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These terms of service ("Terms") are a legal agreement between you ("You") and Elemental Notions LLC ("Us" or "We"). These Terms govern the use of Our KBPublisher Cloud Service ("Service"). These Terms will also apply if You create a free trial of Our Service.

## 1. Acceptance of Terms

**1.1 Acceptance of Terms:** Your use of the Service is subject to these Terms. By using the Software and/or clicking a checkbox indicating Your acceptance, You will be deemed to have accepted and agreed to be bound by these Terms. If You are entering into this agreement on behalf of a company or other legal entity, You represent that You have the authority to bind such entity to these Terms and in such case "You" shall refer to such entity. If You do not have such authority or do not agree to these Terms, You must not accept these Terms and may not use the Service.

## 2. Use of KBPublisher Service

**2.1 The Service:** The "Service" includes a) the KBPublisher Cloud service, b) the KBPublisher API, c) the KBPublisher website and d) any other software, data, text, images, sounds, videos or other content made available via the KBPublisher site, or developed via the KBPublisher API. Any new features added to or augmenting the Service are also subject to these Terms.

**2.2 Support:** The Service includes basic support for purchased services to You at no additional charge which is available by email to paying customers. Extended support options are available at additional cost.

**2.3 Availability:** We do our very best to make the Service available 24 hours per day, 7 days per week except for a) short periods of planned downtime of less than 10 minutes in any 24 hour period, b) planned downtime greater than 10 minutes for which we will endeavor to give at least 48 hours notice and will where practical schedule such downtime on Saturday or Sunday between 7AM and 6PM GMT c) any unavailability caused by circumstances beyond Our reasonable control, including without limitation, acts of Gods, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, technical failures beyond our control, internet service provider failures, or denial of service attacks.

**2.4 Free Trial:** If You register for a free trial of our Service, We will make the Service available to you until the end of the free trial period. You are responsible for entering your payment details prior to the expiration of the trial if you wish to continue to use the Service. Upon expiration of a trial and suspension of an account without valid payment details; any data previously entered into the Service will be permanently lost.

**2.5 No Reselling, Time-Sharing or Sub-Licensing:** You may not lease, license, sublicense, sell, resell, rent, or otherwise commercially exploit the software to any third party.

**2.6 Usage Restrictions:** You may not use the Service in an unlawful manner, including but not limited to, violation of intellectual property rights, sending spam or other unsolicited messages in violation of applicable laws, to transmit infringing, threatening, offensive, libelous or otherwise unlawful material, or to store or transmit malicious code.

**2.7 Unauthorized Access:** You must use commercially reasonable efforts to prevent unauthorized access to the Service and at all times secure passwords and promptly notify Us of any unauthorized use.

## 3. Data

**3.1 Your Data:** We acquire no right, title or interest from You or Your users under these Terms in or to Your data, including any intellectual property rights therein.

**3.2 Responsibility for Data:** You are responsible for all the text, images, data, files or other materials that You or Your users post or is otherwise transmitted via the Service.

**3.3 Data Portability:** At any point you may request a full database export of all your data contained within the Service. You may make a single request per month for a full data export; more regular exports are available at additional cost. You may also export your data using the API.

**3.4 Data Protection:** We shall neither modify nor disclose your data to a third party unless as compelled to by law or as necessary to provide the Service, to prevent or address technical issues or to respond to Your support requests.

**3.5 Data Security:** We shall maintain appropriate administrative, physical and technical safeguards to protect the security and confidentiality of Your data and the personal data of your users, including but not limited to the appropriate use of SSL encryption for data in transmission.

**3.6 Data Storage:** Your data is stored in secure datacenters located in the United States. Your data is regularly backed up to the Amazon S3 data storage platform which provides further fault tolerant secure storage.

**3.7 Feedback:** We shall have a royalty-free, worldwide, irrevocable, perpetual license to use any suggestions, feature requests, feedback, comments and recommendations submitted by You or Your users submitted directly to Us via email or other channel.

