

## **AWaiver TERMS OF SERVICE**

THIS AWaiver.com ("**AWaiver**") Terms of Service Agreement ("**TOS**") sets forth the terms and conditions under which a person uses the AWaiver website and the services provided by **INDEXIC, Inc.**, a South Carolina limited liability company with a mailing address of 636G Long Point Road, #9, Mount Pleasant, SC 29464 ("**Company**"). An individual or entity utilizing the AWaiver website and/or the services is hereinafter referred to as "**Customer**" (Company and Customer individually herein a "**Party**" and, collectively, the "**Parties**").

1. Description of Services/Binding Agreement. Company is in the business of providing services for the electronic execution and storage of written waivers, releases, and similar forms and instruments for those who desire to utilize such services in connection with their business operations (the "**Services**"). Please read this User Agreement carefully. By accessing the website and/or utilizing the Services, Customer accepts and agrees to be bound by each and all of the terms and conditions set forth in this User Agreement.

2. Availability of the Service. The Services, or any feature or part thereof, may not be available in all languages or in all countries and INDEXIC, Inc. makes no representation that the Service, or any feature or part thereof, is appropriate or available for use in any particular location. To the extent you choose to access and use the Service, you do so at your own initiative and are responsible for compliance with any applicable law, including, but not limited to, any applicable local laws.

3. Registration. If you desire to utilize the Services, you will be required to register through the website as a user and to register your billing information for charges arising out of your use of the Services. By completing such registration and providing such billing information, you warrant and represent that (a) your use of the Services will be for commercial purposes, and not for family, household, or other consumer purposes, (b) the information provided to Company is complete and accurate, (c) you are an authorized signatory and/or user with respect to any account to which you request that charges be billed or posted, and (d) you are at least eighteen (18) years of age.

Upon creating your User Account you will be required to select a password. Please choose a strong password and do not reveal your password to others. You agree that you are responsible for keeping your password confidential and secure, and further understand that you are solely responsible and liable for any activities that occur under your User Account. If you suspect or become aware of any unauthorized use of your

account please contact INDEXIC, Inc.. You further acknowledge and agree that the Service is designed and intended only for the use of the Member opening an account and you should not share your account and/or password details with another individual or entity. You allowing anyone other than the subscriber to access your Member Account (other than your authorized employees or INDEXIC, Inc.) is a violation of these TOS and grounds for immediate termination or suspension of your account without refund.

4. Equipment and Software. Customer is solely responsible, at Customer's own cost and expense, for obtaining, installing, and maintaining suitable computer equipment, software, and internet service, including any necessary system or software upgrades, patches, updates, and/or fixes which are or may become necessary to access and utilize the AWaiver website and/or the Services. Minimum system requirements will apply to be able to use the AWaiver website and Services effectively, and Customer is solely responsible for maintaining such minimum system requirements at Customer's own cost and expense including, without limitation, those that may arise by virtue of changes to the AWaiver website and/or the systems and programs associated with the provision of the Services. Customer also is responsible for the management of Customer's electronic information including, but not limited to, (a) back-up and restoration of data, (b) maintenance of appropriate security procedures, firewalls, methods of encryption, and anti-malware and spyware systems and programs, and (c) maintenance of appropriate safeguards for Customer's user name(s), password(s), and billing information. Except with respect to those executed waivers, releases, and similar forms and instruments AWaiver has expressly agreed to maintain in electronic form as part of the Services, AWaiver is not responsible for, and shall not have any responsibility for, the back-up and restoration of Customer's information or for any loss of or disablement of access to Customer's information, whether stored on your computer systems or elsewhere. Company does not guarantee 100% compatibility with all devices and/or operating systems except those expressly recommended by the Company. Company does not guarantee compatibility (with any device or operating system) for future updates or versions of that device, device software or operating system.

