

# WESTAF and ZAPP Software General Terms of Service

These General Terms of Service (“General Terms”) apply to your use of the products, software, services and web application through which you accessed these General Terms as well as to the other products, software, services and web applications as described later in these General Terms. Your use of the Services is subject to these General Terms which may be changed by WESTAF without notice; changes to these General Terms will be published at <http://www.westaf.org/> and/or <http://www.zapplication.org/>. Your continued use of the Services after any such change is posted to the foregoing URL address(es) is your acceptance of and agreement to the General Terms as so changed.

## 1. Your Agreement with WESTAF

(a) Your use of WESTAF’s products, software, services and web applications (referred to throughout these General Terms as the “Services” and, singularly, as a “Service”) is subject to the terms of the legal agreement between you and WESTAF as described in this Section 1.

(b) Your agreement with WESTAF will always include these General Terms and any terms related to specific web applications or Services which may be reflected in separate electronic or written agreements or terms posted on web sites associated with a particular web application (“Specific Terms”).

(c) These General Terms and any applicable Specific Terms form the legally binding agreement between you and WESTAF in relation to your use of the Services (the “Agreement”).

(d) If there is any contradiction between these General Terms and any applicable Specific Terms, then the Specific Terms shall take precedence in relation to that Service.

(e) As used in these General Terms, “WESTAF” means Western States Arts Federation, a Colorado non-profit corporation, whose principal place of business is at 1743 Wazee Street, Suite 300, Denver, CO 80202, United States, and its subsidiaries and legal affiliates, including, but not limited to, ZAPP Software, LLC (“ZAPP Software”), and “you”, including all of its grammatical forms, refers to the person using the Services and, if that person is acting on behalf of another person or entity, it also refers to and includes that person or entity.

## 2. Acceptance for Employer

When “you” refers to an individual who is accessing and using Services as part of his or her work or employment on behalf of another person or entity ( an “employer”), then you are acting on behalf of your employer in accepting and agreeing to be bound by the Agreement. You may not use the Services on behalf of your employer or as part of your employment if you do not have the authority to bind your employer to the terms of the Agreement. Your using the Services on behalf of your employer or as part of your employment is your representation to WESTAF that you have the authority to bind your employer to the terms of the Agreement.

## 3. Acceptance of Agreement

(a) In order to use the Services, you must first accept and agree to be bound by the Agreement. You can accept and will be bound to the Agreement by:

(i) clicking to accept or agree to these General Terms and/or any Specific Terms when that option is made available to you by WESTAF in the user interface for any Service, or

(ii) your actually using the Services,

or any other means provided by WESTAF or by law.

(b) You may not use the Services and may not accept the Agreement if (i) you are not of legal age to form a binding contract with WESTAF, (ii) you intend to use the Services for your employer and do not have the authority to bind your employer to the terms of the Agreement, or (iii) you are a person barred from receiving the Services under the laws of the United States or other countries including the country in which you are resident or from which you use the Services.

#### **4. PRIVACY AND YOUR PERSONAL INFORMATION**

(a) WESTAF collects, uses, secures and protects your personal information in accordance with its privacy policy as it may be amended from time to time (the "Privacy Policy"). The current and archived versions of WESTAF's Privacy Policy are set forth at <http://www.westaf.org/privacy.html>. The Privacy Policy is a part of these General Terms.

(b) YOU AGREE THAT WESTAF MAY AMEND ITS PRIVACY POLICY AT ANY TIME WITHOUT NOTICE TO YOU AND, EXCEPT FOR THE TRANSFER OF YOUR PERSONAL INFORMATION TO OR USE OF IT BY UNRELATED THIRD PARTIES AS DESCRIBED IN PARAGRAPH (c), IMMEDIATELY BELOW, YOU WILL BE BOUND BY THE TERMS OF THE AMENDED PRIVACY POLICY SO LONG AS IT IS CONSISTENT WITH REASONABLE INDUSTRY PRACTICES.

