

TERMS OF USE

Welcome to www.mikewenzeldesign.com (the "Site"), a website operated by Mike Wenzel Design, LLC ("Company," "us," "our," and "we"). We provide the Site and the services provided through the Site (the Site and services will be collectively referred to as the "Services").

These Terms of Use ("Agreement") set forth the legally binding terms for your use of the Services. By accessing or using the Services, you are accepting this Agreement and you represent and warrant that you have the right, authority, and capacity to enter into this Agreement. If you do not agree with all of the provisions of this Agreement, do not access and/or use the Services. You may not access or use the Services or accept the Agreement if you are not at least 18 years old.

Privacy Policy

The Company respects the privacy of its Service users. Please refer to our Privacy Policy, linked in the footer of our website, which explains how we collect, use, and disclose information that pertains to your privacy. When you access or use the Service, you signify your agreement to this Privacy Policy.

Rights and Licenses

License to Use Site. We grant you a non-transferable, non-exclusive, right to access and use the Services for your personal use.

Certain Restrictions. The rights granted to you in this Agreement are subject to the following restrictions: (a) you will not license, sell, rent, lease, transfer, assign, distribute, host, or otherwise commercially exploit the Services; (b) you will not modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Services; (c) you will not access the Services in order to build a similar or competitive service; and (d) except as expressly stated in these terms, no part of the Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means. Any future release, update, or other addition to functionality of the Services will be subject to the terms of this Agreement. All copyright and other proprietary notices on any Services content must be retained on all copies.

Modification. We reserve the right, at any time, to modify, suspend, or discontinue the Services with or without notice. You agree that we will not be liable to you or to any third party for any modification, suspension, or discontinuance of the Services, except and if otherwise expressly set forth in these Terms.

No Support or Maintenance. You acknowledge and agree that we will have no obligation to provide you with any support or maintenance in connection with the Services.

Ownership of the Services. You acknowledge that all the intellectual property rights, including copyrights, patents, trademarks, and trade secrets, in the Services, including the Site, are owned by us or our licensors. The provision of the Services does not transfer to you or any third party any rights, title or interest in or to the intellectual property rights. We reserve all rights not granted in this Agreement.

Acceptable Use Policy. Your permission to use the Services is conditioned upon the following Use Restrictions and Conduct Restrictions: You agree that you will not under any circumstances:

- post any information that is abusive, threatening, obscene, defamatory, libelous, or racially, sexually, religiously, or otherwise objectionable and offensive;
- use the service for any unlawful purpose or for the promotion of illegal activities;
- attempt to, or harass, abuse or harm another person or group;
- use another user's account without permission;
- provide false or inaccurate information when registering an account;
- interfere or attempt to interfere with the proper functioning of the Service;
- make any automated use of the system, or take any action that we deem to impose or to potentially impose an unreasonable or disproportionately large load on our servers or network infrastructure;
- use the Site or any of its contents to advertise or solicit, for any commercial purpose or to compete, directly or indirectly, with our Service;
- bypass any robot exclusion headers or other measures we take to restrict access to the Service or use any software, technology, or device to scrape, spider, or crawl the Service or harvest or manipulate data; or
- publish or link to malicious content intended to damage or disrupt another user's browser or computer.

Feedback. If you provide us any feedback, comments, or suggestions regarding the Services or purchased items ("Feedback"), you assign to us all rights in the Feedback and agree that we will have the right to use the Feedback and related information in any manner we deem appropriate. We will treat any Feedback you provide to us as non-confidential and nonproprietary. We will be entitled to use, reproduce, disclose, publish and distribute any material you submit for any purpose whatsoever, without restriction and without compensating you in any way. You agree that you will not submit to us any information or ideas that you consider to be confidential or proprietary.