5. Maintenance of Documents. With respect to those electronically executed waivers, releases, and similar forms and instruments that AWaiver has expressly agreed to maintain on Customer's behalf as part of the Services (the "**Documents**"), and provided that Customer's account remains active and in good standing, AWaiver agrees to provide web-based technical support, training, and consulting services in a manner consistent with generally accepted industry standards and to maintain such Documents in electronic form for a period not less than seven (7) years. For so long as Customer's

account remains active and in good standing, Customer may request a copy of Customer's Documents, in exchange for Customer's payment of a Document retrieval fee of One Hundred Dollars (\$100.00). Such requested Documents shall be delivered to Customer by AWAiver in raw database archive format (CSV and PDFs). Customer acknowledges and agrees that Customer shall be solely responsible for any fees or expenses which may be incurred by Customer in connection with extracting individual Document data from the archive formatted Documents or otherwise utilizing the archive formatted Documents. **Failure of Customer to request a copy of Customer's Documents prior to termination of Customer's account (by either Party, for any cause or no cause) or within 30 days of termination, may result in permanent loss of Customer's Documents and associated data.**

6. Payment by Customer. To initiate service the Customer is required to supply payment information with their customer account. Company will immediately charge \$30 which will be a deposit of the first 200 waivers. Company requires a minimum spend of \$30 per year for the Customer to continue signing new waivers. The customer may deactivate their account to prevent the automatic billing of the \$30 minimum at which time they will not be able to sign new waivers but will still have access to the signed waivers. All amounts due and payable to AWAiver in exchange for the Services, together with any ancillary fees, taxes, and expenses (such as, but not limited to, the Document retrieval fee described in Section 5 above) (collectively, the "**Charges**") will be billed automatically to Customer's credit card registered with Company on a monthly basis for the Charges incurred during the previous thirty (30) days. In the event Customer's credit card or other account rejects such Charges or Company is otherwise unable to receive payment through Customer's registered credit card or other account by the 10th day of the month, a late fee in the amount of five percent (5%) of the outstanding Charges shall be assessed and immediately due and payable together with the outstanding Charges. Customer also shall be solely responsible for the payment of any service fees, insufficient funds fees, or similar fees incurred by Company on account of rejection of Charges by Customer's credit card or other account. In the event Customer fails to pay any and all Charges when due Company shall have the right, but not the obligation, to terminate this User Agreement and discontinue provision of the Services immediately. Any Charges (including late fees, attorney's fees, and other costs of collection) remaining due and outstanding after thirty (30) days shall bear interest at a rate of twenty-one percent (21%) per annum or the otherwise highest legally permissible rate, whichever is higher. Company will make reasonable efforts to notify Customer in the event Charges submitted for payment are rejected. Notwithstanding the foregoing, **Customer is solely responsible for monitoring the status of**

***Customer's account and ensuring the timely payment of all Charges.*** Customer shall be solely responsible for the payment of any sales tax, use tax, property tax, or other taxes or impositions assessed with respect to the Services provided to Customer. Customer shall have no liability, however, for the payment of any franchise tax, corporation tax, income tax, profit tax, or capital levy, that is or may be imposed upon Company generally.

7. Term and Termination. The term of this User Agreement shall be one (1) year, and shall be automatically renewed for successive one (1) year periods thereafter unless sooner terminated as provided in this User Agreement. Following the first (1st) one (1) year term, Customer may terminate this User Agreement without cause upon sixty (60) days prior written notice to Company. Customer also may terminate this User Agreement for cause following thirty (30) days written notice to Company of an alleged breach and Company's failure to cure such breach within such thirty (30) day period or, in the case of a breach which cannot be cured within thirty (30) days, Company's failure to commence and faithfully pursue cure of such breach. Except for termination based on Customer's failure to pay any and all Charges when due (which shall be grounds for immediate termination as set forth in Section 5 above) Company reserves the right to terminate this User Agreement at any time (including during the first one (1) year term), with or without cause, upon ten (10) days prior written notice to Customer. Customer expressly acknowledges and agrees that Customer shall remain obligated to remit to Company payment for all Charges for Services provided after any notice of termination but before the effective date of termination, regardless of cause and without regard to the reason for such termination.

8. No Conveyance. Nothing in these Terms of Service shall be construed to convey to you any interest, title, or license in a User Account, email address, domain name, intellectual property of INDEXIC, Inc. or similar resource used by you in connection with the Service.

9. No Right of Survivorship. You agree that any rights to your User Account or Content within your account terminate upon your death, or the dissolution, sale or bankruptcy of the Member if an entity. Upon receipt of a copy of a death certificate your account may be terminated and all Content within your account deleted after thirty days of such notice or returned to you. In the event of a sale or transfer of the Subscriber, the Subscriber's content will remain stored in the AWaiver database as long as the transferee keeps the existing membership account current.

10. No Resale of Service. You agree that you will not reproduce, copy, duplicate, sell, resell, rent or trade the Service or any part thereof, for any purpose.

