WeThink

**Terms of Use**

Welcome to WeThink, LLC (“WeThink,” “we,” “us,” “our”) and thank you for using our products and services (“Services”). The following Terms and Conditions of Use (“Terms”) govern all use of the Services, so please read carefully.

**1. ACCEPTANCE**

The Services on the WeThink Platform and other online and mobile services and applications belonging to WeThink are offered subject to your acceptance of these Terms, our Privacy Policy (located on our website) and any additional terms and policies (including operating rules, guidelines and procedures) that may apply depending on your particular use of the Services.

By using the Services or by clicking on an acceptance box for these Terms, you are agreeing to be bound by these Terms, our Privacy Policy, and all other applicable terms and policies. YOUR USE OF THE ONLINE SERVICES IS EXPRESSLY CONDITIONED UPON YOUR ACCEPTING AND AGREEING TO THESE TERMS OF USE. IF THESE TERMS OF USE ARE NOT COMPLETELY ACCEPTABLE TO YOU, YOU MUST IMMEDIATELY TERMINATE YOUR USE OF THE ONLINE SERVICES.

If you will be using the Services on behalf of a company or any other entity, you agree to these Terms on behalf of that entity and you represent that you have the authority to do so. In such case, “you” and “your” will refer to that entity. Additionally, since the Services are available only to individuals who are at least 18 years old, you represent and warrant that you are at least 18 years old and take full responsibility for the selection and use of the Services. These Terms are void where prohibited by law, and the right to access the Services is revoked in such jurisdictions.

ARBITRATION NOTICE: EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN THE ARBITRATION SECTION BELOW, YOU AGREE THAT DISPUTES BETWEEN YOU AND COMPANY WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION.

**2. REGISTRATION**

In order to use certain features of the Services, you may be required to register for a Services account. You warrant that any registration information (such as name, contact information, or other information) you submit is accurate, complete, and not misleading, and you agree to keep such information up to date. Failure to do so constitutes a breach of these Terms and may result in immediate termination of your account. To the extent you are able to select a “user name,” you may not (i) select or use a user name that is a name of another person with the intent to impersonate that person; (ii) use a user name that is a name subject to any rights of a person other than you without appropriate authorization; or (iii) use a user name that is offensive, vulgar, obscene, or unlawful. We reserve the right, in our sole discretion, to cancel or refuse registration of any user name we believe violates these Terms, our policies, or the law. You shall be responsible for maintaining the confidentiality of your password and other account information. Your login must only be used by one person; a single login shared by multiple people is not permitted. WeThink is not liable for any loss or damage from your failure to comply with this Section 2. We may use your registration information and any technical information about your use of the Services to tailor its presentations to you, facilitate your movement through the Services, communicate separately with you or publish the fact that you are a user of our services.

In order to verify your identity electronically, we will ask you for your details (such as your name, address, date of birth) and details of your identification documents. This information will be passed on to external organizations in order to electronically match your information with information on their databases. These organizations will assess and advise us whether all or some of the information you provided matches their records.

The external data sources used to verify your identity include:

* Credit information files held by Equifax Pty Ltd or Creditorwatch Pty Ltd (this is only to confirm your identity and is not a credit check)
* Publicly available information such as the electoral roll and white pages
* Information held by the official record holder via third party systems
* It is an offence under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 to provide false and misleading information about your identity.

**3. YOUR CONTENT**

As between you and WeThink, you retain ownership of the intellectual property rights of the content you submit to us or the Services (“Your Content”), except for the limited rights that enable us to perform the Services. In short, what’s yours is yours, but we do need certain permissions from you so that our processing, maintenance, storage, technical reproduction, back-up, distribution, and related handling of Your Content does not infringe applicable copyright and other laws. Therefore, in order to perform the Services, you grant us a non-exclusive, worldwide, royalty-free, transferable, and irrevocable (for so long as Your Content is stored with us) license to use, reproduce, and display Your Content as reasonably necessary to provide you with the Services. You are responsible for maintaining, protecting, and making backups of Your Content. To the maximum extent permitted by applicable law, we will not be liable for the loss or corruption of Your Content.

