

Mawimbi Terms & Conditions

EFFECTIVE DATE: October 26, 2015

Below are the Terms of Use for Mawimbi 21st Education for Sustainability Inc. ("Mawimbi") The Terms of Use are a contract between you and Mawimbi that apply when you use Mawimbi's websites, domains and/or content ("Services"). You should read this carefully before you use the Services.

If you have any questions or suggestions, feel free to email us at support@mawimbi.org.

When you see references to "we" or "us" or "our", all of those references are to Mawimbi (collectively with its agents, consultants, employees, officers and directors); when you see a reference to "you" or "your", we are referring to you, the User of our website or services.

I. THIS IS A CONTRACT.

These Terms of Use ("Terms of Use" or "Agreement") are a binding contract between you and Mawimbi. The Terms of Use apply to the Services owned or operated by Mawimbi. When you use or register for Mawimbi, you become a "User" for purposes of this Agreement and you agree to be bound by this Agreement and our [Privacy Policy](#). Certain features of the Sites may be subject to additional guidelines, terms or rules, which will be posted in connection with such features.

YOUR USE OF MAWIMBI'S SITES OR SERVICES SIGNIFIES THAT YOU AGREE TO THE FOLLOWING TERMS OF USE, AS WELL AS: (1) [ACCEPTABLE USE POLICY](#), (2) [PRIVACY POLICY](#) AND (4) MOBILE APPLICATION TERMS (APPLICABLE IF YOU ARE USING OUR MOBILE APPS NOT OTHERWISE SUBJECT TO SUCH APPS' INDEPENDENT TERMS), EACH OF WHICH ARE INCORPORATED BY REFERENCE INTO THIS AGREEMENT.

Use of the Services is a privilege and not a right.

If you do not agree to all the terms and conditions of the Terms of Use, you shouldn't access and/or use the Site.

II. USE OF THE WEBSITE BY CHILDREN REQUIRES PARENT/GUARDIAN CONSENT.

You represent and warrant that you are of legal age to form a binding contract. If you are unable to form a binding contract (this means, in most jurisdictions, if you are not yet 18 years old), you must have your parent's or guardian's permission to use the Services and your parent or guardian must provide consent to these Terms of Use on your behalf, as we described earlier and as further described in our [Privacy Policy](#).

We encourage parents and, as applicable, teachers to spend time online with children and to appropriately monitor their online activities. Please protect your child's privacy by instructing them to never provide personal information on this site or any other, or within any software registration process, without your permission.

III. WE MAY CHANGE OUR SERVICES, AND WE MAY CHANGE THESE TERMS OF USE.

The Services change frequently, and their form and functionality may change without prior notice to you. Mawimbi may also suspend or discontinue any of the Services, or any part of any of the Services, at any time and without notice, including without limitation and Mawimbi feature, database or any Content (as defined below). Similarly, we may change these Terms of Use at any time. If we do change the Terms of Use, we will generally tell you in advance by placing a notification of the revised terms on the Mawimbi

Site, or in some instances, we might send you an email. In certain situations however (for example, if a change to the Terms of Use is necessary to comply with legal requirements), we may not be able to give you advance notice. You can always review the most current version of these terms by clicking on the “Terms of Use” link located at the bottom of the Site pages. You are responsible for checking these terms periodically for changes. Changes to the Privacy Policy will be provided as set forth in the [Privacy Policy](#).

If you don’t like the Terms of Use (now or in the future), you are free to reject them – but, unfortunately, that means you won’t be able to use the Services. If you continue to use Mawimbi Services and products after we post changes to the Terms of Use, you are (through your continued use) signifying your acceptance of the new terms.

IV. USERS MUST REGISTER AND PROVIDE ACCURATE INFORMATION.

To use certain of the Services, you must first sign up for an account (“Account”), and select a password and user name (“User ID”). You promise that the registration information you provide will be accurate, complete, and up-to-date, and you understand that failure to do so may result in suspension of your Account. You can’t select for your User ID a name that you don’t have the rights to use or another person’s name with the intent to impersonate that person. In certain situations your User ID may be selected for you by your teacher or school; the same rules apply to them when they select a User ID for you. You may not transfer your Account to anyone else without our prior written permission and you are responsible for maintaining the confidentiality of your Account.

