



# UserWay Terms of Use

# UserWay Terms of Use

These Terms and Conditions of Service ("**Terms**", "**Terms and Conditions**") govern your ("**You**", "**Your**" or "**Licensee**") relationship with UserWay Inc. (together with its subsidiaries, representatives, affiliates, officers, and directors, "**UserWay**" or "**We**" or "**Us**" or "**Our**") regarding your access and use of our website whose address is <https://userway.org/> (together with any other associated websites running which we make use of such as UserWay.org or UserWay.com the "**UserWay Website**") and the UserWay professional services or Products which include the AI-Powered Accessibility Widget (the "**AI-Widget**") UserWay's Free Accessibility Widget (the "**Free-Widget**", which together with the AI-Widget shall be referred to herein as the "**Widget**"); UserWay's Accessibility Scanning & Monitoring (which together with the UserWay Inspector shall be referred to herein as the "**Scanner**"); UserWay Audits (the "**Audit**"), UserWay AI-Powered Content Moderator (the "**Moderator**"); and any additional services or products that UserWay may provide (collectively referred to herein as the "**Products**" and together with the UserWay Website, the "**Service**"). The Service is used either on a website or on digital content owned or controlled by Licensee (the "**Licensee Website**").

Please read these Terms carefully before using the Services. Your access to and use of the Services is conditioned on your acceptance of and compliance with these Terms, which may be indicated by clicking the "I Accept" or "I Agree" option available in some of the Products, completing the registration process, or using the Services. By accessing or using the Service, You agree to be bound by these Terms. If You disagree with any part of these Terms, then you may not use or access the Service. In order to agree to these Terms, You need to (i) be at least 18 years old or You need to have Your parent or guardian's consent to agree to these Terms (as per the stipulations of the United States' Children Online Privacy Protection Act (COPPA)); and (ii) have the power to enter into a binding contract with Us and not be prohibited from doing so under any applicable law.

Your use of the Service is subject to any additional terms, policies, rules, or guidelines applicable to the Service or certain features of the Service, that may be published by Us from time to time. All such additional terms, policies, rules, or guidelines are incorporated herein by reference, and shall be considered an integral part of these Terms.

## Non-exclusive License

Subject to the terms and conditions of these Terms, You are hereby granted a limited, revocable, non-exclusive, non-assignable, non-sublicensable, license to install and use the Products on Licensee's Website subject to and in accordance with these Terms (the "**License**"). Each License is applicable to one Licensee Website unless otherwise specified in the applicable Purchase

Order. It is hereby clarified that License does not grant You any ownership rights over the Products or any part thereof. After the Widget has been embedded in Your website, no further use of the same may be made, and the Widget shall not be embedded in any other domain name or any other website/s operated by You, unless You purchased or otherwise obtained through Us an additional License for such additional website/s.

You are not permitted to use the Products for purposes other than as detailed above, and You shall not make the Service available for any commercial use unless you received Our prior written approval. All rights in and to the Service not expressly granted to You in these Terms and all intellectual property rights therein are reserved and retained by UserWay without restriction. Without limiting the generality of the foregoing, You agree not to (and not to allow any third party to): (i) sublicense, distribute, or use the Service outside of the scope of these Terms; (ii) copy, modify, reproduce, adapt, translate or otherwise create derivative works of the Service or any documentation related thereto; (iii) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Service or any part thereof, except as expressly permitted by the law in effect in the jurisdiction in which You are located; (iv) rent, lease, license, sell, assign or otherwise transfer rights in or to the License, the Service or any part thereof; (v) use the trademarks, trade names, service marks, logos, domain names and other distinctive brand features or any copyright or other proprietary rights associated with the Service for any purpose without the express written consent of UserWay; or (vi) use, post, transmit or introduce any device, software or routine which interferes or attempts to interfere with the operation of the Service.

## UserWay Service

UserWay exerts commercial efforts to ensure that its Products enable Licensee's Website to become compliant with the WCAG 2.1 level AA success criteria (the "**WCAG Standard**").

When the Free-Widget is embedded into Licensee's Website, Licensee's Website will make available user-triggered accessibility enhancements enabling Licensee's Website to become more accessible for some users once accessibility functions are manually enabled by an end-user of Licensee Website.

