

**Strucwise Inc. ( "Strucwise")**  
**Terms of Service**

These Terms of Service (the "**Terms**"), together with all schedules, appendices, attachments, annexes, the End User License Agreement ("**EULA**"), and the Service Level Agreement ("**SLA**") (and together with the Terms, EULA, SLA, the "**Agreement**") (all of such documents are accessible by accessing the by accessing the Site (as defined below)) and between Strucwise Inc. (DBA "**Strucwise**") and all its affiliates (together, "**Strucwise**", "**us**", "**we**", and "**our**") and you, the individual, entity, or company ("**you**", "**your**", and "**User**") governs your use of Strucwise's website application, accessible at <https://strucwise.com/>, and all pages, templates, products, tools, information, protocols, software, and content located therein (the "**Site**"). PLEASE READ THESE TERMS CAREFULLY.

By using the Site, you agree to be bound by these Terms.

You must read, agree with and accept all of the terms and conditions contained or expressly referred to in this Agreement, before you may sign up or use the Site.

You are advised to revisit the Agreement, and all its components, periodically to familiarize itself with any changes to the terms and conditions therein.

Strucwise, in its sole and absolute discretion, reserves the right to make changes to the terms and conditions of the Agreement. Any such changes to the Site are binding on you and/or on Strucwise. You agree to be bound by any changes, variation, or modifications to the terms and conditions in the Agreement and your continued use of the Site shall constitute acceptance of any such changes, variations, or modifications.

**1. NOTICES, DISCLAIMERS, & LIMITATIONS OF LIABILITY**

- (a) You understand that all elements of the Site are still in their early stages of testing and development. By accepting the terms and conditions in the Agreement, you understand and acknowledge that the Site is being provided without having completed all testing and development and are made available to you on an "as is" or "as available" basis.
- (b) YOU ASSUME ALL RISKS AND ALL COSTS ASSOCIATED WITH YOUR USE OF THE SITE, INCLUDING, WITHOUT LIMITATION, ANY INTERNET ACCESS FEES, BANKING FEES, TRANSACTION FEES, BACK-UP EXPENSES, COSTS INCURRED FOR THE USE OF THEIR DEVICE AND PERIPHERALS, AND ANY DAMAGE TO ANY EQUIPMENT, SOFTWARE, INFORMATION OR DATA.
- (c) STRUCWISE IS NOT OBLIGATED TO PROVIDE ANY MAINTENANCE, TECHNICAL, OR OTHER SUPPORT FOR THE SITE WHILE THEY ARE STILL IN THE TESTING AND DEVELOPMENT STAGES.
- (d) YOU EXPRESSLY AGREE THAT ACCESS TO AND USE OF THE SITE IS AT YOUR SOLE RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OF IMPLIED,

INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OF IMPLIED WARRANTIES OR NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE (EXCEPT ONLY TO THE EXTENT PROHIBITED UNDER THE LAWS APPLICABLE TO THE TERMS AND CONDITIONS WITH ANY LEGALLY REQUIRED WARRANTY PERIOD TO THE SHORTER OF THIRTY (30) DAYS FROM FIRST USE OR THE MINIMUM REQUIRED). WITHOUT LIMITING THE FOREGOING, NEITHER STRUCWISE NOR ITS AFFILIATES OR SUBSIDIARIES, OR ANY OF THEIR DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, AGENTS, ATTORNEYS, THIRD-PARTY PROVIDERS, DISTRIBUTORS, LICENSEES, LICENSORS, SUCCESSORS, OR ASSIGNS (COLLECTIVELY "**COMPANY PARTIES**") WARRANT THAT THE SITE WILL BE UNINTERRUPTED, BUG-FREE OR ERROR-FREE, AND NONE OF THE COMPANY PARTIES WARRANT THAT SOFTWARE ARE MERCHANTABILITY, FIT FOR ANY PARTICULAR PURPOSE, AND/OR RECOGNIZED BY ANY PARTICULAR JURISDICTION(S).

