services with respect to the SERVICES
- iii) To the maximum extent permitted by applicable law, modify these TERMS.

Notwithstanding the forgoing, modifications to other documents or website information noted herein (such as, but not limited to the AWEBASE Privacy Policy, subscription levels, pricing, and [www.AWEBASE.com](http://www.AWEBASE.com) website terms of use) will be handled as described in their respective documents or locations.

## 23.0 Interpretation

The English language version of these TERMS will be the version used when interpreting or construing these TERMS, and any notices or other communications in connection with these TERMS will be provided in the English language. Any rights and remedies provided for in these TERMS are cumulative and are in addition to, and not in lieu of, any other rights and remedies

available under applicable law.

## 24.0 Mandatory Arbitration; Waiver of Class Actions

THE FOLLOWING SECTION AFFECTS YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT. PLEASE REVIEW THIS SECTION CAREFULLY.

- 24.1 You agree these TERMS affect Interstate commerce and as such, the Federal Arbitration Act governs the interpretation and enforcement of these arbitration provisions. This Section 24 is intended to be interpreted broadly, and governs any and all disputes between you and us, including but not limited to claims arising out of or relating to any aspects of the relationship between us, the provision of SERVICES, or your use of the SERVICES, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory. This Section 24 applies to all claims whether they arose prior to these TERMS or after termination. The only exceptions are litigation of certain Intellectual property claims as expressly provided herein.
- 24.2 **Initial Dispute Resolution.** Our hope is that most disputes can be resolved informally, and without resort to arbitration. If you have a dispute, or a potential dispute, you agree to contact us at [legal@AWEbase.com](mailto:legal@AWEbase.com) and provide a written description of the dispute and your contact information. Except for disputes regarding Intellectual Property, you and AWEbase agree to use commercially reasonable efforts to settle or otherwise resolve any dispute, claim, question, or disagreement directly. Good faith negotiations shall be a condition to either party initiating a lawsuit or arbitration.
- 24.3 **Binding Arbitration.** If, after good faith negotiations, we cannot reach a mutually agreeable resolution, then either party may initiate binding arbitration as the sole means to resolve claims (except as provided for herein) subject to these Terms and as set forth in the Section 24. All claims arising out of or related to these TERMS and the our relationship, including your use of the SERVICES, shall be finally settled by binding arbitration administered by the American Arbitration Association in accordance with the American Arbitration Association Commercial Arbitration Rules in effect at the time such arbitration is initiated, excluding any rules or procedures governing or permitting class actions. The Commercial Arbitration Rules shall govern the manner and method of initiating claims, procedure, and all fees and costs charged by the Arbitrator. Each Party shall be responsible for their own attorneys' fees and costs, unless the Commercial Arbitration Rules and/or applicable law provides otherwise.
- 24.4 **Authority of the Arbitrator.** The arbitrator shall have the exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability, or formation of these TERMS, including but not limited to any claims that all or any part of these TERMS is void, voidable, or unenforceable, and specifically including determination of whether a claim is subject to arbitration or the question of waiver by litigation conduct. The arbitrator is empowered to grant whatever relief would be available in a court of law or in equity, subject only to the limitations on liability provided in these TERMS. The arbitrator's award shall be written and shall be binding on the parties and may be entered as a judgment in any court of competent jurisdiction.
- 24.5 **Waiver of Jury Trial.** The parties acknowledge, understand, and agree that absent this mandatory arbitration provision, they would each have the right to sue in

court and have a jury trial. They further understand that, in some instances, the costs of arbitration could exceed the costs of litigation and the right to discovery may be more limited in arbitration than in court.

- 24.6 **Venue.** Arbitration shall be initiated and take place in Minneapolis, Minnesota, United States, and you and AWEBASE agree to submit to the personal jurisdiction of any federal or state court located in the City of Minneapolis, County of Hennepin, State of Minnesota, In order to compel arbitration, stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator.
- 24.7 **Class Action Waiver.** The parties further agree that the arbitration shall be conducted In the party's respective Individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief n a class basis. YOU AND AWEBASE ACKNOWLEDGE, UNDERSTAND AND AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. If any court or arbitrator determines that the class action waiver set forth In this Section 24.7 Is void or unenforceable for any reason, or that an arbitration can proceed on a class basis, then the arbitration provisions set forth above shall be deemed null and ovoid in their entirety and the parties shall be deemed to have not agreed to arbitrate disputes.
- 24.8 **Limited Exception for Intellectual Property Claims.** Nothing contained in this Section 24 shall limit either party from brining enforcement actions, validity determinations, or claims arising from or relating to theft, piracy, or unauthorized use of intellectual property in any state or federal court with jurisdiction, or in the U.S. Patent and Trademark Office to protect Its intellectual property rights, which include but are not limited to patents, copyrights, moral rights, trademarks, and trade secrets.