Indemnity. You agree to indemnify and hold us (and our officers, employees, and agents) harmless, including costs and attorney's fees, from any claim or demand made by any third party due to or arising out of (a) your use of the Services, (b) your violation of this Agreement; or (c) your violation of applicable laws or regulations. We reserve the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us and you agree to cooperate with our defense of these claims. You agree not to settle any matter without our prior written consent. We will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

Links to Other Sites and/or Materials

Links to Our Site. You are permitted to link to our Site for noncommercial purposes, provided that you do so in a way that is fair and legal and does not damage our reputation. You may not link to our Site in such a way as to suggest any form of association, approval, or endorsement on our part without our express written consent. You may not deep-link to any page of this site for any purpose whatsoever unless the link is expressly authorized in writing by us. We reserve the right to withdraw permission for any link.

Release. You release and forever discharge us (and our officers, employees, agents, successors, and assigns) from, and waive and relinquish, each and every past, present and future dispute, claim, controversy, demand, right, obligation, liability, action and cause of action of every kind and nature (including personal injury, death, and property damage), that has arisen or arises directly or indirectly out of, or relates directly or indirectly to, any interactions with, or act or omission of, other Service users or Third Party Sites & Ads. IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE CALIFORNIA CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, WHICH STATES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

Disclaimers

THE SERVICES, INCLUDING THE SITE, ARE PROVIDED "AS-IS" AND "AS AVAILABLE" AND WE EXPRESSLY DISCLAIM ANY WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT THE SERVICES: (a) WILL MEET YOUR REQUIREMENTS; (b) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; (c) WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE OR (d) THAT THE SERVICES WILL BE TO YOUR SATISFACTION.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

Limitation on Liability

IN NO EVENT WILL WE BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST PROFIT OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT OR YOUR USE OF, OR INABILITY TO USE, THE SERVICES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ACCESS TO, AND USE OF, THE SERVICES ARE AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA RESULTING THEREFROM.

IN NO EVENT WILL OUR TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), OR OTHERWISE EXCEED THE AMOUNTS YOU'VE PAID US IN THE PRIOR 12 MONTHS (IF ANY). THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

Term and Termination

This Agreement will remain in full force and effect while you use the Services. We may (a) suspend your rights to use the Site and/or Services or (b) terminate this Agreement, at any time for any reason at our sole

discretion, including for any use of the Services in violation of this Agreement. Upon termination of this Agreement, your right to access and use the Services will terminate immediately. We will not have any liability whatsoever to you for any termination of this Agreement. Upon termination of this Agreement, all of the provisions will terminate except those that by their nature should survive.

Copyright Policy

We respect the intellectual property of others and ask that users of our Site and Services do the same. In connection with our Site and Services and in accordance with the Digital Millennium Copyright Act (“DMCA”), we have adopted and implemented a policy respecting copyright laws that provide for the removal of any infringing materials and for the termination, in appropriate circumstances, of users of our online Services who are repeat infringers of intellectual property rights, including copyrights. If you believe that one of our users is, through the use of our Services, unlawfully infringing the copyright(s) in a work, and wish to have the allegedly infringing material removed, the following information in the form of a written notification (pursuant to 17 U.S.C. § 512(c)) must be provided to our designated Copyright Agent:

- your physical or electronic signature;
- identification of the copyrighted work(s) that you claim to have been infringed;
- identification of the material on our Services that you claim is infringing and that you request us to remove;
- sufficient information to permit us to locate such material;
- your address, telephone number, and email address;
- a statement that you have a good faith belief that use of the objectionable material is not authorized by the copyright owner, its agent, or under the law; and
- a statement that the information in the notification is accurate, and under penalty of perjury, that you are either the owner of the copyright that has allegedly been infringed or that you are authorized to act on behalf of the copyright owner.

Please note that, pursuant to 17 U.S.C. § 512(f), any misrepresentation of material fact (falsities) in a written notification automatically subjects the complaining party to liability for any damages, costs and attorney’s fees incurred by us in connection with the written notification and allegation of copyright infringement.

Our designated Copyright Agent is:

Mike Wenzel Design, LLC
Attn: Privacy Officer
Email: mikewenzeldesign@gmail.com

Legal Disputes

PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR RIGHTS AND WILL HAVE A SUBSTANTIAL IMPACT ON HOW ANY CLAIMS YOU HAVE AGAINST US WILL BE RESOLVED.