**4. OUR CONTENT**

Using the Services does not give you ownership of any intellectual property rights in the Services. You agree that all WeThink content and materials delivered via the Services or otherwise made available by WeThink (collectively, “Our Content”) are protected by copyrights, trademarks, service marks, patents, trade secrets, or other proprietary rights and laws. Except as expressly authorized by WeThink in writing, you agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit, or create derivative works of Our Content. However, you may print or download a reasonable number of copies of Our Content for your own informational purposes; provided, that you retain all copyright and other proprietary notices within the copies. Reproducing, copying, or distributing any of Our Content or WeThink design elements for any other purpose is strictly prohibited without our express prior written permission. Use of Our Content for any purpose not expressly permitted in these Terms is prohibited. WeThink reserves any rights not expressly granted in these Terms.

**5. OTHER OFFERINGS ON WETHINK**

* 1. Some users who post content are members of legal, medical, and other licensed professions (collectively, “Professional Contributors”). Content posted by Professional Contributors should not be relied on as a substitute for advice from a professional that is appropriate for your specific situation.
  2. You have permission to use WeThink’s buttons, links, and widgets, subject to these Terms of Service (including the disclaimers and limitations of liability) and provided that: (a) your use of such buttons, links and widgets link only to the WeThink Platform; (b) you will not modify such buttons, links, or widgets or associated code in any manner; (c) you will not use any such buttons, links, or widgets in any manner which implies or suggests that WeThink endorses, sponsors, or recommends the website on which such buttons, links and widgets are used; and (d) the use of such buttons, links and widgets, and the website on which such buttons, links and widgets are used do not violate WeThink’s policy.
  3. Certain features or services may require that you enter into a separate and supplemental written agreement prior to use.

**6. USE OF THE SERVICES**

You represent and warrant that (i) your use of the Services will comply with all laws and regulations; (ii) Your Content will not infringe or violate any third-party intellectual property rights or any laws or regulations (including, without limitation, obscenity, defamation, and privacy laws); (iii) if you use the Services on behalf of any third party, you have all necessary authorizations; and (iv) your use of the Services will not conflict with any obligations you have to any third party. We reserve the right, in our sole discretion, to remove, modify, prevent access to, or refuse to display Your Content that we believe violates these Terms, our policies, or the law.

**7. ACCOUNTS AND FEES**

To use our Services, you shall pay WeThink service fees in accordance with this Section 6 and our pricing policy located on our website (“Fees”). You will be billed for your first subscription term immediately upon registering. Subscriptions will automatically renew for a period equal in length to the preceding subscription period. All Fees will be invoiced in advance (on a monthly or annual basis depending upon the subscription you purchase), and the credit card last used by you for a WeThink transaction will automatically be charged at the start of each subscription period. All Fees are non-refundable—without limitation, we shall provide no refunds or credits for partial months of Service, for upgrades or downgrades, or for unused months of an annual account. For any subscription upgrade, the credit card last used by you for a WeThink transaction will automatically be charged the new Fee on your next billing cycle. We reserve the right to change the Fees and to institute new charges and Fees at the end of each subscription period. Unpaid Fees are subject to a finance charge of 1.5% per month or the maximum permitted by law, whichever is lower, plus all expenses of collection. You shall be responsible for all taxes associated with the Services other than taxes based on WeThink net income.

**8. CHANGES TO THE TERMS**

We may amend these Terms from time to time by posting an amended version in the Services and on our website. If you are a new or returning user who registers for services on or after the Notice Date, the amended version will be effective immediately. If you are a current paying user of the Services, these Terms will continue under their original provisions for your original subscriptions, and the amended version will become effective at the start of your next WeThink subscription period (including any new subscription or any automatically renewed subscription). Your use of the Services after an amended version becomes effective will confirm your acceptance and consent of that amended version. It is your responsibility to check the Services or our website for amended versions of these Terms and to review any changes. These Terms may not be amended in any other way except through a written agreement executed by both you and an authorized representative of WeThink. Notwithstanding the foregoing, we may amend our Privacy Policy or all other auxiliary policies at any time by posting amended versions on our website; the amended versions will become effective immediately upon posting.