(c) YOU MUST PERSONALLY CONSENT TO THE TRANSFER TO OR USE OF ANY OF YOUR PERSONAL INFORMATION BY UNRELATED THIRD PARTIES, REGARDLESS OF ANY CHANGES MADE TO WESTAF'S PRIVACY POLICY. AS USED IN THESE GENERAL TERMS, AN "UNRELATED THIRD PARTY" MEANS ANY PERSON OR ENTITY OTHER THAN: (i) A PERSON OR ENTITY THAT IS OWNED OR CONTROLLED BY WESTAF, (ii) A PERSON THAT IS OWNED OR CONTROLLED BY A PERSON OR ENTITY THAT OWNS OR CONTROLS WESTAF, (iii) A PERSON THAT OWNS OR CONTROLS WESTAF, OR (iv) A PERSON THAT IS THE LEGAL SUCCESSOR TO WESTAF OR THAT HAS ACQUIRED OR, AS PROVIDED IN THE PRIVACY POLICY, HAS AGREED TO ACQUIRE ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF WESTAF RELATED TO ANY SERVICE WITH RESPECT TO WHICH THE PERSONAL INFORMATION WAS SUPPLIED.

(d) YOU AGREE TO THE USE OF YOUR PERSONAL INFORMATION IN ACCORDANCE WITH WESTAF'S PRIVACY POLICY.

#### **5. Legal Enforcement Matters**

You acknowledge, consent and agree that WESTAF may access, preserve and disclose your account information, other personal information and Content if required to do so by law or in a good faith belief that such access preservation or disclosure is reasonably necessary to: (i) comply with legal process; (ii) enforce the Agreement; (iii) respond to claims that any Content violates the rights of third parties; (iv) respond to your requests for customer service; or (v) protect the rights, property or personal safety of WESTAF, its users and the public.

## **6. Your Use of the Services**

(a) In order to access or use certain Services, you may be required to provide information about yourself (such as identification or contact details) and agree that any information so provided by you to WESTAF will always be accurate, correct and up to date.

(b) You agree to use the Services only for purposes that are permitted by (a) the Agreement, and (b) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions (including any laws regarding the export of data or software to and from the United States or other relevant countries).

(c) You agree not to access (or attempt to access) any of the Services through any automated means or in any other manner other than through the interface that is provided by WESTAF.

(d) You agree that you will not engage in any activity that interferes with or disrupts the Services (or the servers and networks which are connected to the Services) or anyone's use of the Services.

(e) You agree that you will only use the Services and Content (as defined below) for personal and/or internally related matters and, unless permitted to do so by Specific Terms with WESTAF, you will not reproduce, duplicate, copy, sell, trade or resell the Services or Content for any purpose and will not exploit for any commercial purpose any portion or use of or access to the Services of Content.

(f) You agree that you are solely responsible for (and that WESTAF has no responsibility to you or to any third party for) any breach of your obligations under the Agreement and for the consequences (including any loss or damage which WESTAF may suffer) of any such breach.

## **7. Additional Prohibitions on Use of Services**

You agree not to use the Services to:

(a) upload, post, email, transmit or otherwise make available any:

(i) content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable or in violation of any other person's rights ;

(ii) content that you do not have a right to make available under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);

- (iii) content that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party;
  - (iv) unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of direct solicitation; or
  - (v) material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- (b) harm minors in any way;
  - (c) impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity;
  - (d) forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Services;
  - (e) intentionally or unintentionally violate any applicable local, state, national or international law, including, but not limited to: (i) any law limiting or regulating the export of goods and technology outside of the United States, and (ii) section 219 of the Immigration and Nationality Act which prohibits providing material support or resources (or to conceal or disguise the nature, location, source, or ownership of material support or resources) to any organization(s) designated by the United States government as a foreign terrorist organization;
  - (f) "stalk" or otherwise harass another; and/or
  - (g) collect or store personal data about other users in connection with the prohibited conduct and activities set forth in this Section.

