

# Whatboard Terms of Service

**DATE OF LAST UPDATE: SEPTEMBER 5, 2020**

Please read these Whatboard terms of service (“**Terms of Service**”) carefully. These Terms of Service govern your access to and use of the Whatboard cloud-based application available at Whatboard.com, and any updates, upgrades, modified versions, extensions, improvements and derivative works of the foregoing (collectively, the “**Service**”). Whatboard, Inc. is an Illinois corporation and in these Terms of Service, we will reference ourselves as “**Whatboard**” or “**we**”/“**us**”. By creating an account on the Service, accessing and/or using the Service, you irrevocably agree to these Terms of Service. These Terms of Service govern your use of and Whatboard’s provision of the Service. If you do not agree to these Terms of Service, you may not create an account on, access or use, the Service.

“**You**” means the entity you represent in accepting these Terms or Service or, if that does not apply, you individually. If you are accepting on behalf of your employer or another entity, you represent and warrant that: (i) you have full legal authority to bind your employer or such entity to these Terms of Service; (ii) you have read and understand these Terms or Service; and (iii) you agree to these Terms of Service on behalf of the party that you represent.

## **1. User Account Registration**

(a) Account Registration and Use License: In order to access and use all of the features of the Service, you are required to open an account (“**User Account**”) by registering with Whatboard. When you register for your User Account you must provide true, accurate, current and complete information (“**Account Information**”), and you agree to update the Account Information in order to ensure that it is current. Upon proper registration and opening of a User Account, and subject to all of the terms and conditions of these Terms of Service, Whatboard hereby grants to you the personal, non-transferable right and license to use the Service, solely for your own internal business purposes, until such time as either you or Whatboard elect to terminate such right in accordance with these Terms of Service.

(b) Eligibility: As an express condition of being permitted to open a User Account, you represent and warrant that you (i) have the legal capacity (including, without limitation, being of sufficient age) to enter into contracts under the law of the jurisdiction in which you reside, (ii) are not on a list of persons barred you from receiving services under U.S. laws (including, without limitation, the Denied Persons List and the Entity List issued by the U.S. Department of Commerce, Bureau of Industry and Security) or other applicable jurisdiction and (iii) are not a resident of Cuba, Iran, North Korea, Sudan or Syria.

(c) Credentials: Upon registration for a User Account, you will provide Whatboard with a user ID and password to access your account. You are responsible for maintaining the confidentiality of your password and for all of your activities and those of any third party that occur through your account, whether or not authorized by you. You agree to immediately notify Whatboard of any suspected or actual unauthorized use of your User Account. You agree that Whatboard will not under any circumstances be liable for any

cost, loss, damages or expenses arising out of a failure by you to maintain the security of your password.

## **2. Fees; Term and Termination**

(a) Fees: Some features of the Service may only be accessed and used upon the payment of applicable fees (“**Fees**”). Fees may vary depending on usage in accordance with our current pricing policy available in the Service or on the Site. If you do not initially register for a version of the Service that requires the payment of a fee, you will nonetheless be permitted to use all of the features of the Service for the trial period expressly stated at the time you signed up for the trial period use of the Service (“**Free Trial Period**”). NOTWITHSTANDING ANYTHING CONTAINED HEREIN, ANY SERVICE PROVIDED DURING THE FREE TRIAL PERIOD IS PROVIDED “**AS-IS**” WITHOUT ANY REPRESENTATIONS, WARRANTIES OR INDEMNITIES. Upon the expiration of the Free Trial Period, you will only be able to access and use those features of the Service the use of which does not require the payment of a Fee, unless you subsequently upgrade to a paid version of the Service. All Fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you are solely responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes.

(b) Refunds, Upgrading and Downgrading: Refunds are processed according to our fair refund policy. Any changes in your Service usage that result in any new, increase or decrease in Fees as specified in our current pricing policy available in the Service or on the Site, will be charged at the next billing cycle. There will be no prorating for downgrades in between billing cycles. Downgrading your Service may cause the loss of

features or capacity of your User Account. Whatboard does not accept any liability for such loss.

