

Last Updated: 10 November 2024

## Evaluation Terms of Service

### 1. IMPORTANT TERMS.

1.1. These evaluation terms of service (this "Agreement") are between Interwave and You and govern Your use of the Service. If You are using the Service on behalf of another entity (such as your employer), You must have the authority to accept these Terms on their behalf.

1.2. By using the Service, the parties are agreeing to this Agreement, our Acceptable Use Policy, our Service Terms, our Security Addendum, and our Data Processing Addendum, which are collectively referred to as the "Terms" and which are enforceable like any written contract.

1.3. Interwave may update the Terms by posting updated Terms on our website. All changes become effective when posted. Such changes are not retroactive, but Your continued use of the Service after any such changes means You agree to such changes. Notwithstanding the above, in no event may Interwave alter these Terms in a way that meaningfully detracts from its obligations with respect to Confidential Information, Customer Data, or Customer Content as agreed to in these Terms without express written authorization from You.

1.4. The Service is a research tool, and its Output is not legal advice. The Output of the Service is AI-generated, and may contain errors and misstatements or may be incomplete.

### 2. DEFINITIONS.

The definitions in Section 11 (Defined Terms) apply to these Terms. All terms in quotation marks in the body of this Agreement are also defined terms.

### 3. USAGE.

3.1. You may access, and we grant You the non-exclusive right to use, the Service pursuant to the Documentation. Access credentials are specific to the user to whom they are issued and may not be shared, including within the same organization. You will take reasonable steps to prevent unauthorized use of the Service.

3.2. Your usage of the Service is governed by these Terms. You will interact with the Service by providing Input to the Service and receiving Output from the Service. You and Your users may only use the Service for Your business purposes.

3.3. You may not (a) use the Service in a way that infringes, misappropriates, or violates any person's rights; (b) access or use the Service from within any Embargoed Countries; (c) attempt to reverse engineer or attempt to discover the source code or engineering of the underlying model and systems of the Service or Interwave's subcontractors; or (d) attempt automated means to scrape content or Output from the Service.

3.4. To the extent that You provide us with any Feedback, we may freely use and incorporate any Feedback into our products and services. Interwave may not utilize Feedback in a way that identifies, or

could be used to identify, Customer, its users, Customer Data, Your Content, or Customer's Confidential Information.

3.5. Any third party software, services, or other products You use in connection with the Service (*for example*, Your internet browser) are subject to their own terms, and we are not responsible for such third party products.

#### **4. CONTENT.**

4.1. You may provide Input to the Service and receive Output from the Service. As between the parties, You own Your Content.

4.2. You may provide Input that is similar or identical to a third party's user's Input or may receive Output that is similar or identical to Output provided to other third party users. Queries that are requested by other third party users and responses provided to other third party users are not Your Content.

#### **5. CUSTOMER DATA.**

5.1. To utilize certain features, You may be required to upload documents ("Customer Data") into the Service for the purpose of enabling certain features.

5.2. As between the parties, You retain all right, title and interest (including any and all intellectual property rights) in and to the Customer Data. You grant to Interwave and its Affiliates a non-exclusive, worldwide, royalty-free right to process the Customer Data and Your Input to the extent necessary to provide the Service to You, to prevent or address service or technical problems with the Service, or as may be required by applicable law.

5.3. Your use of the Service and all Customer Data will comply with applicable laws, government regulations, and any other legal requirements, including but not limited to, any data localization or data sovereignty laws, regulations, and any other third-party legal requirements applicable to You. You are responsible for the accuracy, content and legality of all Customer Data.

#### **6. FEES AND PAYMENTS.**

You are utilizing the Service via an authorized free trial, and You agree that You will do so in accordance with Your instructions from Interwave. If we believe that You are not using the free trial in good faith, we may immediately terminate Your access to the Service. We reserve the right to limit the resources and features available to free trial users.

#### **7. TERM AND TERMINATION.**

7.1. These Terms take effect when You first use the Service and remain in effect until terminated. You may terminate these Terms at any time by discontinuing the use of the Service and providing notice to us. We may similarly terminate upon notice at any time.

7.2. Upon termination, You will stop using the Service, and You will promptly return, or if instructed by us, destroy any Confidential Information. The sections of these Terms that customarily would survive such an agreement will survive (*for example*, provisions around confidentiality, obligation to pay unpaid fees, etc.).

7.3 Within 30 days of termination, Interwave will securely delete any remaining Customer Data or Content unless otherwise instructed by You.

## **8. WARRANTY AND DISCLAIMER.**

8.1. You warrant that You have the necessary rights in Your Customer Data and Input to use it with the Service and that Your use of the Service will comply with all applicable laws and regulations.