## **8. Passwords and Account Security**

You agree and understand that you are responsible to maintain the confidentiality of passwords associated with any account you use to access the Services and for any activity that occurs through your account. You agree to notify WESTAF immediately at <http://www.westaf.org/contact.php> if you become aware of any unauthorized activity under your account.

## **9. Provision of the Services**

Except as may otherwise be provided by any applicable Specific Terms:

- (a) you acknowledge and agree that the form and nature of the Services which WESTAF provides may change from time to time without prior notice to you;
- (b) you acknowledge and agree that WESTAF may stop (permanently or temporarily) providing the Services (or any features within the Services) to you or to users generally at WESTAF's sole discretion, without prior notice to you;

(c) you acknowledge and agree that if WESTAF disables access to your account, you may be prevented from accessing the Services, your account details or any files or other content which is contained in your account; and

(d) you acknowledge and agree that while WESTAF may not currently have set a fixed upper limit on the number of transmissions you may send or receive through the Services or on the amount of storage space used for the provision of any Service, such fixed upper limits may be set by WESTAF at any time, at WESTAF's discretion.

## **10. Content in the Services**

(a) You understand that all information (such as data files, written text, computer software, music, audio files or other sounds, photographs, videos or other images) which you may have access to as part of, or through your use of, the Services are the sole responsibility of the person from which such content originated. All such information is referred to in these General Terms as the "Content". Except for Content actually posted by WESTAF, WESTAF does not control the Content submitted, displayed or posted through the Services and, as such, does not guarantee the accuracy, integrity or quality of any Content not actually posted by WESTAF.

(b) You should be aware that Content presented to you as part of the Services, including, but not limited to, any advertisements in the Services and sponsored Content within the Services, may be protected by intellectual property rights which are owned by the originators, sponsors or advertisers who provide that Content to WESTAF (or by other persons or companies on their behalf), by the person submitting, displaying or posting the Content on the Services or by others. You may not modify, rent, lease, loan, sell or distribute Content or create derivative works based on any Content (either in whole or in part) unless you have been specifically told that you may do so by WESTAF or by the owners of that Content, in a separate agreement.

(c) WESTAF does not generally censor or review Content for materials some may consider objectionable, although WESTAF reserves the right (but shall have no obligation) to pre-screen, review, flag, filter, modify, refuse or remove any or all Content from any Service.

(d) You understand that by using the Services you may be exposed to Content that you may find offensive, indecent or objectionable and that, in this respect, you use the Services at your own risk.

(e) You agree that you are solely responsible for (and that WESTAF has no responsibility to you or to any third party for) any Content that you create, transmit or display while using the Services and for the consequences of your actions (including any loss or damage which WESTAF may suffer) by doing so.

## **11. Hyperlinks and Advertisements**

(a) The Services may include hyperlinks to third party web sites or content over which WESTAF has no control. You acknowledge and agree that WESTAF is not responsible for the content on or availability of any such external sites or resources, and does not endorse any advertising, products or other materials on or available from such web sites or resources.

(b) WESTAF does not presently display third party advertisements or promotions on the Services, but reserves the right to display any advertisements and, if it elects to do so, to thereafter change the manner, mode and extent of advertising without notice to you.

(c) In consideration for WESTAF granting you access to and use of the Services, you agree that WESTAF may include hyperlinks and advertising on the Services, including hyperlinks and advertisements that may be targeted to the content of information stored on the Services, queries made through the Services or other information provided by you.

## **12. Proprietary rights**

(a) You acknowledge and agree that WESTAF (or WESTAF's licensors) own all legal right, title and interest in and to the Services, including any intellectual property rights which subsist in the Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You further acknowledge that the Services may contain information which is designated confidential by WESTAF and that you shall not disclose such information without WESTAF's prior written consent.