- (e) TO THE FULLEST EXTENT PERMITTED BY LAW, THE DISCLAIMERS OF LIABILITY CONTAINED HEREIN APPLY TO ANY AND ALL DAMAGES, LOSSES, AND/OR INJURY WHATSOEVER CAUSED BY OR RELATED TO USE OF, OR INABILITY TO USE, THE SITE UNDER ANY CAUSE OR ACTION WHATSOEVER OF ANY JURISDICTION, INCLUDING, WITHOUT LIMITATION, ACTIONS FOR BREACH OF WARRANTY, BREACH OF CONTRACT, AND/OR TORT (INCLUDING NEGLIGENCE). THE COMPANY PARTIES SHALL NOT BE LIABILITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, AND/OR CONSEQUENTIAL DAMAGES IN ANY WAY WHATSOEVER ARISING OUT OF THE USE OF, OR INABILITY USE, THE SITE OR ANY PART THEREOF. YOU FURTHER AGREES NOT TO SEEK TO HOLD THE COMPANY PARTIES LIABLE FOR THE CONDUCT OF THIRD PARTIES INCLUDING OTHER USERS OF THE SITE AND OPERATORS OF EXTERNAL WEBSITES AND THAT THE RISK OF THE SITE AND EXTERNAL WEBSITES AND OF INJURY FROM THE FOREGOING RESTS ENTIRELY WITH YOU.
- (f) IN THE EVENT THAT A COURT AND/OR ARBITRATORS OF COMPETENT JURISDICTION HOLDS THAT ANY COMPANY PARTY IS LIABLE TO YOU (FOR EXAMPLE AND WITHOUT LIMITATION, BECAUSE ANY RELEASE OR WAIVER HEREUNDER IS FOUND TO BE VOID OR OTHERWISE UNENFORCEABLE, OR BECAUSE ANY CLAIMS ARE FOUND TO BE OUTSIDE THE SCOPE OF ANY SUCH RELEASE OR WAIVER), UNDER NO CIRCUMSTANCES WILL ANY OF THE COMPANY PARTIES BE LIABLE TO YOU IN THE AGGREGATE FOR MORE THAN THE AMOUNT YOU HAVE PAID STRUCWISE IN THE NINETY (90) DAYS IMMEDIATELY PRECEDING THE DATE ON WHICH YOU FIRST ASSERT ANY SUCH CLAIM, WHETHER SUCH LIABILITY IS BASED ON BREAK OF WARRANTY, BREACH OF CONTRACT OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.
- (g) UNDER NO CIRCUMSTANCES WILL STRUCWISE BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, ARISING IN ANY WAY OUT OF ACCESS TO OR USE OF OR INABILITY TO ACCESS OR USE THE SITE OR ANY OF STRUCWISE'S

APPLICATIONS, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, BUSINESS INTERRUPTION, OR LOSS OF PROGRAMS OR OTHER DATA ON COMPUTER SYSTEMS OR OTHERWISE, EVEN IF STRUCWISE IS EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- (h) STRUCWISE SHALL NOT BE LIABLE FOR ANY NON-PERFORMANCE OR DELAY IN PERFORMANCE CAUSED BY ANY ACT BEYOND ITS REASONABLE CONTROL, INCLUDING, BUT NOT LIMITED TO, ACTS OR OMISSIONS OF THIRD PARTIES, UNAVAILABILITY OF SUPPLIES, EQUIPMENT FAILURE, WAR, STRIKES, LOCK-OUTS, FIRE, FLOOD, OR ANY OTHER ACT OF GOD, ANY LAW, REGULATION, ORDINANCE, OR OTHER ACT OR ORDER OF ANY COURT, GOVERNMENT, OR GOVERNMENTAL AGENCY, OR DELAYS, UNAVAILABILITY, ERRORS, OR OTHER FAILURES OF THE INTERNET OR OTHER DATA NETWORKS.
- (i) Strucwise does not guarantee that the Site will be secure or free from bugs, errors or viruses.
- (j) You are responsible for configuring your own information technology, computer programs and platform in order to access the Site. You should use your own virus protection software.
- (k) Strucwise cannot promise that the use of the Site, or any content taken from the Site, will not infringe on the rights of any third party.
- (l) Certain content and materials available on the Site are for information purposes only and are not intended to address your particular requirements. In particular, the content and materials available on the Site do not constitute any form of advice or recommendation by Strucwise, should not be regarded as an offer, solicitation, invitation or recommendation of any kind and are not intended to be relied upon by you in making any decision. We recommend that you seek independent advice from the appropriate professional before making any such decision.
- (m) Certain actions and aspects of the site are initiated, displayed, or otherwise involved with or through the Site are facilitated and run by third party services providers and by using the Site you agree that you are governed by the terms of services and privacy policy for the applicable third party service providers.

## **2. Use of Strucwise Site**

- (a) Strucwise provides access to an application that seeks to improve the efficiency of structural design.
- (b) You understand that the use of the Site and/or any of its applications does not constitute a whole or partial substitute, supplement, or replacement for a professional engineering, architectural, structural, and/or any other applicable analysis, judgment, assessment, or review. You hereby represent and warrant that you will conduct your own professional engineering, architectural, structural, and/or any other applicable analysis, judgment, assessment, or review with appropriate professionals as required.
- (c) Using the Site may require that the Customer or any Licensee (as defined in the EULA) pay a fee, such as banking charges for fund transfers, to perform certain transactions. The Customer acknowledges and agrees that Strucwise has no control over any

transactions among Licensees of the Site, the method of payment of any such transactions, or any actual payment of such transactions.