If you’re agreeing to these Terms of Use on behalf of an entity (for example, if you’re an administrator agreeing to these Terms of Use on behalf of your board, district, school or class), you represent and warrant that you are authorized to agree to these Terms of Use on that organization or entity’s behalf and bind them to these Terms of Use.

V.YOUR USE MUST BE PERSONAL AND NON-COMMERCIAL AND COMPLY WITH OUR ACCEPTABLE USE POLICY:

You promise to only use the Services for your personal, non-commercial, educational use; not for purposes of solicitation; and only in a manner that complies with all laws that apply to you. If your use of the Services is prohibited by applicable laws, then you aren’t authorized to use the Services. We can’t and won’t be responsible for you using the Services in a way that breaks the law. You are also responsible for maintaining the confidentiality of your Account password and for the security of your Account, and you will notify Mawimbi immediately of any actual or suspected loss, theft, or unauthorized use of your Account or Account password.

Any violation of the Terms of Use by anyone using the Services under your Account (or otherwise under your authority or permission) may be deemed a violation by you, irrespective of whether the violation is with or without your consent.

As already mentioned, your use of the Services is subject to our [Acceptable Use Policy](#), which outlines what you can and can’t do with and on the Services. You should therefore read the Acceptable Use Policy carefully. A violation of the Acceptable Use Policy will be grounds for termination of your right to use or access the Services. The Acceptable Use Policy can’t cover every possible eventuality. It is, accordingly, your responsibility to exercise good judgment and be a good digital citizen at all times.

VI. CERTAIN CONTENT AND ACTIVITIES ARE PROHIBITED:

“Content” refers to all information, data, text, software, music, sound, photographs, graphics, illustrations, animations, video, messages, tags, logos, written posts, replies and comments, or other materials or forms of creative expression – whether publicly posted or privately transmitted – provided by us and our licensors and displayed on the Sites. As contextually appropriate, the term “Content” also includes tools, software, scripts and executable files.

Users of the Services may be subject to international, federal, state and local laws, including but not limited to laws regulating the privacy and security of personal information (collectively, "Laws"). As a User, you are solely responsible complying with all applicable Laws in your use of the Services. In addition, with respect to your use of the Services, you agree that you comply with the Acceptable Use Policy.

Except as otherwise required by law, Mawimbi takes no responsibility for, and make no representations or warranties concerning, the privacy, confidentiality, or security or the accuracy of any information entered by, disclosed by, or transmitted to third parties through the Services by Users.

VII. THERE ARE RULES GOVERNING USE OF CONTENT

Attributions:

All copyright and other intellectual property rights in the Content on the Services are owned by Mawimbi or its licensors, unless otherwise indicated. All Content on the Services is protected by copyright, trademark, patent, trade secret and other laws. Mawimbi owns and retains all rights in such Content. Mawimbi grants you a limited, revocable, non-sub-licensable license to view or download a single copy of our Content (excluding any software code) solely for your personal, noncommercial use if you include this copyright notice: "Copyright Mawimbi 21st Education for Sustainability Inc. All Rights Reserved," as well as any and all other copyright and proprietary rights notices contained in the material. Otherwise, none of our Content may be copied, reproduced, republished, uploaded, posted, transmitted, or distributed (unless otherwise separately licensed to you by Mawimbi and in accordance with such terms of license).

Ownership of Copyrights, Trademarks, Patents and Trade Secrets:

Our Content is protected under Canadian copyright held by Mawimbi 21st Education for Sustainability Inc., its affiliates, and/or its licensors. The look and feel of our color combinations, button shapes, and other graphical elements on the Sites are our trademarks. The names of and logos associated with our Services are owned by Mawimbi 21st Education for Sustainability Inc. and are protected by Canadian copyright laws.

Except for content created solely by you ("User Content"), you may not copy, modify, translate, publish, broadcast, transmit, distribute, perform, display, or sell any Content that appears on, or is accessible through, the Services.

You shall be solely responsible for any User Content, including photographs contained therein, you submit and the consequences of posting or publishing such User Content. With respect to any User Content you submit, you affirm, represent and warrant that:

i. you own or have the necessary licenses, rights, consents or permissions to use and authorize Mawimbi to use all patent, copyright, trade secret and trademark rights or other proprietary rights to enable inclusion and use of such User Content in the manner contemplated by the Site (or such other of the Services as you may be using) and these Terms of Use; and

ii. you have the written consent, release and/or permission of each identifiable individual person identified in such User Content to use the name, likeness or other personal characteristics of each such identifiable individual.

