

# ABSOWEBLY® SOFTWARE AS A SERVICE LICENCE TERMS

Thank you for choosing Absowebly® as your business software service provider

## I) Definitions

**Absowebly** - Absowebly Limited incorporated and registered in England and Wales with company number 07845907 whose registered office is at 2 Station Parade, Clarendon Road, Ashford, Middlesex, TW15 2RX.

**Absowebly Software** - Server-side Software created by Absowebly including but not unique to Absowebly, Sendgy, and other platforms. Absowebly software is delivered in the format Software as a Service. It can be customised to create a bespoke business software platform that can host and process unique for the client subscriber business-related data and apply internal software algorithms to gather and analyse business data on behalf of the client and generate the non-financial and non-tax bonding related reports. Absowebly Software belongs solely to Absowebly Limited together with all unique and customised extensions developed as proprietary extensions for Absowebly clients. The software is hosted on Absowebly's server infrastructure preconfigured for the subscribing client based on the standard solution or individual hosting solution that are described in the in the appropriate project paperwork. All Absowebly services are available on a subscription basis with possible development of customised extensions that are specific to the subscriber's account.

The structure of the software service delivered by Absowebly includes (a) core platform - non-customisable per account main structure. (b) core upgrades - additional updates and new development of the core platform and other extended universal functionality of the system. (c) Custom extensions that are not shared by all installation of the Absowebly software but create bespoke service modules that allow fitting unique for business processes into the Absowebly software. These are not separate software elements but components that work tightly with core structures, and after the initial setup fee that allows them to be developed for the client they can only be served through the subscription service as the rest of the software.

**Confidential Information** - All information (written or orally communicated) exchanged between the parties to this agreement, including the software and support service but does not include information which is, or becomes, publicly available other than through unauthorised disclosure by the other party. In case of law, regulation or court order, the party being compelled to disclose confidential information will give the other party as much notice as is reasonably practicable before disclosing the Confidential Information.

**Data** - the data you input or you authorise to input, collect, process or store using Absowebly's software as a service business solution (including but not limiting to historic and existing data sets transfers from other software solutions).

**Fees** - Subscription and project fees depend on the individual project agreement and may contain standard hosting and licence fees that allow creating server space, security and software updates. Ongoing support fees and development fees that allow to extend software services beyond standard features and create bespoke hosted solution for particular business.

**Intellectual Property Right** - trade mark, copyright, moral right, right in design, know-how and any other intellectual or industrial property rights, anywhere in the world whether or not registered.

**Licence Agreement** - These Absowebly Software Terms of Service. This Agreement governs Your (the client subscriber) use of the bespoke and standard hosted software solutions created by Absowebly.

**Order Form** - non-compulsory part of the project paperwork that groups and refers to all paperwork related to Absowebly commercial software deployment

**You** – (the client, the subscriber) - means the person who becomes Absowebly client and pays licence and other access fees to use the Absowebly's business software. By signing off an order form, or using the Absowebly service, You acknowledge that you have reviewed and accept this agreement and are authorised to act on behalf of, and bind to this agreement, the owner of this subscription account.

**SaaS** – Software as a Service – Part of the Anything-as-a-Service (XaaS) generic concept of developing and delivering cloud-based modern software solutions that allow fast delivery of digital services to the client without investment in on-site hosting infrastructure. Absowebly is Absowebly's main development Platform as a Service (PaaS) hosted by Absowebly and available on subscription only basis.

## II) Overview

(a) Applicability. This agreement applies to the Absowebly software service that is preinstalled on a specified hosting solution, and also any Absowebly software updates, upgrades, supplements or services for the software unless other terms come with them. It also applies to scripts developed by Absowebly that provide additional functionality and database operations such as data transfers from the third party systems that are included with and are a part of Absowebly structure developed for you. If this agreement contains terms regarding a software as service solution not available in your project, then those terms do not apply.

(b) Additional Absowebly T&Cs and third party terms may apply to your use of certain features, services and extensions, depending on your project installation structures your authorisation for connectivity of your account solution with third-party systems such as Google, Microsoft and other vendors of SaaS solutions that could be configured with Absowebly software through API. Please be sure to read them.

- Absowebly software solutions rely on, online services, and the use of those services is often governed by separate terms of service and privacy policies, such as individual ISPs and Network administrators. Please be sure your network and device software connections are sufficient to fulfil your needs in this area. There might be legal restrictions in particular regions.

- Absowebly software may include third party elements or other Absowebly software solutions that are licensed to you under the Absowebly agreement, or under their own terms. All these license terms, notices and acknowledgements used in conjunction with your Absowebly software solution may have an impact on your data, and you acknowledge that Absowebly may allow these third parties to access and process your data as required to achieve your desired output.

## III) Use of Software

1) All Absowebly software is licensed, not sold. Under this licence agreement, we grant you the right to access Absowebly software based on your bespoke subscription arrangement with Absowebly.

2) You subscribe to instance of the Absowebly software on a server where your relevant web infrastructure points (the licensed domain name), for use by pre-agreed number of remotely set up users, as long as you comply with all the conditions and terms of this agreement.