### **3. Fees**

- (a) The fees for your use of the Site (the “**Fees**”) shall be as prescribed, and on the terms and conditions, by the terms provided to you on the Site or as otherwise outlined in the applicable pricing sheet, which has been made accessible to you via the Site and is available on request by contacting support@strucwise.com.

### **4. Access to Site**

- (a) To access and use the Site, you may be required to provide certain information, personal or otherwise, including but not limited to their full legal name, legal address, phone number, a valid email address, and any other information indicated by Strucwise as required. Strucwise may reject the information you provide, refuse the provision of Site, or cancel existing access, for any reason, at Strucwise’s sole discretion.
- (b) In order to use the Site, you must be the older of: (i) 18 years, or (ii) at least the age of majority in the jurisdiction in which you use the Site.
- (c) In order to use the Site, you must be able to form a legally binding contract online either as an individual or on behalf of a legal entity. You represent that, as a user, you have the legal authority to bind the company or other legal entity on which behalf you are acting to the terms and conditions of the Agreement, you can form a legally binding contract online, and has the full, right, power, and authority to enter into and to comply with the obligations under the Agreement on your own behalf, or on the behalf of the company or other legal entity on which behalf your are acting.

### **5. Terms and conditions for accessing the Site**

- (a) Strucwise reserves the right to, at its sole and absolute discretion, limit the availability of the Site to any person, geographic area, jurisdiction and/or to terminate your access to and use of the Site, at any time.
- (b) Strucwise may remove or amend any content within or relating to the Site at any time. However, some of the content may be out of date at any given time and, in such case, Strucwise is under no obligation to update it. Strucwise does not guarantee that the Site, or any content on it, will be free from errors or omissions.
- (c) It is a condition to using and accessing the Site that you:
  - (i) Will only use the Site in accordance with the terms and conditions of the Agreement;
  - (ii) Will ensure that all information that you provide to the Site is current, complete, and accurate;
  - (iii) Will ensure compliance with all applicable laws; and
  - (iv) Will maintain the security and confidentiality of access to your account credentials.
- (d) As a condition to accessing or using the Site, you will not:

- (i) Violate any applicable laws, including without limitation any relevant applicable privacy and data collection laws, in each case as may be amended;
- (ii) Export, reexport, or transfer directly or indirectly, any Strucwise technology in violation of applicable export laws and regulations;
- (iii) Infringe on or misappropriate any contract, intellectual property or other third party right, or commit a tort while using the Site;
- (iv) Make commercial use of the Site or any of its contents without express written permission;
- (v) Misrepresent the truthfulness, sourcing or reliability of any content on the Site;
- (vi) Use the Site to simulate communications from us or another service or entity in order to collect identity information, authentication credentials, or other information (otherwise known as phishing);
- (vii) Use the Site in any manner that could interfere with, disrupt, negatively affect, or inhibit other users from fully enjoying the Site, or that could damage, disable, overburden, or impair the functioning of the Site in any manner;
- (viii) Attempt to circumvent any content filtering techniques or security measures that Strucwise employs on the Site, or attempt to access any service or area of the Site that you are not authorized to access;
- (ix) Use any robot, spider, crawler, scraper, or other automated means or interface not provided by us, to access the Site to extract data;
- (x) Introduce any malware, virus, trojan horse, worm, logic bomb, drop-dead device, backdoor, shutdown mechanics or other harmful material into the Site;
- (xi) Post content or communications on the Site that are, in our sole and absolute discretion, libelous, defamatory, profane, obscene, pornographic, sexually explicit, indecent, lewd, vulgar, suggestive, harassing, hateful, threatening, offensive, discriminatory, bigoted, abusive, inflammatory, fraudulent, deceptive, or otherwise objectionable;
- (xii) Post content on the Site containing unsolicited promotions, commercial messages or any chain messages or user content designed to deceive or trick the users of the Site; or,
- (xiii) Encourage or induce any third party to engage in any of the activities prohibited under these Terms or the Agreement.

## **6. OFAC Compliance**

- (a) The U.S. Department of the Treasury, through the Office of Foreign Assets Control (the “**OFAC**”), prohibits U.S. companies from engaging in all or certain commercial activities with certain sectioned countries (each a “**Sanctioned Country**”) and certain individuals, organizations or entities, including without limitation, certain specially designated nationals (each an “**SDN**”) listed by the OFAC. If you use the Site, you expressly represent that you are not located in a Sanctioned Country and are not listed as an SDN. If Strucwise determines that the Site is being used by prohibited persons, it will take any and all actions to terminate your access to the Site.