8.2. The Service is provided on an as-is and as-available basis. Interwave makes no representations or warranties of any kind, implied or expressed, with respect to the Service including warranties of merchantability, title, non-infringement, or fitness for a particular purpose, which are disclaimed. Interwave does not represent or warrant that the use of the Service will be uninterrupted or error-free.

## **9. LIMITATIONS OF LIABILITY.**

9.1. In no event will either party be liable to the other party or any third party for any indirect, incidental, special, exemplary, punitive, or consequential damages, including loss of income, data, profits, revenue, or business interruption, or the cost of substitute services or other economic loss, arising out of or in connection with these Terms, whether such liability arises from any claim based on contract, warranty, tort (including negligence), strict liability or otherwise, and whether or not such party has been advised of the possibility of such loss or damage.

9.2. Other than for claims based on liability which, by law, cannot be limited (*for example*, tort claims for gross negligence and intentional misconduct), in no event will either party's total liability to the other party or any third party for all claims in the aggregate (for damages or liability of any type) in connection with these Terms exceed \$1,000 (the "Liability Cap").

## **10. GENERAL TERMS.**

10.1. Assignment. Neither party may assign these Terms without the advance written consent of the other party, except that Interwave may (a) assign these Terms in their entirety to any Affiliate or (b) assign these Terms in connection with a consolidation, merger or sale of all or substantially all of our assets.

10.2. Subcontracting. Interwave may use subcontractors and other third-party providers in connection with the performance of its activities under these Terms as it deems appropriate, provided that it remains responsible for the performance of any such subcontractors or third-party providers.

10.3. Severability and Interpretation. If a court of competent jurisdiction holds any provision of these Terms to be unenforceable or invalid, that provision will be limited to the minimum extent necessary so that these Terms will otherwise remain in effect.

10.4. Open Source Software. We warrant that we will not use any software in the Service that would cause Your software to become subject to an open source license that would require, as a condition of use, Your software to be disclosed or distributed in source code form or would give others the right to modify Your software.

10.5. Confidentiality. Each party (as the "Receiving Party") will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to: (a) not use any Confidential Information of the other party (the "Disclosing Party") for any

purpose outside the scope of these Terms; and (b) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with these Terms and who are bound by confidentiality obligations to the Receiving Party containing protections not materially less protective than this section. If the Receiving Party is required by applicable law or court order to disclose Confidential Information, then the Receiving Party will, to the extent legally permitted, provide the Disclosing Party with advance written notification and cooperate in any effort to obtain confidential treatment of the Confidential Information. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party, the Disclosing Party will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

10.6. Usage Data. Interwave may collect and use Usage Data to develop, improve, support, and operate the Service. Interwave may not share Usage Data that includes Your Confidential Information with a third party (*for example*, auditors) except (a) in accordance with Section 10.5 (Confidentiality) of this Agreement, or (b) to the extent the Usage Data is aggregated and anonymized such that You cannot be identified.

10.7. No Training. Interwave will not train any AI models using Your Content or Customer Data. Subprocessors will not train any AI models using Your Content or Customer Data. Subprocessors will not retain or log for human review Your Content or Customer Data.

10.8. Privacy Policy. Your users will be subject to our Privacy Policy to the extent not in conflict with these Terms in using the Service.

10.9. Governing Law. These Terms will be governed by the laws of the State of Wyoming and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods.

10.10. Arbitration. Any dispute, claim or controversy arising out of or relating to this Agreement or its breach, including the determination of the scope or applicability of this Agreement to arbitrate, will be determined by arbitration in San Francisco. For matters with a disputed amount in controversy of more than \$250,000, the matter will be heard before a panel of three arbitrators subject to JAMS' Comprehensive Arbitration Rules and Procedures for other matters before a single arbitrator subject to JAMS' Streamlined Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction. This clause will not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

10.11. Data Processing Addendum. Interwave will at all times abide by these Terms as well as the Data Processing Addendum with respect to the handling and processing of Customer Data and Your Content. To the extent of any conflict between these Terms and the Data Processing Addendum, as to the subject matter covered by the Data Processing Addendum, the Data Processing Addendum controls.

10.12. Notice. All notices must be in writing (in English) and addressed to the parties via email: (i) for Interwave, notice must be sent to [legalnotices@AthenaAISerive.com](mailto:legalnotices@AthenaAISerive.com); and (ii) for You, to the email address associated with Your user account. Notices will be deemed given upon receipt. Either Party may

change its email address for notices under these Terms by providing the other Party written notice in accordance with this section.

10.13. No Waiver. No waiver will be implied from conduct or failure to enforce or exercise rights under these Terms, nor will any waiver be effective unless in a writing signed by the waiving party.