3) Intellectual property rights

(a) Absowebly retains full Intellectual Property Rights to its licenced software, all upgrades, extensions to particular projects unless otherwise stated. All related software documentation and services also remain the property of Absowebly. Without limiting the generality of the foregoing, You agree not to (and not to allow any third party to):

- - use the software service outside of the scope of the license granted in this Agreement sublicense, distribute, or ;
- - copy, adapt, modify, prepare derivative works from, translate, reverse engineer, disassemble, or decompile the software or otherwise attempt to discover any source code or trade secrets related to the services related to Absowebly;
- - rent, sell, assign, lease or otherwise transfer rights in or to the Absowebly software or the service;

- - use, post, transmit or introduce any device, software or routine which interferes or attempts to interfere with the operation of the Service or the Software;
- - use trade names, the trademarks, logos, domain names and other brand features or any copyright or other proprietary rights associated with the Absowebly service for any purpose without the express written consent of Absowebly Limited Directors;
- - register, attempt to register, or assist anyone else to register any logos, domain names, trademark, trade name, and other distinctive brand features, copyright or other proprietary rights associated with Absowebly other than in the name of Absowebly Limited;
- - remove, obscure, or alter any notice of copyright, trademark, or other proprietary right appearing in or on any item included with in the Absowebly software; or
- - seek, in a proceeding filed during the term of this licence agreement or for one year after such term, an injunction of any portion of the software service based on IP infringement.

(b) You retain all Intellectual Property Rights in the Data. Your full access to the live data is directly related to the full payment of the licence fee. In case of the service termination, all data is downloaded and forwarded to you in the form specified in the project documentation upon receipt of the full payment for all required services. There is a one-off charge for the transfer of the data, and it is specified in the project paperwork in projects where this is not a case standard hourly service rate is used for this operation.

(c) You grant Absowebly a licence to use, copy, transmit, store, and back-up Your information and Data for the purposes of enabling You to access and use the Services and for any other purpose related to the provision of services to You.

(d) You retain intellectual property in the web templates developed for your front end of the website upon receipt of all payments related to the development of these templates. Upon Absowebly software licence termination, these can be exported in all possible areas and delivered to you in the form that allows emulating as far as possible their original functionality but allows if necessary to flatten areas to fixed/flat HTML files where necessary.

4) Pre-agreed Licence fee – allows your system to be supported in the core updating or upgrading of all critical features.

5) The licence is valid and granted as long as relevant subscription and access fees (for example hosting) are paid on time (as specified by individual project documentation or due dates on the invoice).

6) You must use Absowebly software for your own lawful internal business purposes. Absowebly software is not an accounting, bookkeeping or payroll related software and must not be used to calculate or submit tax and other monitoring data to authorities in your relevant business area.

7) You may invite other users from your organisation to access Absowebly software.

a. the Subscriber is responsible for

- all Invited Users' use of the Service;
- governs and controls access levels and account management.

The flexibility of the account management is designed in the platform to allow individual clients to manage accounts according to the company written policies. Enforcement of these company rules must be in line with the generic Absowebly security setup that follows general requirements.

- Security of all usernames and passwords required to access Absowebly software – these must be kept secure and confidential
- Immediately notification of Absowebly in the case of an unauthorised use of your login details or any

other breach of security on your end that may lead to unauthorised access to Absowebly software.

- b. accounts of the individual users shall not be shared as this constitutes the breach of terms (system security)
  - c. unless otherwise stated the maximum allotted number of users on the individual subscription is 10.
  - d. When accessing Absowebly software, you must not:
    - Misuse software in any way that would create problems for other users to access software
    - You must not upload or attempt to upload files that may damage absowebly software or hosting infrastructure
    - content that may be offensive, or material or data in violation of any law (including Data or other material protected by copyright or trade secrets which You do not have the right to use)
    - Attempt to compromise security of the Absowebly software
    - Use automated scripts to log in or to obtain data or other means of not manual login, and data fetching procedures that were not authorised (in writing) by Absowebly's Technical Director.
- 8) Some other usage limitations as such as data transfer levels related to negotiation and policing of the 'fair usage' or due to temporary security lockdown or the detection of the malicious behaviour connected to the account.
- 9) You must maintain copies of all data input. Absowebly works towards securing data and prevent data loss by creating daily database backups but does not make any guarantees that there will be no loss of data. Absowebly excludes liability for any loss of data no matter how caused.
- 10) Absowebly does not warrant that the use of the Service will be uninterrupted or error-free. Among other things, the operation and availability of the systems used for accessing the Service, including ISPs infrastructure, computer networks are unpredictable and may from time to time interfere with or prevent access to Absowebly software. Absowebly is not in any way responsible for any such interference or prevention of Your access or software use.
- 11) No warranties - Absowebly does not warrant that the development and deployment of the Absowebly software for your project will meet your requirements. To avoid doubt, all implied conditions or warranties are excluded in so far as is permitted by law, including (without limitation) warranties of merchantability, fitness for purpose, title and non-infringement. Absowebly software does not follow local taxation and law rules, and for the development of you account-specific extensions in the area of the business calculations and reporting follows as far as it is possible and understood the rules described by you.
- (a) You remain solely responsible for:
- - checking and testing prepared software logic introduced and output data in the version of the Absowebly software deployed on your account to the required level
  - - complying with all applicable laws relevant to the area of your business. It is Your responsibility to check that storage of and access to your data via the Absowebly software will comply with laws applicable to you (including any laws requiring you to retain records).
  - - It is Your sole responsibility to determine that the Absowebly software services meet the needs of Your business and are suitable for the purposes for which they are used.
- 12) You indemnify Absowebly against costs, damage loss and all claims, arising from Your breach of any of these terms or obligation You may have to Absowebly, including (but not limited to) any costs relating to the recovery of any Project and Service Fees that are due but have not been paid by You.