(c) Cancellation and Termination by You: You are solely responsible for properly canceling your User Account. An email or phone request to cancel your User Account is not considered cancellation. You can cancel your User Account at any time by clicking on the settings link in the global navigation bar at the top of the Service screen. The settings screen provides a simple no-questions-asked cancellation link. If you cancel your User Account before the end of your current paid up applicable subscription term, your cancellation will take effect immediately, and you will not be charged again. Please note that we do not provide refunds for unused time in the last billing cycle.

(d) Termination and Suspension by Whatboard: Whatboard may terminate your User Account and/or these Terms of Service at any time and for any reason upon notice to you. We may also suspend our Service to you at any time, with or without cause. If we terminate your User Account without cause, we will refund a prorated portion of your monthly prepayment. We will not refund or reimburse you if we terminate your User Account for cause, including (without limitation) for a violation of these Terms of Service or the Acceptable Use Policy.

(e) Effect of Termination: Once your User Account is terminated, we may permanently delete your User Account and any or all User Content associated with it. If you do not log in to your User Account for 12 or more months, we may treat your User Account as “**inactive**” and permanently delete the User Account and all the data associated with it. Except where an exclusive remedy may be specified in this Agreement, the exercise by either party of any remedy, including termination, will be without prejudice to any other remedies it may have under these Terms of Service. All sections of these Terms of

Service which by their nature should survive termination will survive, including without limitation, accrued rights to payment, use restrictions and indemnity obligations, confidentiality obligations, warranty disclaimers, and limitations of liability.

### **3. Your Use of the Service and Restrictions**

(a) Account and Use of Service: You may use your User Account for the Service only for lawful purposes, and only in accordance with these Terms of Service and Acceptable Use Policy. You acknowledge that you have read, understand and agree to Whatboard's Acceptable Use Policy, which is hereby incorporated into and made a part of these Terms of Service by this reference.

(b) Acceptable Use: You shall not use or access the Service to: (i) advertise, promote materials or solicitation related to any product or service that is competitive with Whatboard products or services, including without limitation, the Service; (ii) transmit or transfer (by any means) information or software derived from the Service to foreign countries or certain foreign nations in violation of US export control laws, or (iii) to violate or attempt to violate the security of the Service or Whatboard's or any third party's system or network security in any way. In addition, you agree not to, directly or indirectly: (A) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Service or any software, documentation or data related to or provided with the Service ("**Software**"); (B) modify, translate, or create derivative works based on the Service or Software; or copy (except for archival purposes), rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Service or Software; (C) use or access the Service to build or support, and/or assist a third party in building or supporting, products or services competitive to Whatboard; (D) remove any proprietary notices or

labels from the Service or Software; or (E) otherwise use the Service or Software outside of the scope of the rights expressly granted herein. You agree to use the Service and Software only for your own internal business operations, and not to transfer, distribute, sell, republish, resell, lease, sublease, license, sub-license or assign the Service or use the Service for the operation of a service bureau or time-sharing service.

(c) Your Use of The Service to Send Communications: You acknowledge that (a) you exclusively are responsible for and control the timing, content, and distribution of all telephonic or electronic communications made or initiated to any person or entity in connection with your use of the Service, and (b) any such communications are made or initiated only as a result of your actions. You further warrant that all telephonic or electronic communications made or initiated in connection with your use of the Service comply with all applicable foreign and US federal or state laws and regulations, including without limitation the Telephone Consumer Protection Act, before you make or initiate any telephonic or electronic communication through the Service.

(d) Your Responsibilities: You are responsible and liable for all uses of the Service under your User Account and associated User Account credentials, including without limitation, compliance with all applicable laws and regulations and third party terms.

(e) Export Controls: You hereby represent and warrant that (i) you understand and acknowledge that components of the Service may be subject to export, re-export and import restrictions under applicable law, (ii) you will not use the Service in a manner that violates the U.S. Export Administration Act of 1979 and the regulations of the U.S. Department of Commerce, and (iii) you are not located in, under the control of, or a national or resident of any country to which the United States has embargoed goods.

## 4. Our security and data privacy practices

(a) Data Privacy: Whatboard's Privacy Policy is hereby incorporated into and made a part of these Terms of Service by this reference.