Any unauthorized use, modification or copying of our Content, or Content that constitutes the intellectual property of others, is a breach of this Agreement. The use of any such Content on any other website or networked computer environment is expressly prohibited.

We do not claim ownership of any User Content you post; however, by posting or transmitting such User Content, you grant us, our affiliates, our successors, and others with whom we have agreements, a non-exclusive, perpetual, transferable, royalty-free, sub-licensable, transferable, worldwide license and right to use, copy, host, store, cache, display (publicly and otherwise), perform, modify, distribute, adapt (including without limitation, in order to conform it to the requirements of any networks, devices, services, or media through which the Services are available), aggregate, transmit, translate, reformat, create compilations and collective works, prepare derivative works based upon, display publicly, perform publicly

and otherwise exploit (including but not limited to over the Internet or any other uses or media). If you provide Mawimbi any feedback or suggestions regarding the Sites (“Feedback”), you assign to Mawimbi all rights in the Feedback and agree that Mawimbi shall have the right to use such Feedback and related information in any manner it deems appropriate. Mawimbi will treat any Feedback you provide to Mawimbi as non-confidential and non-proprietary.

Note also that this license to your User Content continues even if you stop using the Services, primarily because of the social nature of content shared through the Services – when you post something publicly, others may choose to comment on it, making your User Content part of a social conversation that cannot later be erased without retroactively censoring the speech of others.

Any and all intellectual property rights that are not expressly granted hereunder are reserved to Mawimbi and its licensors.

Intellectual Property on Other Web Sites:

We respect the intellectual property of others, and we ask (and expect) our Users to do the same. Material available on or through other websites may be protected by copyright and the intellectual property laws of Canada and/or other countries. Mawimbi has no responsibility for content on other websites. When you are on websites other than our Sites, the terms of use of those websites, and not this Agreement, governs your use of the material you find there.

Mawimbi retains the right, in its sole discretion, to disable and/or terminate the Accounts of Users who infringe (or, in Mawimbi’s discretion, who repeatedly infringe) Mawimbi’s or others’ copyrights or other intellectual property rights.

VIII. WE HAVE A PRIVACY POLICY AND IT IS PART OF THIS AGREEMENT.

Your privacy is important to us. Our use of your information and your use of the Sites, Services and Products is governed by our Privacy Policy which is expressly incorporated in these Terms of Use. To review our Privacy Policy, [click here](#).

IX. PERSONAL INFORMATION, USER CONTENT AND CONFIDENTIALITY

Except as may be set forth in our [Privacy Policy](#) and/or a separate agreement with us, Mawimbi is not responsible for the confidentiality of any information communicated to Mawimbi and such information will be considered non-personal, non-confidential and non-proprietary. You agree that Mawimbi may use anything you post or submit, including any Feedback, information, ideas, concepts or inventions, for any purpose without limitation and without the need to compensate you. You agree not to take action against Mawimbi its owner, affiliates, or any of its officers, directors, employees or managers in relation to User Content or other materials you submit for User Content viewing when visiting our Sites or using the Services.

Mawimbi is a platform which promotes connecting students, which helps students become better thinkers through exchanges among students with different views and in different geographical locations. If you register, you may be exposed to private and/or Confidential Information — such as the thoughts and writings between students. You agree that you shall not — during the course of your participation in any Mawimbi project or at any time thereafter — use, disclose or otherwise make available to any third party any Confidential Information, except as permitted below. For purposes of this Agreement, “Confidential Information” means: (i) all personal information of another participant in a Mawimbi project (including but not limited to students, other students, and teachers) and the contents of communications between Users to which you were not a party; and (ii) any and all oral, written, electronic and/or tangible technical, financial, business and/or other information disclosed to you by Mawimbi, a licensee of Mawimbi (or a person under the direction of one of the foregoing) or learned by you from participating in the Program that is confidential, proprietary and/or not generally available outside of our company.

You may only disclose Confidential Information in the following circumstances: (1) when required by a judicial order or decree or governmental law or regulation, but only after you have notified us reasonably in advance of such disclosure so that Mawimbi can assert its interests; or (2) the information becomes

generally available publicly without restriction and without breach of confidentiality obligations owed to Mawimbi.