When the AI-Widget is embedded into Licensee's Website, Licensee's Website will become substantially more accessible in accordance with the provisions of the WCAG Standard, with little-to-no intervention required by the Licensee's Website administrator(s), developer(s) and/or end-users.

When the Scanner's violation reports and instructions for remediation with regards to the applicable scanned and monitored Licensee's Website are followed and implemented by

Licensee Website administrators or developers, such as Licensee's Website will become substantially more accessible in accordance with the provisions of the WCAG Standard. Without limiting the foregoing, and for the avoidance of doubt, this applies to all the code within scope of the Scanner (HTML) and not to non-HTML items made available on the Licensee Website such as PDF, Audio, Video, etc.

Should You provide Us with a written notice regarding any error or deviation from the WCAG Standard, We can assist You in repairing such error or deviation (the "**Professional Services**"). Any such notice concerning a violation must be as detailed and as specific as possible and include reference to the exact component of Licensee's Website that is not accessible. Without limiting the foregoing and for the avoidance of doubt, We undertake to use reasonable commercial efforts to (a) offer you Professional Services; (b) advise You of how to make Licensee Websites compliant; and (c) address and remediate such violations within the scope of Our Products' technical capabilities, provided however, that in each case, You shall be solely responsible for the implementation of our instructions.

## UserWay Support

We will provide You during regular business hours and via e-mail, chat and video conferencing technical support and assistance in operating the Products. All such services shall be provided subject to timely payment of support fees and shall be made on a reasonable commercial efforts basis, depending, inter alia, on the severity level of the technical issue reported to Us.

## Rules of Conduct

We try to provide information as accurate and as up to date as possible on the Website.

You may not use the Service in connection with any content that is illegal (in any applicable jurisdiction) or may infringe or promote the infringement of any copyright, patent, trademark, service mark, trade secret, moral right, or other intellectual property or proprietary right of UserWay or any other third party. You may not use the Service to post unlawful or defamatory information about UserWay or a person without their consent, including any information that is harassing or would intentionally inflict emotional distress. You may not use the Service to send spam messages, including, without limitation, commercial advertising or mass e-mailings. We reserve the right to notify the appropriate law enforcement department in case of a violation that is a criminal offense. The prohibited uses detailed above are intended as guidelines regarding improper and inappropriate conduct and should not be interpreted as an exhaustive list. Generally, conduct that violates law, regulation, or the accepted norms of the Internet community, whether or not expressly mentioned in these Terms is prohibited. We reserve the

exclusive right, at all times, to prohibit activities that damage Our commercial interests, reputation and goodwill.

By Registering to the Website or using the Products, You agree to be added to our mailing list and to receive UserWay's transactional emails, updates, newsletters, and other promotional or advertising content. You also consent to the collection, use and disclosure of Your personally identifiable information as well as any non-personally identifiable information. We will retain and use such information, as well as the Registration Data, pursuant to Our Privacy Policy (located at: <https://userway.org/privacy>) which is incorporated herein by reference.

## Payments

These Terms and the purchase order or any other record of payment for the Service entered into between You and Us (collectively the "**PO**") shall be the complete and binding agreement between Us and the customer identified in the PO, covering the License to use the Service, and the printed and/or electronic user documentation accompanying the Service, and/or maintenance, support or other services ordered thereunder, and is effective when executed. In any event of a conflict or a contradiction between the terms of the PO and these Terms, the PO shall prevail.

Unless otherwise stated, all fees are quoted in U.S. Dollars. Any outstanding balance becomes immediately due and payable upon termination of these Terms and any collection expenses (including attorneys' fees) incurred by Us will be included in the amount owed and may be charged to the applicable billing mechanism associated with You. Unless agreed otherwise in the PO, all fees payable hereunder shall be prepaid. Unless agreed otherwise in the PO, all fees payable hereunder, do not include local, state or federal sales, use, excise, personal property, VAT or other similar taxes or duties, including, without limitation, any withholding tax, and any such taxes, to the extent legally applicable, shall be borne and paid by You. Any delay in payment of the fees payable hereunder shall bear interest at the rate which is the lower of: (i) 1.5% per month; or (2) the maximum rate authorized under applicable law.