(b) Standard Contractual Clauses: To the extent that Whatboard processes any personal data subject to the European Union General Data Protection Regulations ("GDPR") and you are the data exporter, your agreeing to these Terms of Service shall be treated as signing the Standard Contractual Clauses and their Appendices attached to the DPA for purposes of any transfer of personal data subject to GDPR in connection with the Service.

(c) Security: We implement and maintain physical, technical and administrative security measures designed to protect the Service and User Content from unauthorized access, destruction, use, modification or disclosure at a level not materially less protective than as described in the Security at Whatboard page.

(d) Whatboard Extended Team: We may leverage our employees, those of our corporate affiliates and our contractors (the "**Whatboard Extended Team**") in exercising our rights and performing our obligations under these Terms of Service. Whatboard Extended Team does not include any Third Party Services (defined below in Section 6) or their employees or contractors. We will be responsible for the Whatboard Extended Team's compliance with our obligations under these Terms of Service.

## 4. Terms that Apply to Your Data

(a) Your Data: You will retain ownership of any data, information or material originated by you that you transmit through the Service ("User Content") – for example, User

Content from your accounts with Third Party Services that passes through the Service. By transmitting User Content through the Service, you hereby grant to Whatboard worldwide, non-exclusive, limited term license to access, use, process, copy, distribute, perform, transmit, export and display User Content and to access your User Account, as reasonably necessary: (i) to provide, maintain, operate and update the Service and to provide customer support for the Service, (ii) to prevent or address service, security, support or technical issues, or (iii) as required by law.

(b) Your Posts: The Service may include functionality that permits users to post, upload or transmit content in a manner that is intended to be viewed by other users (“**Your Posts**”). Your Posts exclude User Content. By submitting Your Posts to the Service, you hereby grant to Whatboard a perpetual, irrevocable, royalty-free, worldwide, non-exclusive right and license, including the right to grant sublicenses to third parties, to use, reproduce, publicly display, publicly perform, prepare derivative works from and distribute Your Posts for any purpose. Whatboard may exercise all copyright, publicity and moral rights, in any media, with respect to Your Posts.

(c) Your Data Compliance Obligations: You shall be solely responsible for the accuracy, quality, content, transmission and legality of User Content and Your Posts, and any actions triggered by User Content. You represent and warrant that (i) you have obtained all necessary rights, releases and permissions to transmit User Content through the Service and for any actions triggered by User Content, post Your Posts on the Service and to otherwise have User Content and Your Posts used as described in these Terms of Service, (ii) User Content, Your Posts and their transmission, processing, posting and use as you authorize in these Terms of Service will not violate any laws or regulations, the Acceptable Use Policy or any Third Party Services terms, and (iii) none of Your



Posts will constitute obscene, pornographic, indecent, profane or otherwise objectionable material.

(d) No Prohibited Sensitive Personal Data: In addition you may not access or use the Service to post, upload or transmit, or incorporate any data that is subject to heightened privacy and security requirements by law or regulations or applicable Third Party Services terms, including, without limitation, any financial or medical information of any nature, any sensitive personal information (e.g., government issued numbers, driver's license numbers, birth dates, personal bank account numbers, passport or visa numbers, credit card numbers, passwords and security credentials), or any special categories of personal data under GDPR.

(e) Enforcement: Whatboard reserves the right, but does not undertake the obligation, to monitor the Service and to investigate and take appropriate legal action against any party that uses the Service in violation of applicable law, these Terms of Service or the Acceptable Use Policy. Whatboard reserves the right to accept, reject or modify any User Content or Your Posts but assumes no liability based on its acceptance, rejection, modification or failure to modify any User Content or Your Posts.

## **5. Proprietary Rights and Improving the Service**

(a) Whatboard Service: The Service is made available on a limited access basis, and no ownership right is conveyed to you. We and our licensors have and retain all right, title and interest, including all intellectual property rights, in and to the Service, including all modifications, updates, upgrades, extensions, components and all derivative works to the Service. All our rights not expressly granted under these Terms of Service are hereby retained.