(b) Nothing in these General Terms gives you a right to use any of WESTAF's trade names, trademarks, service marks, logos, domain names, and other distinctive brand features. If you have been given the right to use any of WESTAF's trade names, trademarks, service marks, logos, domain names, and other distinctive brand features by a specific agreement reached with WESTAF, you agree that your right to use the Services is conditioned on your compliance with such specific agreement.

(c) Other than the limited license set forth in the Section 14 of these General Terms, WESTAF acknowledges and agrees that it obtains no right, title or interest from you (or your licensors) under these General Terms in or to any Content that you submit, post, transmit or display on, or through, the Services, including any intellectual property rights which subsist in that Content (whether those rights happen to be registered or not, and wherever in the world those rights may exist). Unless you have agreed otherwise in writing with WESTAF, you agree that you are responsible for protecting and enforcing those rights and that WESTAF has no obligation to do so on your behalf.

(d) You agree that you shall not remove, obscure, or alter any proprietary rights notices (including copyright and trade mark notices) which may be affixed to or contained within the Services.

(e) Unless you have been expressly authorized to do so in writing by WESTAF or the owner of any the involved mark, name or logo, you agree that in using the Services, you will not use any trade mark, service mark, trade name or logo of any company or organization in a way that is likely or intended to cause confusion about the owners or authorized users of such marks, names or logos.

## **13. License from WESTAF**

(a) Except as otherwise agreed concerning the payment of royalties or fees or with respect to other terms, conditions or limitations, WESTAF grants you a personal, worldwide, limited, royalty-free, non-assignable and non-exclusive license to use the Services, including the software that is part of the Services (referred to as the "Software"), as provided to you by WESTAF. This license is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by WESTAF in the manner

permitted by the Agreement.

(b) You may not (and you may not permit anyone else to) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of the Software or any part thereof or any other aspect of any of the Services, unless this is expressly permitted or required by law, or unless WESTAF has given you specific written permission to do so.

(c) Unless WESTAF has given you specific written permission to do so, you may not assign (or grant a sub-license of) your rights to use any of the Services, grant a security interest in or over your rights to use the Services, or otherwise transfer any part of your rights to use the Services.

(d) The Services will be updated from time to time by WESTAF. These updates are designed to improve, enhance and further develop the Services and may take the form of bug fixes, enhanced functions, new software modules and completely new versions.

(e) You have only the rights to use the Services expressly granted to you by the Agreement and all other rights in the Services are reserved to WESTAF.

#### **14. Content license from you**

(a) You retain copyright and any other rights you already hold in Content which you submit, post or display on or through, the Services. By submitting, posting or displaying Content on or through the Services, you give WESTAF a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to reproduce, adapt, modify, translate, publish, publicly perform, publicly display and distribute any Content which you submit, post or display on or through the Services for the sole purpose of enabling WESTAF to display, distribute and promote the Services. You agree that this license includes a right for WESTAF to make such Content available to any successor to itself or to its business which includes the Service through which such Content was submitted, displayed or posted.

(b) You understand that WESTAF, in performing the required technical steps to provide the Services, may (i) transmit or distribute your Content over various public networks and in various media; and (ii) make such changes to your Content as are necessary to conform and adapt that Content to the technical requirements of connecting networks, devices, services or media. You agree that this license shall permit WESTAF to take these actions.

#### **15. Indemnity**

You agree to indemnify and hold WESTAF and its subsidiaries, affiliates, officers, agents, employees, partners and licensors harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of Content you submit, post, transmit, modify or otherwise make available through the Services, your use of the Services, your connection to the Services, your violation of the Agreement, or your violation of any rights of another.

#### **16. DISCLAIMER OF WARRANTIES**

(A) WESTAF MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY,

ACCURACY OR COMPLETENESS OF ANY OF THE SERVICES OR OF ANY CONTENT.