10.14. Entire Agreement. These Terms are the complete and exclusive statement of the mutual understanding of the parties in connection with Your use of the Service and supersede and cancel all previous written and oral agreements, understandings, and communications relating to the subject matter in these Terms. Each party represents that, in connection with the Service, it has not relied on any term or representation not contained in these Terms.

10.15. Export Control. The parties agree to comply with all export and import laws and regulations of the United States and other applicable jurisdictions. The Service may not be used in or for the benefit of, exported, or re-exported (a) into any U.S. embargoed countries or that has been designated by the U.S. government as a “terrorist supporting” country (collectively, the “Embargoed Countries”) or (b) to anyone on the U.S. Treasury Department’s list of Specially Designated Nationals, any other restricted party lists (existing now or in the future) identified by the Office of Foreign Asset Control, or the U.S. Department of Commerce Denied Persons List or Entity List, or any other restricted party lists. You represent and warrant that You are not located in any Embargoed Countries and not on any such restricted party lists.

10.16. Force Majeure. Neither party will be liable to the other for any delay or failure to perform any obligation under these Terms if the delay or failure results from any cause beyond such party’s reasonable control that could not have been prevented through the use of commercially reasonable safeguards, including acts of God, labor disputes, or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, public health emergencies (including pandemics and epidemics), acts or orders of government, acts of terrorism, or war.

## **11. Definitions.**

11.1. “Acceptable Use Policy” means Interwave’s policy governing the use of the Service as located at [AthenaAIService.com](https://athenaaiservice.com).

11.2. “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity where “control,” for the purposes of this definition means direct or indirect ownership or control of more than 50% of the voting interests in the subject entity.

11.3. “Agreement” has the meaning set forth on the cover page.

11.4. “Basic Service” is the basic functionality of the Service made available to You under these Terms in which users provide Input and receive Output, and which does not include features such as Data Room/Vault, Customer-trained models, workflows, and certain research modules (such functionality is covered by an addendum or other writing that expressly references such functionality).

11.5. “Confidential Information” means all information that is identified as confidential at the time of disclosure by the Disclosing Party or reasonably should be known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances

surrounding the disclosure. Content specific to You and Customer Data are Your Confidential Information.

11.6. "Content" means Input and Output collectively.

11.7. "Interwave" means Interwave Corporation, a Delaware corporation as well as all of its Affiliates.

11.8. "Customer Data" has the meaning set forth in Section 5.1.

11.9. "Data Processing Addendum" or "DPA" means the Data Processing Addendum governing Interwave's processing of Customer Data as located at AthenaAIService.com.

11.10. "Disclosing Party" has the meaning set forth in Section 10.5.

11.11. "Documentation" means the technical and other documents regarding usage of the Service as may be made available to You. Interwave may update the Documentation from time-to-time.

11.12. "Embargoed Countries" has the meaning set forth in Section 10.15.

11.13. "Feedback" means any suggestions, enhancement requests, recommendations, corrections, or other feedback provided to Interwave by You relating to our offerings.

11.14. "Input" means the query provided by a user to the Service.

11.15. "Liability Cap" has the meaning set forth in Section 9.2

11.16. "Output" means the output provided by the Service to a user in response to such user's Input.

11.17. "Privacy Policy" means Interwave's policy governing the privacy provisions related to the Service as located at AthenaAIService.com.

11.18. "Receiving Party" has the meaning set forth in Section 10.5.

11.19. "Security Addendum" means Interwave's addendum governing the security provisions located at AthenaAIService.com.

11.20. "Service" means the software-as-a-service offering made available by Interwave at AthenaAIService.com.

11.21. "Service Terms" means the additional terms that govern the use of preview features as well as other optional offerings and features of the Service as located at AthenaAIService.com.

11.22. "Subprocessor" means any subcontractor or vendor of Interwave that has access to or otherwise processes Customer Data or Your Content. Subprocessor is inclusive of any Subprocessor identified in the Data Processing Addendum.

11.23. "Terms" has the meaning set forth in Section 1.1.

11.24. "Usage Data" means information reflecting the access, interaction, or use of the Service by or on behalf of Customer including frequency, duration, volume, features, functions, visit, session, click through or click stream data, and statistical or other analysis, information, or data based on, or derivative works of, the forgoing. Other than as strictly required for billing purposes, Usage Data does not include Your Content, Customer Data, or Customer Confidential Information.

11.25. "You" or "Your" means either (1) in the case of an individual, the person contracting for the use of the Service; or (2) in the case of a legal entity, the organization contracting for the use of the Service.

11.26. "We" or "we" or "Our" or "our" means Interwave.