## UserWay's Guarantee

When you purchase and operate the UserWay's AI-Powered Accessibility Widget, UserWay shall indemnify you up to a sum of \$10,000 or \$1,000,000, depending on your plan, against any amount which a competent court instructed you to pay a third party arising from violations of a referenced WCAG standard (either WCAG 2.0 level AA or WCAG 2.1 level AA) which is initiated against you (the "Claim"), subject to the following conditions: (i) you purchased and correctly operated the UserWay's AI-Powered Accessibility Widget prior to the earliest date in the claim;

(ii) the Claim refers to violations that are known to be remediated by UserWay's AI-Powered Accessibility Widget, (iii) you engage a competent counsel which UserWay believes (in its discretion) has adequate skills and knowledge of accessibility domain and comprehension of the laws in question who responds in a timely and competent manner to a Claim, requesting information and/or time extensions as needed; (iv) you and your counsel will share all communication with the UserWay compliance team and consult with UserWay prior to responding to any Claim; (v) to the extent relevant, and within sixty days of receiving the Claim, your team will remediate, in a timely manner, any violations which UserWay's AI-Powered Accessibility Widget cannot remediate automatically such as recorded videos, linked PDFs etc. as UserWay shall instruct you; (iv) you will retain UserWay to perform professional services on your behalf with respect to any consultation regarding the Claim and/or remediation which your team cannot perform.

## **Refund policy**

To the extent You are not satisfied with the Service you may cancel your subscription within 14 days as of the date of commencement of your subscription to the Service. Your cancellation request should be sent to [support@userway.org](mailto:support@userway.org), and it should include your full name, the domain name for which the service cancellation is sought, a copy of the PO, receipt or payment confirmation. UserWay may charge You a cancellation fee as authorized by applicable law. Following the aforesaid 14 days period, you will not be entitled to a refund in lieu of a cancellation request.

## **Intellectual Property**

The Service's original content, features and functionality are and will remain the exclusive property of UserWay and its licensors. The Service is protected by copyright, trademark, and other applicable laws. Our trademarks, content, designs and service marks may not be used in connection with any product or service without the prior written consent of UserWay.

You are aware that some of the Products are based on AI, and that data relating to Licensee's Website may be used to train AI models, ML models or other algorithmic modifications. You hereby acknowledge that the Service includes such AI components, and the training models of these components. Without limiting the foregoing, the Service includes training data, training instructions, algorithms that may be revised during the training process, and You are responsible to assure that any third-party data provider requirements are not violated.

The name "UserWay" and any trademarks and/or service marks or symbols are the property of UserWay. The purchase of a License to use the Products does not permit You to make use of any of the trademarks, copyright or service symbols for any purpose not expressly contained in these Terms.

Any ideas, requests, feedbacks, recommendations, error and bug reports, comments, concepts, additional features and other requests or suggestions that You may provide Us in connection to the Service (collectively "**Ideas**"), will be owned by Us. You hereby irrevocably assign and transfer any intellectual property rights in such Ideas to us, free of charge. You agree that the same will automatically become our property and that we shall be entitled to use, exploit, implement, adapt, develop, copy, reproduce, publish, license or assign the rights to such materials and Ideas without any obligation to make any royalty or other payment to You, and without any obligation of credit or notice to You. If You intend to retain any intellectual property rights in Your Ideas, please do not submit them to Us without Our prior written approval. The provisions of this clause shall continue to apply regardless of the cessation of the provision of the Services upon the conclusion of the License, for any reason whatsoever. The provisions of this section do not derogate or diminish any rights afforded to Us pursuant to the provisions of any applicable law.

## Links to Other Web Sites

Our Service may contain links to, or provide tools that enable You to interact with, third-party web sites or services (such as Google, Facebook, Twitter, YouTube, etc.) that are not owned or controlled by UserWay.

UserWay has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third-party web sites or services. You further acknowledge and agree that UserWay 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 use of or reliance on any such content, goods or services available on or through any such web sites or services.

You agree that Your use of the Service may incur third-party fees, such as fees charged by Your carrier for data usage, and You agree to pay all such fees and abide by all such terms. By using the Service, You expressly relieve UserWay from any and all liability arising from Your use of any third-party website or third-party services.

We strongly advise You to read the terms and conditions and privacy policies of any third-party web sites or services that You visit.

