

## Software as a Service Agreement

This Software as a Service Agreement ("SaaS Agreement") and applicable attachments or orders ("Order"), and the schedules and Exhibits attached hereto are the complete agreement regarding transactions under this agreement (collectively, the "Agreement") under which Customer may order Services and the Service Provider shall provide Services.

### 1. Services.

- 1.1. "Services" means Service Provider's subscription services as described in an Order. Services include, without limitation, documents, data, other materials, and support services that Service Provider provides to Customer (collectively, the "Materials").
- 1.2. Customer is responsible for use of Services by its users, including its Authorized Users. Customer shall ensure that Authorized Users comply with this Agreement. Customer is responsible for its actions and the contents of its transmissions through the Services. Customer is responsible for the compliance of Customer Content with this Agreement, including content uploaded by its users.
- 1.3. The Services are available only to Authorized Users. "Authorized User" means employees and any independent contractors of Customer who are authorized to Customer and approved by Service Provider and shall be bound by this Agreement.
- 1.4. Customer may not: (a) build a product, service, or offering that competes with Service Provider or Services not based on the Confidential Information (defined below) of Service Provider; (b) duplicate, disassemble, reverse engineer, or otherwise reproduce without authorization any portion of the Services; (c) resell direct access to the Services to a third party; (d) scrape, steal, or copy without authorization Services; (e) disclose any performance data relating to the Services except internally, to its contractors with a need to know, and as part of a legal proceeding; or (e) sell or transfer to another third party Services in violation of this Agreement.
- 1.5. Customer may not use the Services for: (a) activity that violates or infringes upon the rights of third parties; (b) activity that violates applicable law, (c) defamatory, harassing, abusive, threatening, obscene, hateful, sexist, offensive, or fraudulent content or activity; (d) sending viruses, spyware or similar computer programming routines, or unsolicited mail; or (e) any purposes inconsistent with this Agreement

### 2. Customer and Service Provider Responsibilities.

- 2.1. The Services are a valuable trade secret and confidential proprietary property of Service Provider. Customer agrees to access and use Service Provider's Services only as provided in this Agreement and to reasonably safeguard the Services when in Customer's possession.
- 2.2. Subject to the terms of the Agreement, Service Provider hereby provides to Customer a limited, non-exclusive, non-transferrable (except as set forth in Section 12.6 below), revocable-at-any-time license during the term of the applicable Order to access and use the Services and Materials for Customer's own business purposes ("Service Provider License"). Except as otherwise stated in this section or the Order, Customer does not obtain any other rights to the Services or Materials. Service Provider warrants that it has the right and authority to provide the Services and Materials and that the Services and materials do not infringe the rights of others or violate applicable law.
- 2.3. "Customer Content" means all content or information that Customer provides or authorizes access to for the Services. Except as otherwise provided in the Order, Customer hereby grants Service Provider a limited, non-exclusive, royalty-free, non-transferrable, revocable at any time license to access, display, store, , create derivative works of, transmit, or otherwise use or process Customer Content solely to provide the Services and Materials to Customer ("Customer License"). Customer warrants that it has the right and authority to provide Customer Content and that such materials do not infringe the rights of others or violate applicable law.
- 2.4. Customer is responsible for obtaining all necessary rights and permissions to grant the Customer License. This includes Customer making necessary disclosures and obtaining consent, if required, before providing individuals' information to Service Provider.
- 2.5. Customer is responsible for: (a) assessing the suitability of Services for Customer's intended use; (b) taking necessary actions to order, enable, or use available features appropriate for its use of the Services; and (c) complying with applicable law.