**9. CHANGES TO SERVICES**

WeThink is constantly innovating and evolving the Services in order to provide the best possible experience for our users. You acknowledge and agree that the form and nature of the Services may change from time to time without notice. Changes to the form and nature of the Services may include, without limitation, the alteration or removal of a functionality or aspect of the Services. You agree that we shall not be liable to you or to any third party for any modification, suspension, or discontinuance of any part of the Services. You also agree that we may create limits on certain features and services or restrict your access to parts of the Services without notice or liability.

**10. ANTI-SPAM AND E-MAIL POLICY**

WeThink expressly forbids all SPAM (the term "SPAM" meaning the sending of unsolicited e-mail to parties unknown to the sender). If you are found to be using the Services for SPAM, your account will be subject to immediate termination. The Services may only be used in connection with e-mail lists for which recipients have voluntarily registered. Using the Services to send e-mail to an address you obtain without the consent of the addressee is a violation of these Terms. You are prohibited from importing e-mail addresses for persons who have not affirmatively and clearly elected to receive your mailings. For clarity, you will only send e-mail to persons who have willingly signed up to receive your mailings. If we receive complaints about your activities under this Section, your account may be subject to immediate termination. You will not send e-mail under any company or organization name other than your own company/organization, and you will not send e-mail with fraudulent or misleading header or source information. All e-mail sent through the Services must be expressly for the purpose of collecting data using WeThink’s online surveys. Sending e-mail through the Services to solicit any actions other than completing WeThink surveys is a violation of these Terms. You are fully responsible for the contents of your messages and the consequences of any such messages. We shall have no responsibility or liability for messages or other content that is created by you. You shall not send, post, distribute or disseminate any defamatory, obscene, or otherwise unlawful messages, material, or information, including another person's proprietary information (including trademarks, trade secrets, or copyrighted information) without express authorization from the rights holder. WeThink will cooperate with legal authorities in releasing names and IP addresses of users who are involved in SPAM or illegal activities.

**11. OTHER RESTRICTIONS**

WeThink shall not be subject to any obligations of confidentiality regarding any information or materials that you submit online except as specified in these Terms of Use, or as set forth in any additional terms and conditions relating to specific products or services, or as otherwise specifically agreed or required by law.

You also specifically acknowledge and agree that:

* 1. You will not collect or harvest (or permit anyone else to collect or harvest) any User Content (as defined below) or any non-public or personally identifiable information about another User or any other person or entity without their express prior written consent.
  2. You will not use the Services in a manner (as determined by WeThink in its sole and absolute discretion) that:
  + Is illegal, or promotes or encourages illegal activity;
  + Promotes, encourages, or engages in any spam or other unsolicited bulk email, or computer or network hacking or cracking;
  + Violates the Fight Online Sex Trafficking Act of 2017 or similar legislation, or promotes or facilitates prostitution and/or sex trafficking;
  + Infringes on the intellectual property rights of another User or any other person or entity;
  + Violates the privacy or publicity rights of another User or any other person or entity, or breaches any duty of confidentiality that you owe to another User or any other person or entity;
  + Interferes with the operation of the Services;
  + Contains or installs any viruses, worms, bugs, Trojan horses or other code, files or programs designed to, or capable of, disrupting, damaging, or limiting the functionality of any software or hardware; or
  + Contains false or deceptive language, or unsubstantiated or comparative claims, regarding WeThink or the Services.
  1. You will not perform any false, abusive, or fraudulent activity. You will not perform any action that imposes, or may impose, in our discretion, an unreasonable or disproportionately large load on our infrastructure;
  2. You will not modify or alter any part of the Services or any of its related technologies.
  3. You will not access Content or User Content through any technology or means other than through the Services, or as WeThink may designate.
  4. You will not re-sell or provide the Services for a commercial purpose, including any of WeThink’s related technologies, without WeThink’s express prior written consent.
  5. WeThink may call you about your account and that, for the purposes of any such call(s), you may be subject to call recording and hereby consent to the same, subject to any applicable laws and our restrictions and obligations thereunder, including, where permissible, to record the entirety of such calls regardless of whether WeThink asks you on any particular call for consent to record such call. You further acknowledge and agree that, to the extent permitted by applicable law, any such recording(s) may be submitted as evidence in any legal proceeding in which WeThink is a party.
  6. If your purchase or account activity shows signs of fraud, abuse, or suspicious activity, WeThink may cancel any service associated with your name, company, email address, or account and close any associated accounts. If you conduct any fraudulent activity, WeThink reserves the right to take any necessary legal action and you may be liable for monetary losses to WeThink including litigation costs and damages. To contest cancellation of Services or freezing or closure of an account, please contact WeThink.