(b) Suggestions: From time to time at your sole discretion, you may choose to provide suggestions, enhancement requests, recommendations or other feedback related to the Service (“**Suggestions**”) to us. You hereby grant to Whatboard a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate any Suggestions into the Service and/or other Whatboard products, services or offerings.

(c) Improving the Service: Notwithstanding anything to the contrary set forth herein or otherwise, Whatboard will have the right to collect and analyze data and other information relating to the provision, use or performance of the Service and related systems and technologies (including information concerning the use of User Account and data derived therefrom), and to aggregate and/or de-identify all such data and information. Whatboard will be free at any time to: (i) use such information and data to improve and enhance the Service; and (ii) disclose such data in aggregate or other de-identified form in connection with its business.

(d) Trademarks: Whatboard, the Whatboard Logo and all Whatboard product names are trademarks and services marks of Whatboard (collectively “**Whatboard Trademarks**”) and third party logos and product names are trademarks and service marks of third parties (collectively “**Third Party Trademarks**”) and nothing in these Terms of Service shall be construed as granting any license or right to use the Whatboard Trademarks without Whatboard’s prior written consent or the Third Party Trademarks. You hereby grant Whatboard the right to identify you as a customer of Whatboard and to use your logo and/or trademark for that purpose.

## **6. Linked Third Party Services**

The Service may contain links to and integrations with third party websites, applications and services (“**Third Party Services**”), and you agree that Whatboard provides links to and integrations with such Third Party Services solely as a convenience and has no responsibility for the content or availability of such Third Party Services, and that Whatboard does not endorse such Third Party Services (or any products or other services associated therewith). Access to any Third Party Services linked to the Service is at your own risk, and Whatboard is not responsible for the accuracy or reliability of any information, data, opinions, advice or statements made on such Third Party Services. Your use of such Third Party Services will be subject to the terms applicable to each such Third Party Services. You may not post a link that directs users to any content or information that would constitute a violation of these Terms of Service or any terms applicable to such Third Party Services.

## **7. Service Warranty; Indemnification**

(a) Service Warranty: If you are a paying subscriber to the Service, Whatboard warrants to you that it will provide the Service during the applicable subscription substantially in accordance with its documentation under normal use. In the event of any breach of such warranty, your exclusive remedy will be Whatboard’s re-performance of the deficient Service or, if Whatboard cannot re-perform such deficient Service as warranted, you may terminate your User Account as set forth above and Whatboard will refund a prorated portion of your monthly prepayment. You must notify Whatboard in writing of any warranty deficiency within 10 days from receipt of the deficient Service in order to receive the foregoing warranty remedy.

(b) Disclaimers: EXCEPT AS EXPRESSLY SET FORTH IMMEDIATELY ABOVE, THE SERVICE IS PROVIDED STRICTLY ON AN “**AS IS**” AND “**AS AVAILABLE**” BASIS,

AND Whatboard MAKES NO WARRANTY THAT THE SERVICE IS COMPLETE, SUITABLE FOR YOUR PURPOSE, RELIABLE, USEFUL OR ACCURATE, AND ON BEHALF OF ITSELF AND ITS LICENSORS, Whatboard HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED, STATUTORY OR OTHER WARRANTIES WITH RESPECT TO THE SERVICE OR THE AVAILABILITY OF THE FOREGOING, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT. THE ENTIRE RISK AS TO RESULTS OBTAINED THROUGH USE OF THE SERVICE RESTS WITH YOU. Whatboard AND ITS LICENSORS WILL NOT BE LIABLE OR RESPONSIBLE IN ANY WAY FOR ANY LOSSES OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF OR RELIANCE ON ANY MATERIAL CONTAINED ON THE SERVICE. Whatboard MAKES NO REPRESENTATION OR WARRANTY THAT THE AVAILABILITY OF THE SERVICE WILL BE UNINTERRUPTED, OR THAT THE, SERVICE WILL BE ERROR FREE OR THAT ALL ERRORS WILL BE CORRECTED.

(c) Your Indemnification Obligations: You hereby irrevocably agree to indemnify, defend and hold Whatboard, its affiliates, directors, officers, employees and agents harmless from and against any and all loss, costs, damages, liabilities and expenses (including attorneys' fees) arising out of or related to any claim arising from or related to (i) your breach or alleged breach of these Terms of Service, and/or (ii) Your Posts or User Content.