- 2.6. Service Provider is responsible for obtaining all necessary rights and permissions to grant the Service Provider License.
3. **Confidentiality.**
- 3.1. Both Service Provider and Customer have made and will continue throughout the term of this Agreement to make available to the other party confidential and proprietary materials and information ("Confidential Information"). Prospectively, each party shall advise the other of material and information that is confidential and/or proprietary. All material and information provided by Customer to Service Provider relating to the business, policies, procedures, customs and forms of Customer or any of its affiliates, including information previously divulged or delivered relating to the aforementioned subject matter is hereby designated as confidential and proprietary and shall be considered to be Confidential Information. Each party shall maintain the confidentiality of the other's Confidential Information and will not disclose such Confidential Information without the prior written consent of the other party. In addition, neither party shall use the other party's Confidential Information except as contemplated herein.
- 3.2. It is understood that the obligations set forth above in this section do not apply to materials or information that (a) are already, or otherwise become, generally known by third parties as a result of no act or omission of the receiving party; (b) subsequent to disclosure hereunder are lawfully received from a third party having the right to disseminate the information without restriction on disclosure; (c) are generally furnished to others by the disclosing party without restriction on disclosure; (d) were already known by the receiving party prior to receiving them from the disclosing party and were not received from a third party in breach of that third party's obligations of confidentiality; or (e) are independently developed by the receiving party without the use of confidential information of the disclosing party.
- 3.3. Service Provider and Customer each acknowledge that the disclosure of the other party's Confidential Information would cause substantial harm to such party that could not be remedied by the payment of damages alone. Accordingly, Service Provider and Customer each will be entitled to preliminary and permanent injunctive relief and other equitable relief for any breach or threatened breach of this Section 3.
4. **Charges, Taxes, and Payment.**
- 4.1. All subscriptions are annual with annual billing payments. Subscription purchases are final and non-refundable. Customer agrees to pay all applicable charges specified for the Services and any charges imposed by any governmental authority resulting from Customer's use of the Services, including any applicable sales taxes, but excluding any taxes on the income or operations of Supplier. Amounts are due upon receipt of the undisputed invoice. Late payment fees may apply for amounts not paid within 30 calendar days after receipt of the undisputed invoice. Service Provider may, at its sole discretion, terminate this Agreement if Customer has failed to pay any amount due for more than 60 calendar days, after 30 days written notice of right to cure.
5. **Warranties.**
- 5.1. Each party warrants to the other that this Agreement been duly executed and delivered and constitutes a valid and binding agreement enforceable against such party in accordance with its terms.
- 5.2. Service Provider represents and warrants:
- a. the Services will be performed and delivered in a professional and workmanlike manner with the highest standard of Service Provider's profession, business or industry, by personnel skilled, experienced and fully qualified in the relevant areas of expertise ("Personnel") and Service Provider shall take reasonable measures to ensure that all of its Personnel who perform any Services hereunder will comply with the duties and obligations applicable thereto under the Agreement;
  - b. Service Provider will perform the Services pursuant to the specifications set forth in the Order;
6. **Warranty Disclaimer.**
- 6.1. EXCEPT AS SET FORTH ELSEWHERE IN THIS AGREEMENT, THE SERVICES ARE MADE AVAILABLE UNDER THE AGREEMENT AS-IS AND AS AVAILABLE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. EXCEPT AS SET FORTH ELSEWHERE IN THIS AGREEMENT, SUPPLIER EXPRESSLY DISCLAIMS ALL EXPRESS AND IMPLIED

WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OR CONDITIONS OF SATISFACTORY QUALITY, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE FOR THE SERVICES.

- 6.2. SUPPLIER DOES NOT WARRANT (a) UNINTERRUPTED, TIMELY, OR ERROR-FREE SERVICES, (b) THAT SUPPLIER WILL CORRECT ANY OF THE FOREGOING OR (c) THAT SERVICES ARE ACCURATE OR COMPLETE.