All Users agree to not:

(a) transmit, post, distribute, store, or destroy material, including without limitation Content, in violation of any applicable law or regulation, including but not limited to laws or regulations governing the collection, processing, or transfer of personal information, or in breach of WeThink’s privacy policy;

(b) take any action that imposes an unreasonable or disproportionately large load on the WeThink Platform’s infrastructure;

(c) use any device to navigate or search the WeThink Platform other than the tools available on the WeThink Platform, generally available third-party web browsers, or other tools approved by WeThink;

(d) use any data mining, robots, or similar data gathering or extraction methods;

(e) violate or attempt to violate the security of the Website including attempting to probe, scan, or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization;

(f) forge any TCP/IP packet header or any part of the header information in any e-mail or newsgroup posting;

(g) reverse engineer or decompile any parts of the Website;

(h) aggregate, copy or duplicate in any manner any of the Content or information available from the Website, other than as permitted by these Terms;

(i) frame or link to any Content or information available from the Website, unless permitted by these Terms of Use;

(j) post any content or material that promotes or endorses false or misleading information or illegal activities, or endorses or provides instructional information about illegal activities or other activities prohibited by these Terms of Use, such as making or buying illegal weapons, violating someone's privacy, providing, or creating computer viruses, or pirating media;

(o) harass, incite harassment, or advocate harassment of any group, company, or individual;

(q) attempt to interfere with service to any User, host, or network, including, without limitation, via means of submitting a virus to the Website, overloading, "flooding", "spamming", "mailbombing" or "crashing"; or

(r) use the Services for any unlawful purpose or any illegal activity, or post or submit any content, resume, or job ad that is defamatory, libelous, implicitly or explicitly offensive, vulgar, obscene, threatening, abusive, hateful, racist, discriminatory, of a menacing character or likely to cause annoyance, inconvenience, embarrassment, anxiety or could cause harassment to any person or include any links to pornographic, indecent or sexually explicit material of any kind, as determined solely in Company’s discretion.

Violations of system or network security may result in civil and/or criminal liability. Company will investigate occurrences which may involve such violations and may involve, and cooperate with, law enforcement authorities in prosecuting Users who are involved in such violations.

**12. MESSAGE BOARDS/FORUMS**

The Services may allow you to communicate with others through message boards and other features. When your account is used to submit, post, or add content to the Services, you agree to accept sole responsibility for, and assume liability associated with, such content, including the information, statements, facts, and material contained in any form or medium. By submitting or posting content to or through the Services, you agree to grant, and hereby grant, WeThink a worldwide, royalty free, perpetual, irrevocable, non-exclusive, and freely sublicensable right and license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, perform, and display such content anywhere, for any purpose, in any form or medium now known or hereafter developed. WeThink reserves the right to review, edit, refuse to post, or to remove any of your content, in whole or in part, at any time.

**13. MOBILE SERVICES**

If you access the Services through a mobile device, you agree that information about your use of the Services through your mobile device and carrier may be communicated to us, including but not limited to your mobile carrier, your mobile device, or your physical location. In addition, use of the Services through a mobile device may cause data to be displayed on and through your mobile device. By accessing the Services using a mobile device, you represent that to the extent you import any of your data to your mobile device that you have authority to share the transferred data with your mobile carrier or other access provider. In the event you change or deactivate your mobile account, you must promptly update your account information to ensure that your messages are not sent to the person that acquires your old number and failure to do so is your responsibility. you acknowledge You are responsible for all charges and necessary permissions related to accessing the Services through your mobile access provider. Therefore, you should check with your provider to find out if the Services are available and the terms for these services for your specific mobile devices.