## **7. Risk Acknowledgement**

- (a) You acknowledge that the Site and your use of the Site contain certain risks, including without limitation to the following:
- (i) Any technology or software that any User interacts with is entirely their own responsibility and liability.
  - (ii) At any time a User may have their access to the Site suspended or terminated or there may be a delay in Customer or the Licensees access or use of the Site, which may result in losses to the Customer or Licensee; and,
  - (iii) The Site may be suspended or terminated at any time for any or no reason, which may limit your or any user's access.
- (b) Accordingly, you expressly agree that:
- (i) You and all users assume all risks in connection with their respective access and use of the Site and all parts thereof; and,
  - (ii) You expressly releases Strucwise, its directors, officers, employees, and agents (the "**Releasees**") from, and hold them harmless from and against, any and all liability, claims, causes of action, losses, expenses, or damages (whether arising in law or equity, including but not limited to special, consequential, indirect, punitive, and exemplary damages, and including but not limited to economic loss, business disruption, and/or attorney's fees) arising from or in any way related to the Site or any part thereof. You expressly waive all such claims against the Releasees.
- (c) You acknowledge that you assume any and all risks in using any of the outputs generated by Strucwise, its Site, or any of its applications. Strucwise does not warrant or represent the accuracy and/or precision in any of the outputs generated by this Site, or any of Strucwise's applications.

## **8. Termination of Use**

- (a) You agree that we may, at our sole and absolute discretion, suspend, disable, or terminate your access to all or part of the Site with or without notice and for any reason, including without limitation, breach of these Terms or the Agreement. Any suspected illegal, fraudulent or abusive activity may be grounds for terminating your access to all or part of the Site and relationship with us, and may be referred to appropriate law enforcement authorities. Upon suspension, disabling or termination, your rights to use the Site will immediately cease, and we reserve the right to remove or delete any information that you may have on file with us, including any account or login information.

## **9. Indemnification**

- (a) You agree to defend, indemnify and hold harmless Strucwise, its affiliates, licensors, and service providers and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors, and assigns from and against any claims, liabilities, damages, judgements, awards, losses, costs, expenses or fees (including reasonable lawyers' fees) arising out of or relating to your violation of this Agreement or the failure to fulfill any obligations relating to the use of the Site incurred by you or any other person or entity using your account. We reserve the right to take over the exclusive

defense of any claim for which we are entitled to indemnification under these Terms. In such event, you shall provide us with such cooperation as is reasonably requested by us, including without limitation, disclosure of documents and providing testimony.

## 10. Miscellaneous

- (a) Survival: All disclaimers, indemnities, and exclusions in the Agreement shall survive termination of the any of the Terms, EULA, SLA, or the Agreement and shall continue to apply during suspension or any period during which the Site are not available for your use for any reason whatsoever.
- (b) Benefit of the Parties: Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the Parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.
- (c) Assignment: Neither Party shall, without written consent to the other, assign its rights and obligations under this Agreement. Notwithstanding the foregoing, Strucwise may assign its rights and obligations under this Agreement to an Affiliated Entity, where “**Affiliated Entity**” means, with respect to any specified entity, any other entity or person who, directly or indirectly, controls, is controlled by, or is under common control with such entity or person.
- (d) Governing Law: This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Province of Ontario and the laws of Canada as applicable therein (without giving effect to any conflicts or choice of law provisions thereof that would cause the application of the domestic substantive laws of any other jurisdiction).
- (e) Titles and Subtitles: The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.
- (f) Notices: All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt.

- (g) Amendments and Waivers: Unless otherwise provided, any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the mutual written consent of the Parties.
- (h) Severability: If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.
- (i) Entire Agreement: This Agreement (including the schedules, attachments, exhibits, and appendices) and the documents referred to herein constitute the entire agreement among the Parties and no Party shall be liable or bound to any other party in any manner by any warranties, representations, or covenants except as specifically set forth herein or therein.
- (j) Dispute Resolution: The Parties hereto shall initially attempt to resolve all claims, disputes or controversies arising under, out of or in connection with this Agreement by conducting good faith negotiations amongst themselves. If the Parties hereto are unable to resolve the matter following good faith negotiations, the Parties shall hereby irrevocably and unconditionally submit to the jurisdiction of the Ontario Superior Court of Justice in the City of Toronto.
- (k) Force Majeure: Strucwise shall have no liability to you under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Strucwise or any other party), failure of a utility service or transport or telecommunications network, pandemic, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of Strucwise's sub-contractors.
- (l) Independent Legal Advice: You acknowledge and confirm that prior to executing this Agreement, Strucwise requested that you obtain independent legal advice with respect to the rights, obligations, disclaimers, and notices herein, especially those that relate to the application, and obligations, of the laws related to architecture, engineering, building, structure, construction and/or building codes. You confirm and agree that: (1) you have executed this Agreement under their own volition and without any duress whatsoever from Strucwise or any other person or entity; and (2) if you did not obtain independent legal advice prior to executing this Agreement, you will not in any proceeding relating to the enforcement of rights and obligations under this Agreement raise that as a defense or otherwise.