**7. Limitation of Liability.**

- 7.1. EXCEPT AS TO FRAUD, WILFUL MISCONDUCT AND ITS OBLIAGTIONS AS TO INDEMNITY, CONFIDENTIALITY, PRIVACY AND SECURITY, WHERE PERMITTED BY APPLICABLE LAW, NEITHER PARTY IS LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, BUSINESS, REPUTATION, OPPORTUNITIES, VALUE, REVENUE, GOODWILL, OR ANTICIPATED SAVINGS; OR COST OF REPLACEMENT SERVICES. THESE LIMITATIONS APPLY REGARDLESS OF WHETHER EITHER PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. EXCEPT AS TO FRAUD, WILFUL MISCONDUCT AND ITS OBLIAGTIONS AS TO INDEMNITY, CONFIDENTIALITY, PRIVACY AND SECURITY, WHERE PERMITTED BY APPLICABLE LAW, SUPPLIER'S ENTIRE LIABILITY FOR A CLAIM ARISING FROM OR RELATING TO THE AGREEMENT WILL NOT EXCEED 12 MONTHS' SERVICES FEES PAID BY CUSTOMER TO SUPPLIER FOR SERVICES IN RELATION TO THAT CLAIM.

**8. Privacy and Security.**

- 8.1. Service Provider Security. Service Provider shall implement and maintain reasonable and appropriate technical and organizational measures to ensure the protection, confidentiality, and integrity of Customer Confidential Information and Customer Content. Service Provider shall regularly monitor compliance with these measures and shall not materially decrease them for as long as it processes Customer Confidential Information or Customer Content. Service Provider shall preserve Customer Confidential Information and Customer Content in accordance with Customer instructions and requests, including any retention schedules and/or litigation hold orders provided by Customer to Service Provider, independent of where the Customer Confidential Information or Customer Content is stored.
- 8.2. Security Incidents. Service Provider shall implement and maintain reasonable and appropriate security incident management policies and procedures for responding to any actual or reasonably suspected accidental, unauthorized, or unlawful destruction, loss, alteration, disclosure of, or access to Customer Confidential Information or Customer Content ("Security Incident"). In the event of a Security Incident, Service Provider shall, at its own expense: (a) provide prompt written notice to Customer (no more than twenty-four (24) hours) upon Service Provider's discovery of the Security Incident; (b) use best efforts and take all necessary actions to prevent, contain, and mitigate the impact of the Security Incident.

**9. Changes.**

- 9.1. Service Provider may, at Service Provider's reasonable discretion, modify the Services from time to time, with prior thirty (30) day notice, so long as the features and functionality of the Service are not decreased, without any additional liability. Such modification to the Services will replace prior versions as of the effective date. Customer may not refuse these modifications to the Services. Notwithstanding the foregoing, Service Provider is not required to modify the Services except as to maintain the features and functionality of the Services as of the effective date.
- 9.2. All changes or modifications to the Agreement must be in a writing specifying such signed by both parties.

**10. Term and Termination.**

- 10.1. The term of the SaaS Agreement begins upon execution and continues until terminated as described below (the "**Term**"). Termination of this SaaS Agreement by either party automatically terminates all Orders.
- 10.2. The term of Services is set forth in the Order. Services renew annually automatically unless Customer provides written notice to Service Provider not to renew at least 30 calendar days prior to the annual renewal.
- 10.3. Customer or Service Provider may terminate an Order or the Agreement without cause on at least 90 days' written notice to the Customer.
- 10.4. The Agreement shall automatically terminate upon the liquidation or insolvency of either party or the appointment of a trustee or receiver for either party.
- 10.5. Upon termination of the Agreement or applicable Order: (a) Service Provider may immediately terminate Customer's

access to Service Provider's Services; and (b) Customer shall immediately cease using any portion of Service Provider's Services.