## Termination

We may terminate Your use of the Service immediately, without prior notice or liability, for any reason whatsoever, including without limitation Your breach these Terms. Upon termination, Your right to use the Service will immediately cease. If You wish to terminate the Service, You may simply discontinue using it. The expiration or termination of these Terms shall not relieve You of any obligation intended to survive under these Terms, nor any obligation to pay the applicable fees under the PO.

## Indemnification

To the extent permitted by applicable law, You shall indemnify, hold harmless and defend UserWay, its subsidiaries and their respective officers, directors, employees, agents and representatives ("**UserWay's Indemnities**") at Your expense, from any and all third-party claims, actions, proceedings, and suits brought against UserWay's Indemnities, and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including, reasonable attorneys' fees and other litigation expenses) incurred by UserWay's Indemnities, arising out of or relating to (i) Your breach of these Terms; (ii) Your use of the Service; (iii) Your violations of applicable laws, rules or regulations in connection with the Service; (iv) any representations and warranties made by You concerning any aspect of the Service; (v) any claims made by or on behalf of any third party pertaining directly or indirectly to Your use of the Service; and (vi) violations of Your obligations of privacy.

UserWay shall provide You with written notice of any claim, suit or action for which such indemnification is being sought. You shall cooperate as fully as reasonably required in the defense of any claim. UserWay reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification by You.

## Disclaimer of Warranties

USE OF THE SERVICE AND ANY RELIANCE BY YOU UPON THE SERVICE, INCLUDING ANY ACTION TAKEN BY YOU BECAUSE OF SUCH USE OR RELIANCE, IS AT YOUR SOLE RISK. USERWAY DOES NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS. USERWAY MAY MAKE IMPROVEMENTS AND/OR CHANGES IN THE SERVICES AT ANY TIME. USERWAY MAKES NO REPRESENTATIONS AS TO THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINES, AND ACCURACY OF THE SERVICE. THE SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE", "WITH ALL FAULTS" AND USERWAY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A



PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ARE ONLY INTENDED TO BE USED BY YOU ON THE LICENSEE'S WEBSITE FOR WHICH YOU HAVE OBTAINED A LICENSE.

USERWAY, ITS SERVICE PROVIDERS, AGENTS AND SUB-CONTRACTORS DOES NOT WARRANT THAT: (A) THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; OR (B) THAT DEFECTS, IF ANY, WILL BE CORRECTED. APPLICABLE LAW MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU IN THIS REGARD.

YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE OR NONPERFORMANCE OF THE SERVICE SHALL BE FOR USERWAY TO USE COMMERCIALY REASONABLE EFFORTS TO ADJUST OR REPAIR THE SERVICE.

## **Limitation of Liability**

TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL USERWAY BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR ANY DAMAGES WHATSOEVER, INCLUDING, BUT NOT LIMITED TO LOSS OF USE, SALES, DATA, PROFITS LOSS OF OR DAMAGE TO BUSINESS, LOSS OF CONTRACTS OR LOSS OF CUSTOMERS, EVEN IF USERWAY HAS BEEN ADVISED OF, KNEW OR SHOULD HAVE KNOWN THAT SUCH DAMAGES WERE POSSIBLE AND EVEN IF DIRECT DAMAGES DO NOT SATISFY A REMEDY.

YOU FURTHER AGREE THAT WE SHALL HAVE NO RESPONSIBILITY FOR ANY DAMAGES SUFFERED BY YOU IN CONNECTION WITH LOSS OF DATA, ERRORS, SYSTEM DOWN TIME, NETWORK OR SYSTEM OUTAGES, COMMUNICATIONS LINE FAILURE, FILE CORRUPTION, OR SERVICE INTERRUPTIONS CAUSED BY THE NEGLIGENCE OF EITHER US OR OUR SUB-CONTRACTORS AND SERVICE PROVIDERS, ALL IN IRRESPECTIVE OF THE THEORY UPON WHICH ANY CLAIM MAY BE BASED, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

USERWAY'S TOTAL CUMULATIVE LIABILITY TO YOU OR ANY OTHER PARTY FOR ANY LOSS OR DAMAGES RESULTING FROM CLAIMS, DEMANDS, OR ACTIONS ARISING OUT OF OR RELATING TO THESE TERMS WILL AT ALL TIMES BE LIMITED TO THE SERVICE FEES PAID BY YOU TO US FOR THE SERVICES PROVIDED DURING THE SIX MONTHS PERIOD PRECEDING THE CIRCUMSTANCES FIRST GIVING RISE TO THE CLAIM OF LIABILITY AND IN THE ABSENCE OF SUCH PAYMENT TO A SUM OF US\$100.