(B) WESTAF MAKES NO REPRESENTATION OR WARRANTY AND SPECIFICALLY DISCLAIMS ANY REPRESENTATION AND WARRANTY CONCERNING THE SERVICES AND CONTENT THAT: (I) THE USE OF THE SERVICES WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (II) THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (III) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (IV) THE QUALITY OF ANY PRODUCTS, SERVICES, CONTENT, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (V) ERRORS OR DEFECTS WILL BE CORRECTED, (VI) THE SERVICES OR THE SERVER(S) THAT MAKE THE SERVICES AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

(C) THE SERVICES AND ALL CONTENT IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS FOR YOUR USE AT YOUR OWN RISK. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK. YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OR CORRUPTION OF DATA THAT RESULTS FROM THE DOWNLOADING OF ANY SUCH MATERIAL.

(D) ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY WESTAF. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM WESTAF OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED AS PART OF THE AGREEMENT.

(E) NOTHING IN THE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THIS SECTION AND THE FOLLOWING SECTION OF THESE GENERAL TERMS, SHALL EXCLUDE OR LIMIT WESTAF'S WARRANTY OR LIABILITY FOR LOSSES WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR CONDITIONS OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR LOSS OR DAMAGE CAUSED BY NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF IMPLIED TERMS, OR THE LIMITATION OR EXCLUSION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, ONLY THE EXCLUSIONS AND LIMITATIONS WHICH ARE LAWFUL WILL APPLY TO YOU AND WESTAF'S LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

## **17. LIMITATION OF LIABILITY**

SUBJECT TO THE PROVISIONS OF PARAGRAPH 16(E):

(A) IN NO EVENT SHALL WESTAF'S AGGREGATE LIABILITY TO YOU WITH RESPECT TO THE SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY CONTENT, EXCEED

THE AMOUNT ACTUALLY PAID BY YOU TO WESTAF FOR USE OF THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM OR \$100, WHICHEVER IS GREATER.

(B) IN NO EVENT SHALL WESTAF BE LIABLE TO YOU FOR ANY LOSS OR DAMAGE AS A RESULT OF: (I) ANY RELIANCE PLACED BY YOU ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF ANY ADVERTISING, OR AS A RESULT OF ANY RELATIONSHIP OR TRANSACTION BETWEEN YOU AND ANY ADVERTISER OR SPONSOR WHOSE ADVERTISING APPEARS ON THE SERVICES; (II) ANY CHANGES WHICH WESTAF MAY MAKE TO THE SERVICES, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE SERVICES (OR ANY FEATURES WITHIN THE SERVICES); (III) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT AND OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH YOUR USE OF THE SERVICES; (IV) YOUR FAILURE TO PROVIDE WESTAF WITH ACCURATE ACCOUNT INFORMATION; AND (V) YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL;

(C) IN NO EVENT SHALL WESTAF BE LIABLE TO ANYONE FOR ANY PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, GOODWILL, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICES, INCLUDING, BUT NOT LIMITED TO, YOUR USE OR INABILITY TO USE THE SERVICES, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICES, EVEN IF WESTAF HAS BEEN PREVIOUSLY ADVISED OF OR WAS OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

## **18. Termination of Relationship; Services**

(a) You may terminate your relationship with WESTAF at any time by notifying WESTAF or closing your account. Upon so terminating your relationship, the terms of the Agreement shall survive and apply to your use of the Services prior to termination. Any continued or renewed use of the Services after such termination will be subject to all of these General Terms, including as they may have changed since the termination.

(b) WESTAF may immediately terminate your access to Services and your accounts and end its legal agreement with you if: (i) you have breached any provision of the Agreement (or have acted in manner which clearly shows that you do not intend to, or are unable to comply with the provisions of the Agreement ); (ii) WESTAF is required to do so by law (for example, where the provision of the Services to you is, or becomes, unlawful); (iii) WESTAF or its partners in providing a Service is no longer providing the Services to users in the country in which you are resident or from which you use the service; or (iv) the provision of the Services to you by WESTAF is, in WESTAF's opinion, no longer commercially viable. Upon such termination by WESTAF, the terms of the Agreement shall survive and apply to your use of the Services prior to termination.