(d) Whatboard's Indemnification Obligations: If you are a paying subscriber to the Service, Whatboard will defend you against any third party claim brought against you alleging that the use of such paid Service as permitted hereunder infringes the United States intellectual property rights of a third party, and Whatboard shall pay all costs and

damages finally awarded against you by a court of competent jurisdiction as a result of any such claim; provided that you (a) promptly give written notice thereof to Whatboard; (b) give Whatboard sole control of the defense and settlement of the claim; and (c) provide to Whatboard all reasonable assistance. The foregoing shall not apply to any claim based upon or arising from (i) any use of the Service outside the scope of these Terms of Service or Acceptable Use Policy, (ii) User Content or Your Posts, or (iii) a combination of the Service with any content or other technology not provided by Whatboard.

## **8. LIMITATION OF LIABILITY**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, AND EXCEPT FOR EXCLUDED CLAIMS (AS DEFINED BELOW), NEITHER PARTY NOR THEIR LICENSORS (AND IN THE CASE OF Whatboard, ANY Whatboard EXTENDED TEAM) SHALL BE LIABLE TO THE OTHER PARTY FOR ANY (A) INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL, EXEMPLARY OR STATUTORY DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, LOSS OR PROFITS, LOSS OF REVENUE, LOSS OF DATA, LOSS OF GOODWILL OR FOR ANY COST OF COVER OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF THE LEGAL THEORY UNDER WHICH DAMAGES ARE SOUGHT, WHETHER IN BREACH OF CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, OR (B) AMOUNTS IN THE AGGREGATE THAT EXCEED THE FEES PAID BY YOU TO Whatboard HEREUNDER IN THE TWELVE (12) MONTHS PRECEDING THE DATE THE CLAIM AROSE.

**“Excluded Claims”** means (i) any amounts owed by you under Fees, (ii) your indemnification obligations in these Terms of Service, and (iii) any claims that may not be capped or limited under applicable law. The parties agree that the waivers and limitations specified in this Section 8 apply regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and will survive and apply even if any limited remedy specified in these Terms of Service is found to have failed of its essential purpose.

## 9. Confidential Information

(a) Confidential Information: Each party (**“Disclosing Party”**) may disclose **“Confidential Information”** to the other party (**“Receiving Party”**) in connection with the Service, which is anything that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, as well as non-public business, product, technology and marketing information. If something is labeled **“Confidential,”** that’s a clear indicator to the Receiving Party that the material is confidential. Notwithstanding the above, Confidential Information does not include information that (a) is or becomes generally available to the public without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (c) is received from a third party without breach of any obligation owed to the Disclosing Party; or (d) was independently developed by the Receiving Party.

(b) Protection and use of Confidential Information: The Receiving Party will (a) take at least reasonable measures to prevent the unauthorized disclosure or use of Confidential Information, and limit access to those employees, affiliates and contractors who need to know such information in connection with the Service; and (b) not use or disclose any

Confidential Information of the Disclosing Party for any purpose outside the scope of the Service and these Terms of Service. Nothing above will prevent either party from sharing Confidential Information with financial and legal advisors; provided, however, that the advisors are bound to confidentiality obligations at least as restrictive as those in the Contract.

(c) Compelled access or disclosure: The Receiving Party may access or disclose Confidential Information of the Disclosing Party if it is required by law; provided, however, that the Receiving Party gives the Disclosing Party prior notice of the compelled access or disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the access or disclosure. If the Receiving Party is compelled by law to access or disclose the Disclosing Party's Confidential Information, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing access to such Confidential Information as well as the reasonable cost for any support provided in connection with the Disclosing Party seeking a protective order or confidential treatment for the Confidential Information to be produced.