11. Use of Location-Based Services.

INDEXIC, Inc. and its partners and licensors may provide certain features or services through the Service that rely upon device-based location information. To provide such features or services, where available, INDEXIC, Inc. and its partners and licensors may collect, use, transmit, process and maintain your location data, including the real-time geographic location of your device, and you hereby agree and consent to INDEXIC, Inc.'s and its partners' and licensors' collection, use, transmission, processing and maintenance of such location data to provide such services. In addition, by enabling and/or using any location-based services or features within the Service, you agree and consent to INDEXIC, Inc. collecting, using, processing and maintaining information related to your account, and any devices registered thereunder, for purposes of providing such location-based service or feature to you. Such information may include, but is not limited to, your User Account, device ID and name, device type and real-time geographic location of your device at time of your request. You may withdraw this consent at any time by not using the location-based features or by turning off the Location Services settings (as applicable) on your device. When using third party services that use or provide location data as part of the Service, you are subject to and should review such third party's terms and privacy policy on use of location data by such third party services. Any location data provided by the Service is not intended to be relied upon in situations where precise location information is needed or where erroneous, inaccurate, time-delayed or incomplete location data may lead to death, personal injury, property or environmental damage. Neither INDEXIC, Inc. nor any of its content providers guarantees the availability, accuracy, completeness, reliability, or timeliness of location data or any other data displayed by the Service.

12. Disclaimer of Warranties. INDEXIC, INC. (INCLUDING ITS THIRD PARTY SUPPLIERS AND LICENSORS) PROVIDES ACCESS TO THE AWAIVER WEBSITE ON AN "AS IS," AS AVAILABLE BASIS, WITH ALL FAULTS, AND HEREBY DISCLAIMS ANY AND ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, NON-INTERFERENCE, COMPATIBILITY OF SOFTWARE PROGRAMS, INTEGRATION, SECURITY, OR THOSE WARRANTIES WHICH MAY ARISE BY COURSE OF DEALING OR COURSE OF TRADE. INDEXIC, INC. DISCLAIMS ANY AND ALL WARRANTIES FOR LACK OF VIRUSES OR OTHER DISABLING CODE OR CONDITION, AND DOES NOT WARRANT THE INFORMATION, SERVICE, SOFTWARE, CONTENT AND/OR FEATURES AVAILABLE THROUGH THE WEBSITE WILL BE UNINTERRUPTED, ERROR FREE, OR AVAILABLE 24 HOURS PER DAY, 7 DAYS PER WEEK. CUSTOMER ASSUMES ALL RISKS ARISING OUT OF THE USE, QUALITY, ACCURACY OR PERFORMANCE OF THE AWAIVER WEBSITE, AND

FOR ENSURING THAT APPROPRIATE BACK-UP MEASURES ARE IN PLACE IN THE EVENT OF FAILURE OR UNAVAILABILITY OF THE WEBSITE AND/OR SERVICES.

13. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT ALLOWED BY LAW: IN NO EVENT WILL THE COMPANY BE LIABLE FOR (i) ANY SPECIAL, DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, OR LOSS OF PROGRAMS OR INFORMATION) OR ANY OTHER DAMAGES ARISING OUT OF OR RELATED TO THE AVAILABILITY, USE, RELIANCE ON, OR PERFORMANCE OF THE AWAIVER WEBSITE, THE PROVISION OF OR FAILURE TO PROVIDE THE WEBSITE OR THE SERVICES, LOSS OF DATA, ACCESS OR INABILITY TO ACCESS OR USE THE WEBSITE OR USE AND RELIANCE ON INFORMATION, CONTENT, OR SERVICES AVAILABLE ON OR THROUGH THE WEBSITE INCLUDING VIRUSES ALLEGED TO HAVE BEEN OBTAINED, OR INVASION OF PRIVACY FROM OR THROUGH THE WEBSITE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE; OR (ii) ANY CLAIM ATTRIBUTABLE TO ERRORS, OMISSIONS, OR OTHER DYSFUNCTION OF, DESTRUCTIVE PROPERTIES OF, OR NON-PERFORMANCE OF THE WEBSITE AND/OR SERVICES. IN NO EVENT SHALL ANY LIABILITY OF OR AWARD OF DAMAGES AGAINST COMPANY FOR ANY CLAIM EXCEED THE TOTAL CHARGES (EXCLUDING SALES TAX, USE TAX, AND SIMILAR ASSESSMENTS) ACTUALLY PAID TO COMPANY BY CUSTOMER.