You agree that any claim or dispute at law or equity that has arisen or may arise between you and us relating in any way to or arising out of this or previous versions of our Terms of Service Agreement, your

use of or access to the Services, or any products or services sold or purchased through the Services, will be resolved in accordance with the provisions set forth in this Legal Disputes Section.

Choice of Law. This Agreement is made under and will be governed by and construed in accordance with the laws of the State of Illinois, without giving effect to any principles that provide for the application of the law of another jurisdiction.

Claim Limitations. You agree that any cause of action arising out of or related to the Services must commence within one (1) year after the cause of action accrues. Otherwise, such cause of action is permanently barred.

Agreement to Arbitrate

You agree that any and all disputes or claims that have arisen or may arise between you and us relating in any way to or arising out of this or previous versions of the Terms of Service Agreement, your use of or access to our Services, or any products or services sold, offered, or purchased through our Services will be resolved exclusively through final and binding arbitration, rather than in court. Alternatively, you may assert your claims in small claims court in McHenry County, Illinois, if your claims qualify and so long as the matter remains in such court and advances only on an individual (non-class, non-representative) basis. The Federal Arbitration Act governs the interpretation and enforcement of this Agreement to Arbitrate.

The arbitration will be conducted by JAMS Arbitration ("JAMS") under its applicable rules and procedures, as modified by this Agreement to Arbitrate. The arbitration will be conducted before one commercial arbitrator with substantial experience in resolving commercial contract disputes.

Your rights will be determined by a neutral arbitrator and not a judge or jury. You understand that arbitration procedures can be more limited than rules applicable in court. Arbitrator decisions are as enforceable as any court order and are subject to very limited review in court.

You and we must abide by the following rules: (a) ANY CLAIMS BROUGHT BY YOU OR US MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING; (b) THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS, MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING, AND MAY NOT AWARD CLASS-WIDE RELIEF, (c) the arbitrator will honor claims of privilege and privacy recognized at law; (d) the arbitration will be confidential, and neither you nor we may disclose the existence, content or results of any arbitration, except as may be required by law or for purposes of enforcement of the arbitration award; (e) the arbitrator may award any individual relief or individual remedies that are permitted by applicable law; and (f) each side pays its own attorneys' fees and expenses unless there is a statutory provision that requires the prevailing party to be paid its fees and litigation expenses, and then in such instance, the fees and costs awarded will be determined by the applicable law.

With the exception of subparts (a) and (b) in the paragraph above (prohibiting arbitration on a class or collective basis), if any part of this arbitration provision is deemed to be invalid, unenforceable or illegal, or otherwise conflicts with the Rules and Procedures, then the balance of this arbitration provision will remain in effect and will be construed in accordance with its terms as if the invalid, unenforceable, illegal or

conflicting provision were not contained herein. If, however, either subpart (a) or (b) is found to be invalid, unenforceable or illegal, then the entirety of this arbitration provision will be null and void, and neither you nor we will be entitled to arbitration. If for any reason a claim proceeds in court rather than in arbitration, the dispute will be exclusively brought in state or federal court in the county and state referenced above.

General

Changes to Agreement. This Agreement is subject to occasional revision, and if we make any substantial changes, we may notify you by sending you an email to the last email address you provided to us (if any) and/or by prominently posting notice of the changes on our Site. Any significant changes to this Agreement will be effective 30 days after posting such notice. You are responsible for providing us with your most current email address. In the event that the last email address that you have provided us is not valid, or for any reason is not capable of delivering to you the notice described above, our dispatch of the email containing such notice will nonetheless constitute effective notice of the changes described in the notice. Continued use of our Site or Services following notice of such changes will indicate your acknowledgement of such changes and agreement to be bound by the terms and conditions of such changes.

Copyright/Trademark Information. Copyright © Mike Wenzel Design, LLC. All rights reserved. All trademarks, logos and service marks (“Marks”) displayed on the Site are our property or the property of other third parties. You are not permitted to use these Marks without our prior written consent or the consent of such third party which may own the Marks.

Contact Information:

Mike Wenzel Design, LLC

Email: mikewenzeldesign@gmail.com

Last Updated

This Agreement was last updated on April 8, 2021.