#### **IV) Limitation of Liability**

- 1) To the maximum extent permitted by law, Absowebly excludes all liability and responsibility to You (or any other person) in the contract (including negligence), or otherwise, for any loss. This includes but does not limit loss of information, data, profits and savings or damage resulting, directly or indirectly, from any use of, or reliance on Absowebly software.
- 2) If You suffer loss or damage as a result of Absowebly's negligence or failure to comply with these licence terms, any claim by You against Absowebly arising from Absowebly's negligence or failure will be limited in respect of any one incident, or series of connected incidents, to the project and subscription fee paid by You in the previous 12 months.
- 3) If You are not satisfied with Absowebly software, Your sole and exclusive remedy is to terminate these Terms in accordance with Clause VI.

#### **V) Confidentiality and Privacy Policies**

- 1) Privacy; Consent to Use of Data. Absowebly software features send or receive information when using and interacting with these elements. These, for example, allow controlling security on your Absowebly software account. By accepting these terms and using the software, you agree that Absowebly may collect, use, and disclose the information as required. Absowebly maintains Privacy Policy at <https://absowebly.com/privacy-policy> according to GDPR.
- 2) We only use suppliers that have privacy policies based on the main GDPR rules (April 2016) or adhere to EU-US Privacy Shield framework (July 2016). If you require hosting with a supplier that is ISO certified you need to confirm certification levels required by you before deployment of your test system takes place - most (but not all) of our suppliers are certified with ISO 27001:2013 (Information Security) certification available for verification.
- 3) Requests "to be forgotten" from your direct customers are only processed when we receive an official support email to support@absowebly.com followed by the phone call confirmation within 48hrs from the email. You will receive a written confirmation of our intent to process. We reserve 14 days for the processing of right to be forgotten requests.
- 4) Breaches of security on our software will be communicated to you within maximum 72hrs from the moment of discovery of such a breach in writing explaining extend and the type of breach. That should allow you to decide the potential communication with your customers.
- 5) Export of data. Please note Absowebly does not treat execution of email marketing campaigns on servers in the USA as a "personal data export". The only data shared with the server provider (EU-US Privacy Shield signatory with stringent rules and restrictions around private data) at this stage is an email address, a name of the person and the message (non-privacy sensitive email newsletter or offer). All these elements are removed from the server within 72hrs - 30 days after sending of the campaign.
- 6) Neither party will use or disclose the other party's confidential information without the other's prior written consent. The exceptions are when this is necessary to perform its obligations under these terms or if required by law, regulation or court order. In these cases, the party being compelled to disclose confidential information will give the other party as much notice as is reasonably before revealing the confidential information. Each party's obligations under this clause will survive termination of these Terms.

#### **VI) Termination and Notices**

- 1) Notices - any notice given under these Terms by either party to the other must be in writing by email. Notices to Absowebly must be sent to office@absowebly.com. Notices to You will be sent to the email address(-es) that are listed to receive invoices provided when setting up project with Absowebly.

##### **2) Termination**

###### **(a) Without a fault**

Either party may terminate this Agreement at any time

- Absowebly as a provider with 90-days' notice.
- You as a subscriber with 60-day' notice.

Upon any termination of this agreement, Absowebly will stop providing, and You will stop accessing the Absowebly software service.

(b) In the event of any termination

- You will not be entitled to any refunds of any service fees or any other fees, and
- an outstanding balance for the account rendered through the date of termination will be immediately due and payable in full.
- All of Your historical data will no longer be available to You

(c) Absowebly software services shutting down account processes may include pre-arranged paid services that allow to download all data from the platform and allow a copy of the system to be accessible after formal termination at which point another agreement is formulated. These services should be agreed when the project becomes operational, and Absowebly software services are live.

## **VII) Governing law and jurisdiction**

this Agreement is governed by the laws of England and Wales and You hereby submit to the exclusive jurisdiction of the courts of England and Wales for all disputes arising out of or in connection with this Agreement or where applicable European Court of Justice.

## **VIII) Modifications to Terms of Service and Other Policies.**

Absowebly may modify these terms or any additional terms that apply to the Service to, for example, reflect changes to the law or changes to the Service. You should look at the terms regularly. Absowebly will post notice of modifications to these terms.