THERE ARE RULES REGARDING WHEN AND HOW YOU MAY LINK TO THIS WEB SITE.

You may include a link to a Mawimbi Site on another Web site so long as the link does not portray Mawimbi in a false or misleading manner and does not appear on a Web site that is offensive, obscene or otherwise objectionable.

XI. WE ARE NOT RESPONSIBLE FOR CONTENT ON THIRD PARTY WEBSITES OR DEALINGS YOU MAY HAVE WITH ADVERTISERS.

Our Sites may include links to third party websites. We do not publish or control those sites. It is possible that some of these sites may, from time to time, contain materials that are objectionable, unlawful, or inaccurate. Mawimbi does not endorse, and is not responsible or liable, for any content, advertising, products, services or other materials on or available from such sites. You acknowledge and agree that we are not responsible for any content or other materials, or the privacy policies and practices of third party websites. By using the Services or ordering Products, you expressly waive any rights, claims or liability against Mawimbi from your use of any third-party website.

Similarly, any dealings that you have with any third-party advertisers found on or through the Services are between you and the advertiser, and you acknowledge and agree that we are not liable for any loss or claim you may have against such advertiser.

XII. IF YOU VIOLATE THE TERMS OF USE, YOU MAY LOSE CERTAIN RIGHTS AND YOU MAY BE VIOLATING THE LAW.

You will automatically lose the right to use or access the Services if you violate these Terms of Use or any published Mawimbi policies. We also reserve the right, in our sole discretion, to terminate your access to all or part of any of the Services, for any reason, with or without notice. If we do so, you must immediately destroy any copies you have of our Content.

If you violate any of these Terms of Use, you are violating your Agreement with Mawimbi and may be violating intellectual property, unfair competition and other laws.

XIII. THIS AGREEMENT ALSO CONTAINS WARRANTY DISCLAIMER, RELEASE OF LIABILITY, LIMITATION OF LIABILITY, INDEMNIFICATION, CHOICE OF LAW, DISPUTE RESOLUTION, SEVERABILITY AND INTEGRATION CLAUSES.

The following provisions further explain your rights and ours. Among other things, these provisions specify what rules and procedures would apply (and help determine the outcome) in the event that there were some dispute between you and Mawimbi:

1. WARRANTY DISCLAIMER

USE OF THE SERVICES IS AT YOUR OWN RISK. THE SERVICES (AND, OF COURSE, ALL CONTENT THEREIN) AND PRODUCTS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTIES OF ANY KIND, EXPRESS, STATUTORY OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR NONMISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, TITLE, CUSTOM, TRADE, QUIET ENJOYMENT, ACCURACY OF INFORMATION CONTENT, OR SYSTEM INTEGRATION. MAWIMBI ASSUMES NO LIABILITY FOR OR RELATING TO ANY DELAYS, FAILURES, INTERRUPTIONS, OR CORRUPTION OF ANY DATA OR OTHER MATERIAL OR INFORMATION TRANSMITTED IN CONNECTION WITH THE USE OF THE SERVICES. MAWIMBI DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OF THE SITES OR ANY CONTENT IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE.

MAWIMBI MAKES NO REPRESENTATIONS OR WARRANTIES THAT USE OF THE SITES WILL: (A) BE TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) MEET YOUR REQUIREMENTS OR EXPECTATIONS, (C) BE FREE FROM ERRORS OR THAT DEFECTS WILL BE CORRECTED, OR (D) BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. YOU ARE RESPONSIBLE FOR TAKING ALL PRECAUTIONS NECESSARY TO ENSURE THAT ANY CONTENT YOU MAY OBTAIN IS FREE OF VIRUSES AND ANY OTHER POTENTIALLY DESTRUCTIVE COMPUTER CODE.

2. RELEASE FROM LIABILITY

You release Mawimbi and all of its (and its parent's) directors, officers, shareholders, employees, representatives, consultants, agents, suppliers, partners, distributors, affiliates, and licensors from any and all liability related to: (i) disputes with other Users; (ii) third party sites and services and (iii) claims related to the unauthorized access to any data communications or content stored under or relating to your Account(s), including unauthorized use or alteration of such communications or such content or your User Content.

3. LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES SHALL MAWIMBI OR ANY OF ITS (AND ITS PARENT'S) DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, AGENTS, SUPPLIERS, PARTNERS, DISTRIBUTORS, AFFILIATES OR LICENSORS BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR USE OR ATTEMPTED USE OF THE SERVICES OR PRODUCTS. YOUR SOLE AND EXCLUSIVE REMEDY HEREUNDER SHALL BE FOR YOU TO DISCONTINUE YOUR USE OF THE SITES.

BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH JURISDICTIONS, OUR LIABILITY, AND THE LIABILITY OF OUR PARENT AND SUPPLIERS, SHALL BE LIMITED (IN THOSE JURISDICTIONS) TO THE EXTENT PERMITTED BY LAW.

4. INDEMNIFICATION

You agree to defend, indemnify, and hold harmless us, our parent and other affiliated companies, and our respective employees, contractors, officers, directors, and agents, from all third party liabilities, claims, and expenses, including attorneys' fees, that arise from your use or misuse of the Site; your violation of this Agreement; (or your violation of applicable laws or regulations. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to your indemnification, in which event you will cooperate with us in such defense and any settlement.

5. CHOICE OF LAW AND LOCATION FOR RESOLVING DISPUTES

You agree that the laws of the Ontario, Canada govern this contract and any claim or dispute that you may have against us, without regard to its conflict of laws rules, and that the United Nations Convention on Contracts for the International Sale of Goods shall have no applicability. You further agree that any disputes or claims that you may have against us will be resolved by a court located in the Province of Ontario and you agree and submit to the exercise of personal jurisdiction of such courts for the purpose of litigating any such claim or action.

PLEASE NOTE THAT BY AGREEING TO THESE TERMS OF USE, YOU ARE: (1) WAIVING CLAIMS THAT YOU MIGHT OTHERWISE HAVE AGAINST US BASED ON THE LAWS OF OTHER JURISDICTIONS, INCLUDING YOUR OWN; (2) IRREVOCABLY CONSENTING TO THE EXCLUSIVE JURISDICTION OF, AND VENUE IN, THE PROVINCE OF ONTARIO OVER ANY DISPUTES OR CLAIMS YOU HAVE WITH US; AND (3) SUBMITTING YOURSELF TO THE PERSONAL

JURISDICTION OF COURTS LOCATED IN THE PROVINCE OF ONTARIO FOR THE PURPOSE OF RESOLVING ANY SUCH DISPUTES OR CLAIMS.

6. DISPUTE RESOLUTION

Any disputes and/or claims that you assert (or that is asserted on your behalf) under this Agreement and/or related to the use of the Services shall be resolved exclusively through the use of binding arbitration. Any claimants shall have their claims/disputes resolved on an individual basis. Class action arbitration is prohibited under this Agreement. Neither you nor we shall be entitled to join or consolidate claims in arbitration by or against other users or arbitrate any claims as a member of a class or in a private Attorney General capacity. Each party shall bear its own costs, including any attorneys' fees, associated with such arbitration. Any award rendered in arbitration shall be final and binding, and may be enforced in any court having competent jurisdiction. In addition to any other remedies, we shall also have the right to seek injunctive relief outside of arbitration to protect our intellectual property rights.

7. SEVERABILITY AND INTEGRATION

This Agreement (including the Privacy Policy) and any supplemental terms, policies, rules and guidelines posted by Mawimbi constitute the entire agreement between you and us and supersede all previous written or oral agreements. If any part of these Terms of Use is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect. Mawimbi may change the Terms of Use of the Sites at any time and for any reason, without notice or obligation. You acknowledge and agree to be bound by any revisions. Therefore, we recommend that you periodically review this page to ensure your understanding of the terms and conditions of your use.

8. ASSIGNMENT

Mawimbi may assign its rights under this Agreement without condition. You may not. This Agreement will be binding upon and will inure to the benefit of the parties, their successors and permitted assigns.

XIV. THANK YOU FOR USING OUR SITES.

This section does not have any legal or contractual significance as part of our Agreement, but we do want to thank you for using our Sites. If you have any questions or concerns, please email support@mawimbi.org or send a letter to:

Mawimbi 21st Education for Sustainability Inc.,
Attn: Customer Support
19165 Loyalist Parkway,
Consecon, ON, K0K 1T0 (Canada)