By using any downloadable application to enable your use of the Online Services, you are explicitly confirming your acceptance of the terms of the End User License Agreement associated with the Application provided at download or installation, or as may be updated from time to time.

**14. SERVICE LEVELS**

WeThink cannot guaranty any specific service level in regard to uptime percentage and/or availability of the Services.

**15. THIRD PARTY SITES**

The Services may allow you to link to other websites or resources on the Internet, and other websites or resources may contain links to the WeThink website and our Services. These other websites are not under our control, and you acknowledge that WeThink is not responsible or liable for the content, functions, accuracy, legality, appropriateness or any other aspect of these websites or resources. The inclusion of any such link does not imply endorsement by WeThink. You further acknowledge and agree that we shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or reliance on any content, goods, information, or services available on or through any such website or resource.

**16. INDEMNIFICATION**

You are responsible for all of your activity in connection with the Services and shall defend, indemnify, and hold harmless QuestionPro and each of its employees, contractors, directors, suppliers and representatives from all liabilities, damages, losses, settlements, claims, actions, demands, costs and expenses, including attorneys' fees, that arise from or in connection with your (i) use or misuse of the Services, (ii) access to any part of QuestionPro and the Services, (iii) Your Content, or (iv) violation of these Terms.

**17. WARRANTY DISCLAIMER**

THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. WeThink MAKES NO WARRANTY THAT (I) THE SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, (II) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE, OR (III) THE RESULTS OF USING THE SERVICES WILL MEET YOUR REQUIREMENTS. SOME JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OF IMPLIED WARRANTIES. IN SUCH JURISDICTIONS, THE FOREGOING DISCLAIMERS MAY NOT APPLY TO YOU INSOFAR AS THEY RELATE TO IMPLIED WARRANTIES.

**18. LIMITATION OF LIABILITY**

IN NO EVENT SHALL WeThink, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, VENDORS OR SUPPLIERS BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL THEORY WITH RESPECT TO THE SERVICES (OR ANY CONTENT OR INFORMATION AVAILABLE THROUGH THE SERVICES): (I) FOR ANY LOST PROFITS OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, EVEN IF FORESEEABLE, (II) FOR ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE (REGARDLESS OF THE SOURCE OF ORIGINATION), (III) FOR ANY ERRORS OR OMISSIONS IN ANY CONTENT OR INFORMATION OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF YOUR USE OF ANY CONTENT OR INFORMATION POSTED, E-MAILED, TRANSMITTED OR OTHERWISE MADE AVAILABLE AT OR THROUGH THE SERVICES, OR (IV) FOR ANY DIRECT DAMAGES IN EXCESS OF (IN THE AGGREGATE) US$500.00. THE FOREGOING LIMITATIONS SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

**19. TERMINATION BY YOU**

You can cancel your account at any time by clicking on the “My Account” link in the global navigation bar at the top of the screen. The account screen provides a simple cancellation link. No other form of cancellation (such as phone or e-mail) will be valid. If you cancel the Services before the end of your current subscription period, the cancellation will take effect immediately, and Your Content will be immediately deleted from the Services. You will not be charged for any subsequent subscription periods. For clarity, amounts paid are non-refundable and if your account is canceled in the middle of a subscription period, you forfeit all amounts paid.

**20. TERMINATION BY US**

We may restrict, suspend, or terminate the Services to you (i) if you fail to comply with these Terms or our policies (including without limitation, failure to pay any fees owed by you in relation to the Services) (ii) if you use the Services in a way that creates or could create liability for us, (iii) if you interfere with other’s use of the Services, (iv) if a law enforcement, judicial body, or other government agency requests us to do so, or (v) if we need to investigate suspected misconduct by you, (vi) if you exceed the maximum number of responses allowed per minute based on the restrictions on your license level. Any such restriction, suspension, or termination shall be made by us in our sole discretion, and we will not be responsible to you or any third party for any damages that may result or arise out of such restriction, suspension, or termination of your account and/or access to the Services. In the event of an urgent matter, we reserve the right to take immediate action without notice. Additionally, unless you are a paying user, we reserve the right to terminate and delete your account if you have not accessed the Services for a period of 365 days or longer.