MOREOVER, USERWAY SHALL HAVE NO LIABILITY FOR (A) ANY CLAIM OF PATENT, TRADE SECRET OR COPYRIGHT INFRINGEMENT BASED ON THE USE OF OTHER THAN THE THEN-

LATEST RELEASE OF THE SERVICE, IF SUCH INFRINGEMENT COULD HAVE BEEN AVOIDED BY USE OF THE LATEST RELEASE, (B) THE SECURITY AND INTEGRITY OF ANY DATA OR INFORMATION YOU STORE OR TRANSMIT USING THE SERVICE OR THE INTERNET, INCLUDING ANY DATA OR INFORMATION STORED OR TRANSMITTED BY ANY COMPUTER DESIGNATED AS "SECURE". YOU ARE RESPONSIBLE FOR IMMEDIATELY REPORTING TO USERWAY ANY ISSUE THAT COULD COMPROMISE THE SECURITY OR INTEGRITY OF ANY USER OR SYSTEM TAKING PART IN THE SERVICE OR (C) ANY CLAIM OF PATENT INFRINGEMENT BASED ON THE (I) USE OF THE SERVICE IN COMBINATION WITH OTHER MATERIALS NOT PROVIDED BY USERWAY WHERE INFRINGEMENT WOULD NOT HAVE RESULTED BUT FOR SUCH COMBINATION, OR (II) MODIFICATION OF THE SERVICE BY ANYONE OTHER THAN USERWAY WHERE INFRINGEMENT WOULD NOT HAVE RESULTED BUT FOR SUCH MODIFICATION.

You further represent and warrant to us that you are aware that: (i) the use of the Products cannot assure that no claims will be filled against You in connection with failure of the Licensee Website to comply with all the requirements under the WCAG Standard; (ii) any discussion with Our representatives shall not constitute legal advice; (iii) the Scanner reports may not accurately reflect all of the website's accessibility features, issues or violations; and (iv) any Professional Services provided (if provided) are provided at Your own risk. You hereby explicitly waive any claim you may have against Us with respect to the above and you acknowledge that the consideration paid to us has been calculated also based upon Your consent to the aforesaid waiver.

## **Governing Law**

These Terms shall be governed and construed in accordance with the laws of the State of Delaware, without regard to its conflict of law provisions. The competent courts in Delaware, shall have sole and exclusive jurisdiction over any dispute arising from or in connection with these Terms and Conditions.

Our failure to enforce any right or provision of these Terms will not be considered a waiver of those rights. If any provision of these Terms is held to be invalid or unenforceable by a court, the remaining provisions of these Terms will remain in effect. These Terms constitute the entire agreement between Us regarding Our Service and supersede and replace any prior agreements We might have between Us regarding the Service.

## Changes

We reserve the right, at Our sole discretion, to modify or replace these Terms at any time at Our sole discretion. By continuing to access or use Our Service after those revisions become effective, You agree to be bound by the revised terms. If You do not agree to the new terms, please stop using the Service. These terms will identify the date the Terms were last updated.

Should any conflict or inconsistency exist between the provisions of these Terms and the information appearing on any other pages of the Website, the terms of these Terms shall govern.

## No Waiver; Severability

Our failure to practice or implement any right or provision of these Terms does not mean We waive such right or provision. If any provision of these Terms is, for any reason, held to be invalid or unenforceable, the other provisions of these Terms will remain enforceable and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

## Publications

Notwithstanding anything contained herein, You hereby authorize UserWay and its affiliates: (i) to use Your name, logo and other applicable trademarks, at any time, on their websites and other promotional marketing materials, presentations, press releases, etc., for the purpose of referencing You as a customer of UserWay; and (ii) to use You as a reference for the Service.

## Contact

For further information and clarifications, please contact [support@userway.org](mailto:support@userway.org)

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UserWay Inc.

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Licensee

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Date

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Date