- 10.6. Either party may terminate the Agreement for material breach upon 30 calendar days' prior written notice, provided that the breaching party does not cure it within the 30 calendar day notice period. Customer's failure to timely pay Service Provider is a material breach.
- 10.7. If the Agreement is terminated for any reason (except for material breach by Service Provider), Customer shall pay to Service Provider, on the date of termination, the total amount outstanding under the Agreement. If Service Provider terminates for a reason other than Customer's material breach of the Agreement or if the Agreement is terminated for material breach by Service Provider, Service Provider shall provide Customer a pro rata refund for any prepaid fees.
- 10.8. After termination, Service Provider shall securely delete or destroy Customer Content incorporated into its Services. Upon request, Service Provider shall certify in writing such deletion or destruction by its Chief Information Technology Officer, or equivalent, of Service Provider.

#### **11. Governing Law.**

- 11.1. This Agreement is governed by the laws of the State of Ohio, United States, without regard to conflict of law principles. The parties submit to the sole and exclusive jurisdiction of, and venue in, the state or federal courts located in Franklin County, Ohio, in any action or proceeding arising from or relating to this Agreement. Enforcement of a judgment of the forgoing courts may be enforced in any court having jurisdiction.
- 11.2. Each party may seek injunctive or other equitable relief for actual or threatened breach of confidentiality, security, privacy, or intellectual property protections under the Agreement.

#### **12. General.**

- 12.1. This Agreement constitutes the entire agreement of the parties and supersedes all prior or contemporaneous understandings, representations, discussions, or agreements between the parties relating to its subject matter. For the avoidance of doubt, this Agreement shall also supersede any agreement between the parties relating to the subject matter hereof and entered into before or after the Effective Date (including, without limitation, those entered into by Authorized Users), including, without limitation, any clickwrap, clickthrough, browse wrap, EULA, or other documents stipulating additional or different terms (and Authorized users shall not be bound by the foregoing.)
- 12.2. In the event of a conflict between the Order and the SaaS Agreement, the SaaS Agreement governs.
- 12.3. If any provision of the Agreement is invalid or unenforceable, the remaining provisions remain in full force and effect.
- 12.4. The waiver of a breach of any term of the Agreement, which must be in writing, will not operate as or be construed to be a waiver of any other previous or subsequent breach of the Agreement.
- 12.5. Service Provider is an independent contractor. Each party is responsible for determining the assignment of its and its affiliates' personnel, and their respective contractors and vendors, and for their direction, control, and compensation.
- 12.6. Service Provider may not assign the Agreement, in whole or in part, without the prior written consent of Customer. Customer may assign the Agreement at its sole discretion. Any assignment, transfer, or delegation in violation of this section is void.
- 12.7. All notices under the Agreement must be in writing and sent to the business address specified in the Agreement unless a party designates a different address in writing.
- 12.8. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and become effective when counterparts have been signed by each party and delivered to the other party.
- 12.9. The parties' consent to the use of electronic signatures. Any reproduction of the Agreement made by reliable means is considered an original.
- 12.10. This Agreement does not create any third-party rights. .

- 12.11.** Any terms that by their nature extend beyond the Agreement termination, including, but not limited to provisions relating to confidentiality, indemnity, limitation of liability, warranties, data protection, and this Section 13, remain in effect after termination and apply to successors and assignees.
- 12.12.** Supplier shall not use Customer’s logo, name, or trademark on its website or otherwise without the prior written consent of Customer in each instance.
- 12.13.** Each party is not responsible for failure to fulfill its obligations under the Agreement due to causes beyond its control (“Force Majeure”) for the time period the Force Majeure remains in effect.
- 12.14.** The parties hereto are sophisticated, commercial parties. The Agreement will not be construed against the drafter.
- 12.15.** Parties acknowledge that they have read the Agreement, understand it, and agree to be bound by its terms. The parties acknowledge that the person signing on their behalf is authorized to do so.
- 12.16.** This Agreement is effective as of May \_\_, 2024

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Agreed to:	Agreed to:
<b>[Customer]</b>	<b>Student Provisioning Services, LLC</b>
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By _____	By _____
Authorized signature	Authorized signature
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Title:	Title:
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Name:	Name:
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Date:	Date:
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