## 4. Terms of Payment

**4.1 Pay as you go Billing:** The Service is made available to You on a pay-as-you-go basis and is charged at the start of the agreed billing period (typically monthly).

**4.2 Agent Accounts:** The Service is billed on a per agent basis commonly known as seat based licensing. Each agent account represents an individual person. You are responsible for ensuring that agent accounts are not shared amongst different people and

are liable for charges due if accounts are shared.

**4.3 Modifying your Subscription:** During the course of the month you may increase or decrease the number of agents on your plan. You will be charged the new price at the commencement of your next billing cycle. Increasing the number of agents will result in pro-rata charges on your next bill.

**4.4 No Refunds:** There are no refunds or credits for partial months of Service, plan downgrades or if you choose to close your account.

**4.5 Billing Security:** We use a third party (SagePay) to manage credit card processing. At no time do We store or retain your credit card details.

**4.6 Taxes:** Our published prices do not include taxes. You are responsible for paying taxes except those that we have a legal obligation to collect.

**4.7 Account Suspension:** After 7 days of non-payment your account will be suspended. After 30 days of non payment Your account will be deleted; any data previously entered into the Service will be permanently lost. You will be regularly notified via email and through the Service itself of billing failure and any imminent suspension.

**4.8 Usage Restrictions:** The Service may be subject to limitations on the amount of data storage or bandwidth Your account uses, or any excessive use of some part of the Service. We reserve the right to contact You about special pricing in such circumstances.

## 5. Intellectual property

**5.1 Intellectual Property:** You acknowledge and agree that all intellectual property rights in the software and trade marks vest and shall always remain vested with Us and that You have no right, title or interest in or to such intellectual property rights. The rights granted to You to use the Service under these Terms do not convey any additional rights in the Service.

**5.2 Trademarks:** You may not use the KBPublisher trademark in your product or advertising other than to identify yourselves as a customer of the Service.

**5.3 Customer Identification:** You agree to allow Us to identify You as a customer of Us, and to include this information on relevant marketing materials.

## 6. Non-Solicitation of Employees

**6.1 Non-Solicitation of Employees:** During the term of this EULA and for a period of 1 year thereafter, You will not directly or indirectly solicit for hire or engagement, or cause others to solicit for hire or engagement any employee or consultant of the Licensor.

## 7. Termination

**7.1 Term:** This Agreement commences on the date You accept it and continues until all subscriptions for the Service have expired or been terminated.

**7.2 Cancellation:** You are responsible for the cancellation of the Service by contacting [customer.service@kbpublisher.com](mailto:customer.service@kbpublisher.com). There is no other way to cancel the account. Once an account is cancelled, you will lose access to the Service and we will delete all your content in the normal course of operations. You will not be refunded for any unused Service and will be charged for any remaining pro-rata charges.

**7.3 Termination:** We reserve the right to modify or discontinue, temporarily or permanently, the Service (or any part thereof) at any time. We may refuse current and future use of the Service and delete your content if you have violated any of these Terms. We will make reasonable endeavors to contact you via email prior to any account termination. We will not be liable to you or any third party for any modification, suspension or discontinuation of the service.

## 8. Disclaimers; No Warranties, Limitation of Liability

**8.1 Disclaimer:** THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OF ANY KIND TO THE FULLEST EXTENT PERMITTED UNDER LAW. WE EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. YOU ACKNOWLEDGE THAT WE DO NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED, SECURE, BUG-FREE OR VIRUS-FREE AND NO STATEMENT OR COMMUNICATION WITH US SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS.

**8.2 Limitation of Liability:** UNDER NO CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, SYSTEM FAILURE OR NETWORK OUTAGE, WILL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE, OR EXEMPLARY DAMAGES INCLUDING, BUT NOT LIMITED TO LOSS OF DATA, LOSS OF BUSINESS, PROFITS OR OTHER LOSS, THAT RESULT FROM THIS AGREEMENT, EVEN IF SUCH PARTY OR ITS AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL EITHER PARTY