## 25.0 Miscellaneous

- 25.1 **Force Majeure**  
Neither party will be responsible or have any liability for any delay or failure to perform to the extent due to unforeseen circumstances or causes beyond its reasonable control, including acts of God, pandemics, earthquake, fire, flood, sanctions, embargoes, strikes, lockouts or other labor disturbances, civil unrest, failure, unavailability or delay of suppliers or licensors, riots, terrorist or other malicious or criminal acts, war, failure or interruption of the internet or third party internet connections or infrastructure, power failures, acts of civil and military authorities and severe weather ("FORCE MAJEURE").

The affected party will give the other party prompt written notice (when possible) of the failure to perform and use its reasonable efforts to limit the resulting delay in its performance.

Any payment amounts due from USER to AWEBASE prior to the FORCE MAJEURE, including usage and renewals of the SERVICES during the FORCE MAJEURE, shall be paid promptly by USER upon the cessation of the events giving rise to the FORCE MAJEURE

- 25.2 **Trade Laws**  
In accessing and using the SERVICES, USER must comply with sanctions, safety regulations, export control, and international trade laws and regulations of the United States and of any other country whose laws apply to USER or the USER Content.
- 25.3 **Assignment**  
USER may not assign or otherwise transfer its obligations to these TERMS without AWEBASE's prior written consent.
- 25.4 **No Agency**  
These TERMS or the use of the SERVICES shall form no actual or implied agency, partnership, joint venture, employee-employer, or franchisor-franchisee relationship between USER and AWEBASE.
- 25.5 **No Waiver**  
Failure to enforce or exercise any provision of these TERMS is not a waiver of such provision, unless such waiver is specified in writing and signed by the party against which the waiver is asserted.
- 25.6 **Headers**  
The captions and headings of these TERMS are intended for ease of reference only and shall not be used in the interpretation or construction of the TERMS
- 25.7 **Severability**  
If and to the extent any provision of these TERMS is held unenforceable under applicable law, (i) such provision will be deemed modified to the extent reasonably necessary to conform to applicable law but to give maximum effect to the intent of the parties set forth in these TERMS.
- 25.8 **Governing Law**  
These TERMS shall be interpreted and enforced under the laws of the State of Minnesota, U.S.A.
- USER Hereby consents to the jurisdiction of the federal and state courts of the State of Minnesota, U.S.A., and agree that the venue for any legal action shall be heard in Hennepin County, Minnesota, U.S.A.
- 25.9 **Notices**  
Any notices by USER to AWEBASE should be sent by email to [legal@AWEBASE.com](mailto:legal@AWEBASE.com), or in any other manner deemed reasonable by USER, as permitted by law.
- Any notices by AWEBASE to USER may be sent by:
- i) Email to the email address associated with USER's account
  - ii) Posting to USER's account upon login to the SERVICES.
  - iii) In any other manner deemed reasonable by AWEBASE, as permitted by law.
- 25.10 **Digital Millennium Copyright Act (DMCA)**  
If USER believe in good faith that materials made available by or through the SERVICES infringe on USER's copyright, trademark, or patent, USER may send AWEBASE a notice requesting that AWEBASE remove the material or block access to it.

If USER believes in good faith that someone has wrongly filed a notice of copyright infringement against USER, the DMCA permits USER to send AWEBASE a counter-notice. Notices and counter-notices must meet the then current statutory requirements imposed by the DMCA. See <http://www.copyright.gov/> for details. Notices and counter-notices should be sent to [legal@AWEBASE.com](mailto:legal@AWEBASE.com)

#### 25.11 Surviving Terms

The following sections of these TERMS shall survive expiration or termination of a subscription:

- i) API obligations (Section 7.2)
- ii) Feedback (Section 11.0)
- iii) Confidentiality (Section 13.0)
- iv) Proprietary Rights (Section 14.0)
- v) Limited Warranty (Section 15.0)
- vi) Disclaimers (Section 16.0)
- vii) Limitations of Liability (Section 18.0)
- viii) Indemnification (Section 19.0)
- ix) Dispute Resolution (Section 24.0)
- x) Any other provisions which by their nature would require survival after termination to carry out their intended effect.

## 26.0 Entire agreement

These TERMS constitute the entire agreement between USER and AWEBASE (and merge and supersede any prior or contemporaneous agreements, discussions, communications, representations, warranties, advertising or understandings) with respect to the subject matter hereof, except as provided herein.