14. Intellectual Property and Related Rights. With the exception of any third party licensor software, all right, title, and interest in and to the website and the Services (including, without limitation, all copyrights, patents, trademarks, and service marks, whether registered or unregistered), all related software, programs, components, images, forms, animations, video, audio, text and the like, and copies of any and all of the foregoing (the "Intellectual Property"), are owned by Company. This User Agreement does not grant Customer any rights or interests in or to the use, distribution, or exploitation of the Intellectual Property, except as expressly authorized pursuant to the terms and conditions of this User Agreement. Any other use, distribution, and/or exploitation of the Intellectual Property are strictly prohibited.

15. Data Collection and Use. Customer agrees that Company may collect, use, and distribute data and related information (including, but not limited to, technical information pertaining to Customer's computers, devices, systems, software, and peripherals), for purposes of improving Company's products, customizing services,

research and analysis, promotion of the website and the Services, and other commercial purposes; provided, however, that such information will not disclose by Company in any manner that personally identifies Customer without Customer's prior, written consent (unless required by compulsion of law). Customer agrees that Company may use information pertaining to the Customer's business or place of employment (including, but not limited to, Customer's business name and Customer's business logo) for purposes of improving Company's products, customizing services, research and analysis, promotion of the website and the Services, and other commercial purposes.

16. Identity of Signers Customer understands that it is their responsibility to verify the age and identity of all clients who sign the waiver, release, or similar forms and instruments.

17. Signers Personally Identifiable Information Customer may NOT use any personally identifiable information (pictures, videos, signature images) obtained from the signer in the process of signing a waiver, release or similar forms and instruments without the explicit consent of the signer. Customer may choose to have AWAiver collect email addresses and phone numbers of signers which can be used for marketing provided the signer has not opted out.

18. Governing Law/Venue/Dispute Resolution. This User Agreement is deemed to be made and entered into in the State of South Carolina and shall be governed by the laws of the State of South Carolina, without regard to its conflicts of laws principles. Any action shall be brought and maintained exclusively in the state or federal courts in the State of South Carolina, and Customer hereby consents to the exclusive jurisdiction of such courts. Customer, after consulting or having had the opportunity to consult with counsel, knowingly, voluntarily, and intentionally waives any right Customer may have to a trial by jury in any litigation based upon or arising out of this User Agreement (and any other related agreement or instrument), the Services, the website, or any course of conduct, dealing, statements (whether oral or written), or actions of either Company or Customer, including their respective employees, officers, agents, successors, and assigns. Customer shall not seek to consolidate, by counterclaim or otherwise, any action in which a jury trial has been waived with any other action which a jury trial cannot be or has not been waived. These provisions shall not be deemed to have been modified in any respect or relinquished except by a written instrument executed by Company. Customer agrees that due to the nature of Company's business, monetary damages are inadequate to protect Company from any threatened or actual breach of

this User Agreement, any breach will cause irreparable harm to Company, and Company shall be entitled to injunctive relief to restrain any breach or threatened breach, without having to prove the inadequacy of monetary damages or irreparable harm independently. In the event of any breach of this User Agreement by Customer, in addition to such other sums as may be awarded to Company, Company shall be entitled to recover its reasonable attorney's fees and expenses, whether incurred prior to or after filing of suit. The naming of a specific remedy shall not preclude the pursuit of any other remedy that may be available at law or in equity.

19. Miscellaneous. Customer shall not assign this User Agreement without the prior, written consent of Company. No delay in exercising any right, power, or privilege under this User Agreement shall operate as a waiver of such right, power, or privilege or any other right, power, or privilege. No provision of this User Agreement may be waived except in writing signed by the Party to be bound by such waiver. If any provision of this User Agreement is held to be unenforceable, the other provisions will remain in effect and, if possible, the offending provision modified to the slightest degree necessary to make such provision enforceable, remaining as close as possible to the original provision. This User Agreement does not create a partnership, joint venture, or any similar relationship between Company and Customer. Any notices hereunder shall be given in writing by personal delivery, via facsimile with transmission confirmation, via recognized overnight delivery service with delivery confirmation, or by first-class, United States mail, registered or certified, postage prepaid, with return receipt requested. Company reserves the right to modify or amend this User Agreement at any time upon written notice thereof to Customer and Customer's opportunity to accept or reject such modified terms and conditions. In the event that Customer rejects such modified terms and conditions, Company may elect to terminate this User Agreement, in Company's sole and exclusive discretion, at which time all Charges shall become immediately due and payable.

## **INDEXIC, Inc. – COMPANY**