Nothing in this Section shall affect WESTAF's rights under Section 9 of these General Terms regarding provision of Services.

## **19. Notice and Procedure for Making Claims of Copyright or Intellectual Property Infringement**

WESTAF respects the intellectual property of others and asks its users to do the same. WESTAF may, in appropriate circumstances and at its discretion, disable and/or terminate the accounts of users who may be repeat infringers. If you believe that your work has been copied in a way that constitutes copyright infringement, or your intellectual property rights have been otherwise violated, please provide WESTAF's Copyright Agent the following information:

- (i) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- (ii) a description of the copyrighted work or other intellectual property that you claim has been infringed;
- (iii) a description of where the material that you claim is infringing is located on a WESTAF web the site;
- (iv) your name, address, telephone number, and email address;
- (v) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
- (vi) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

WESTAF's Copyright Agent for notice of claims of copyright or other intellectual property infringement can be reached as follows:

By mail:

Howard M. Haenel, Copyright Agent  
Antonio Bates Bernard Professional Corporation  
3200 Cherry Creek South Drive, Suite 380  
Denver, CO 80209

By Telephone: (303) 733-3500

By fax: (303) 733-3555

By email: [hhaenel@abblaw.com](mailto:hhaenel@abblaw.com) (reference **WESTAF Copyright Agent** in subject line)

## **20. General Provisions**

(a) Sometimes when you use the Services, you may (as a result of, or through your use of the Services) use a service or download a piece of software, or purchase goods, which are provided by another person or company. Your use of these other services, software or goods may be subject to separate terms between you and the company or person concerned.

(b) Any suggestions, ideas, feedback, recommendations, or other information provided by you to WESTAF relating to the Services ("Submissions") are not deemed Content and by providing such Submissions to WESTAF you assign all of your right, title and interest, including all related intellectual property rights, therein to WESTAF free of charge. WESTAF may use such Submissions as it deems appropriate in its sole discretion.

(c) The Agreement constitutes the entire agreement between you and WESTAF and governs your use of the Services, superseding any prior version of these General Terms or the Agreement between you and WESTAF, with respect to the Services.

(d) The failure of WESTAF to exercise or enforce any right or provision of the Agreement shall not constitute a waiver of such right or provision. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the invalidated provision, and the other provisions of the Agreement shall remain in full force and effect.

(e) You agree that WESTAF may provide you with notices, including those regarding changes to the Agreement, by email, regular mail, or postings on the Services.

(f) You and WESTAF each agree that the Agreement and the relationship between the parties shall be governed by the laws of the State of Colorado without regard to its conflict of law provisions and that any and all claims, causes of action or disputes (regardless of theory) arising out of or relating to the Agreement, or the relationship between you and WESTAF, shall be brought exclusively in the state and federal courts located in Denver, Colorado. You and WESTAF further agree to submit to the personal jurisdiction of the state and federal courts located within Denver, Colorado, and agree to waive any and all objections to the exercise of jurisdiction over the parties by such courts and to venue in such courts. Notwithstanding the foregoing, you agree that WESTAF shall still be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

(g) The Agreement and your rights to use the Services and Content are not transferrable by you, even by operation of law, without WESTAF's express, written consent. WESTAF may transfer its rights and delegate its duties under the Agreement to any person to the extent such person succeeds to the interests of WESTAF or is the assignee of all or substantially all of the assets used in the business comprising the Services or any of the Services and by operation of law. To the extent WESTAF's rights are so assigned and its duties so delegated, WESTAF shall be relieved of any obligation or liability first arising after such assignment and delegation.

(h) You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Services or the Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.

December 21, 2010

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