**21. EFFECT OF TERMINATION**

Upon termination by either you or WeThink, (i) all of Your Content will be immediately deleted from the Services, (ii) you will no longer access (or attempt to access) the Services, (iii) all outstanding fees owed to WeThink will become immediately due and payable, and (iv) we shall have no obligation to retain any of Your Content. You are solely responsible for exporting Your Content from the Services prior to termination of the Services you receive. All provisions of these Terms that by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, and limitations of liability.

**22. EXPORT AND TRADE CONTROLS**

You agree not to import, export, re-export, or transfer, directly or indirectly, any part of the Services or any information provided on or through the Services except in full compliance with all United States, foreign and other applicable laws and regulations.

**23. ELECTRONIC COMMUNICATIONS AND NOTICES**

By creating an account, you hereby consent to receive electronic communications from us, including marketing e-mails, product updates, and other business messages. You agree that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing. Electronic communications may be in the form of e-mails sent by us to the e-mail address associated with your account or communications posted by us on the WeThink website, your “My Account” page, or the Services you utilize. We save all communication (chats, emails, and calls) between WeThink representatives and you for record-keeping, training and quality-assurance purposes.

All notices to WeThink must be addressed in writing to: WeThink, LLC, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. WeThink may provide notices to you via the e-mail address associated with your account or through your Services account.

**24. RESOLVING DISPUTES**

We want to ensure that you have an excellent experience with WeThink. If you have a problem or concern, we encourage you to first contact your account manager or Live Chat support to try to resolve any issues.

**25. GOVERNING LAW**

In the event of formal proceedings, you and WeThink agree that these Terms shall be governed by and construed in accordance with the laws of the state of \_\_\_\_\_\_\_\_\_\_, and agree to submit to the exclusive jurisdiction and venue of the state and Federal therein. Notwithstanding the foregoing sentence, (but without limiting either party’s right to seek injunctive or other equitable relief immediately, at any time, in any court of competent jurisdiction), any disputes arising with respect to these Terms shall be settled by arbitration in accordance with the rules and procedures of the Judicial Arbitration and Mediation Services, Inc. (“JAMS”). The arbitrator shall be selected by joint agreement of the parties. In the event the parties cannot agree on an arbitrator within thirty (30) days of the initiating party providing the other party with written notice that it plans to seek arbitration, an arbitrator shall be appointed by JAMS in accordance with its rules. The written decision of the arbitrator shall be final and binding on the parties and enforceable in any court. The arbitration proceeding shall take place in \_\_\_\_\_\_\_\_\_\_\_, using the English language. YOU ALSO AGREE TO RESOLVE DISPUTES WITH US ONLY ON AN INDIVIDUAL BASIS AND AGREE NOT TO BRING A CLAIM AS A PLAINTIFF OR A CLASS MEMBER IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE ACTION. CLASS ARBITRATIONS, CLASS ACTIONS, PRIVATE ATTORNEY GENERAL ACTIONS, AND CONSOLIDATION WITH OTHER ARBITRATIONS ARE NOT ALLOWED. If you are a federal, state, or local government entity in the United States using the Services in your official capacity and legally unable to accept the controlling law, jurisdiction or venue provisions above, then those provisions do not apply to you. For such U.S. federal government entities, these Terms and any action related thereto will be governed by the laws of the United States of America (without reference to conflict of laws) and, in the absence of federal law and to the extent permitted under federal law, the laws of the State of \_\_\_\_\_\_\_\_\_ (excluding choice of law).

**26. MISCELLANEOUS**

The failure of either party to exercise or enforce any right contained in these Terms, is not a waiver of either parties’ right to do so later. WeThink shall not be liable for any failure to perform its obligations in these Terms where such failure results from any cause beyond WeThink’s reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation. If any provision of these Terms is found to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that these Terms shall otherwise remain in full force and effect and enforceable. These Terms are not assignable, transferable, or sublicensable by you, except with our prior written consent. We may transfer, assign, or delegate these Terms and their rights and obligations without consent. Both parties agree that these Terms are the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of these Terms, and that all modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of these Terms and you do not have any authority of any kind to bind WeThink in any respect whatsoever.