## **10. Additional Services**

(a) Whatboard Teams and Whatboard Companies Accounts: If your subscription to the Service is for the Whatboard Teams or Whatboard Companies package of the Service (each a “**Team Account**”), the following additional terms apply: Each Team Account will have an administrator who can accept or remove Team Account members. By agreeing to join a Team Account, you acknowledge that (i) your identity, including name, email address, and avatar (if any), will be disclosed to other Team Account members, and the Team Account administrator will also have access to your task

usage, and (ii) your User Content will be viewable by all Team Account members. You will have the option to share with other Team Account members any content you have created and/or any Third Party Service with which you have connected. If you share content, all Team Account members can view and edit such content. If you share Third Party Service with which you have connected, all Team Account members will have read/write access to the data associated with such Third Party Service.

## **11. Location of the Service and Your Use**

Whatboard operates or controls the operation of the Service from a cloud service located in the United States. In addition, the Service, User Content and Your Posts may be accessed, mirrored and/or managed from various locations outside the United States. Whatboard makes no representation or warranty that all of the features of the Service, User Content or Your Posts will be available to you outside of the United States, or that they are permitted to be accessed outside of the United States.

## **12. Notices**

Whatboard may give notice applicable to Whatboard's general Service customer base by means of a general notice on the Service portal, and notices specific to you by electronic mail to your e-mail address on record in your User Account or by written communication sent by first class mail or pre-paid post to your address on record in your User Account. You are responsible for ensuring that your contact information is accurate and up to date in your User Account. If you have a dispute with Whatboard, wish to provide a notice under these Terms of Service, or become subject to insolvency



or other similar legal proceedings, you must promptly send written notice to Whatboard at Whatboard, Inc., 548 Market St. #62411, San Francisco, CA 94104-5401; Attn: Legal.

### **13. Modifications to Terms of Service**

Whatboard expressly reserves the right to modify the Terms of Service at any time in its sole discretion by including such alteration and/or modification in these Terms of Service, along with a notice of the effective date of such modified Terms of Service. If a revision meaningfully reduces your rights, we will use reasonable efforts to notify you (by, for example, through your User Account or in the Service itself). To the extent you have purchased a subscription to the Service, the modified terms will be effective as to such subscription Service upon the earlier of (i) your next subscription renewal, or (ii) your acceptance of the modified Terms of Service by clicking “**Accept**” (or similar button or checkbox) at the time you are presented with the modified Terms of Service. If you object to the updated Terms of Service, as your exclusive remedy, you may choose not to renew, including cancelling any terms set to auto-renew. In all other cases, any continued use by you of the Service after the posting of such modified Terms of Service shall be deemed to indicate your irrevocable agreement to such modified Terms of Service.

### **15. General**

These Terms of Service and the policies or terms expressly referenced and incorporated into these Terms of Service, (e.g. the Acceptable Use Policy) constitute the entire agreement and understanding between the parties concerning the subject matter hereof, notwithstanding any different or additional terms that may be contained in the form of purchase order or other document used by you to place orders or otherwise

effect transactions hereunder, which such terms are hereby rejected. Neither party may assign these Terms of Service without the prior written approval of the other, such approval not to be unreasonably withheld or delayed, provided that such approval shall not be required in connection with an assignment to an affiliate or to a successor to substantially all of such party's assets or business related to these Terms of Service. These Terms of Service supersede all prior or contemporaneous discussions, proposals and agreements between you and Whatboard relating to the subject matter hereof. If any provision of these Terms of Service is held to be invalid or unenforceable, the remaining portions will remain in full force and effect and such provision will be enforced to the maximum extent possible so as to effect the intent of the parties and will be reformed to the extent necessary to make such provision valid and enforceable. No waiver of rights by either party may be implied from any actions or failures to enforce rights under these Terms of Service or the Acceptable Use Policy. These Terms of Service and the Acceptable Use Policy are intended to be and are solely for the benefit of Whatboard and you and do not create any right in favor of any third party. These Terms of Service will be governed by and construed in accordance with the laws of the State of Illinois, without reference to its conflict of laws principles. The Uniform Computer Information Transactions Act will not apply to this Agreement. All disputes arising out of or relating to these Terms of Service will be submitted to the exclusive jurisdiction of a court of competent jurisdiction located in Lake County, Illinois, and each party irrevocably consents to such personal jurisdiction and waives all objections to this venue.