

Terms of Service

Effective January 11, 2016

I. Introduction

Welcome, and thank you for visiting. The following Terms of Service apply to Curriculum Technology, LLC's websites and any and all associated web and/or mobile applications, such websites include but are not limited to the URL's *knowwhatyoutaught.com*, *curriculummapper.com*, *clihome.com* and *curriculuminstitute.com*.

These Terms of Service ("**Terms**") are designed to help you understand the conditions upon which Curriculum Technology, LLC makes this website available to you, and to help you understand your responsibilities as you use this website.

II. These Terms are a Binding Contract

You should understand that these Terms are a binding contract: By accessing the Site (as defined below), and/or by using any of the features or services on the Site, You are accepting these Terms and agreeing that You will be legally bound by all of the terms and conditions contained herein. Accordingly, please **carefully** review all of the following terms and conditions. Also, please **carefully** review all of the terms included in all additional policy documents that are referenced herein (e.g. the Privacy Policy).

IF YOU DO NOT AGREE TO ANY OF THE TERMS AND CONDITIONS IN THESE TERMS OR TO ANY CHANGES THAT WE MAY SUBSEQUENTLY MAKE TO THESE TERMS, PLEASE IMMEDIATELY STOP ACCESSING THE SITE AND/OR USING THE SITE IN ANY WAY.

III. Terminology

The following capitalized words will have the meanings assigned below. Other words will also be defined in other sections of these Terms.

- (1) The "**Site**" includes the *knowwhatyoutaught.com*, *curriculummapper.com*, *clihome.com* and *curriculuminstitute.com* websites and any and all associated web and/or mobile applications that We maintain and use in conjunction with such website.
- (2) The terms "**We**," "**Us**," "**Our**," "**Ours**" and equivalent terms refer to *Curriculum Technology, LLC*, and all of such entity's employees, officers, directors, agents and investors, as well as such entity's parent and associated companies.
- (3) The terms "**You**," "**Your**," "**Yours**," and equivalent terms refer in each case to the individual (whether acting either individually or representing a corporate entity) who accesses or uses the Site or any of the features of the Site and has thereby accepted these Terms.

- (4) The term “**Content**” shall refer to any and all user-generated materials or content of any kind that You post on and/or submit to the Site. Content shall include, but not be limited to, text, comments, posts, images, video, audio files, links, data, code, graphics and other forms of media.

IV. Additional Features of these Terms

(1) Privacy Policy

The term “Terms” also includes the terms and conditions set forth in Our “**Privacy Policy**.” The Privacy Policy is available at the following link:

<https://knowwhatyoutaught.com/privacy-policy>.

Please read the Privacy Policy carefully for information relating to Our collection, use, and disclosure of personal information.

(2) These Terms can be Amended

We may make changes to these Terms from time to time (including making changes to the other policies and service terms referenced herein, such as the Privacy Policy). The amended portion of the Terms will be posted on the Site, and such posting will constitute notice of the changes. You agree that it is Your responsibility to check the Site for changes to these Terms. If You continue to access the Site and/or use any of the features or services of the Site after changes are made to the Terms, then Your access and/or use shall constitute Your agreement to be bound by the Terms as then amended. If You choose not to accept the Terms as amended, then You also agree to immediately cease accessing and/or using the Site.

(3) Additional Terms May also be Found on the Site

Your use of the Site may also include other terms and conditions that may be found on the Site itself, such as; notices, business terms, policies, charges, registration requirements, etc. All such terms will be considered (and are) additional Terms, and it is your responsibility to review and understand them.

(4) Licensed Use of the Software, Software Services and/or Hosting Services

The Site may allow You to purchase software products and/or software-based services (e.g. SaaS access to Our software products) from Us, either for download or for use on a subscription basis. The terms governing Your access to and/or use of such products and/or services are set forth in these Terms, including (but not limited to) Article XI, below.

V. Rules of Conduct – In General

(1) General Rules of Conduct

As a precondition to Your use of the Site, You promise that You: (a) will not to use the Site for any purpose that is prohibited by these Terms; (b) will use the Site in a manner that complies with all laws and export restrictions; (c) will use the Site only as it is designed and intended to be used (and if you have any questions about Our intentions with regard to the Site You agree to contact Us for clarification). And You agree that We have the right to cancel or refuse service to You at any time, due to any conduct on Your part that We deem to be inappropriate in any way, and/or for any breach of any of the Terms.

In addition, You specifically agree that you will not:

- A. Use the Site, or any information gained from the Site, to generate or facilitate unsolicited commercial email or other messages to site users or other third parties (hereafter "Spam"); use manual or automated software, devices, or other processes to "crawl" or otherwise harvest information from any page of the Site; or operate any form of auto-responder on or in connection with the Site;
- B. Transmit, upload, distribute or disseminate any unlawful, defamatory, harassing, abusive, offensive, fraudulent, infringing, obscene, or otherwise objectionable (as determined in Our sole discretion) Content in any way;
- C. Intentionally distribute viruses, worms, Trojan horses, or any other malicious code or items of a destructive, deceptive or invasive nature;
- D. Use the Site in connection with peer-to-peer file sharing, pyramid schemes, or any other illegal activity;
- E. Transmit, upload, distribute or disseminate Content that may be harmful or offensive to, or inappropriate for, minors (as determined in Our sole discretion);
- F. Transmit, upload, distribute or disseminate Content that includes any protected healthcare information applicable to You or any third party;
- G. Impersonate another person or company, or otherwise misrepresent yourself or your company/entity in any way;
- H. Upload, transmit or otherwise use a third party's intellectual property or other proprietary information in or on the Site without the express permission from the appropriate third party (owner, licensor, etc.);
- I. Use the Site to violate the privacy, publicity, or similar legal rights of others; and/or use the Site to harass, defame, libel or otherwise harm others;
- J. Interfere with other users' enjoyment of the Site;

- K. Link to, copy information from, resell or otherwise exploit the Site or any of Our or any third party's content for any unauthorized commercial purpose;
- L. Attempt to gain unauthorized access to the Site (or any part of the Site to which access is restricted or limited in any way); and/or take any action to subvert security or access-restriction measures that are incorporated into the Site;
- M. Remove, circumvent, disable, damage or otherwise interfere with any Site features that prevent or restrict use or copying of any content accessible through the Site;
- N. Attempt to gain unauthorized access to other accounts, Site computer systems, networks or services used by or connected to the Site, or any part of them, through hacking, password mining, or any other means; or otherwise interfere or attempt to interfere with the proper working of the Site;
- O. Directly or indirectly: (i) decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Site, except to the limited extent applicable laws may specifically prohibit or limit such restriction; (ii) modify, translate, or otherwise create derivative works of any part of the Site; or (iii) copy, rent, lease, distribute, or otherwise transfer or misappropriate any of Our content, third party content, intellectual property rights, or features of the Site;
- P. Remove or modify any of Our logos; or any copyright, trademark, or other proprietary rights notices contained in or on the Site;
- Q. Use the Site in a manner that violates these Terms or any other terms and conditions set by Us on the Site;
- R. Use the resources of the Site in excess of any assigned or agreed-on quotas or use limitations; and/or
- S. Use the Site to advertise or promote Your or any third party's website, business or other matters (unless specifically authorized to do so).

VI. Additional Rules of Conduct - Posting of Content

(1) Submission of Content

The Site may provide You and others with the ability to add, create, upload, submit, and/or post various kinds of Content to the Site. In connection with such Content, and in addition to the other obligations set forth in these Terms, You agree not to (and will not permit any third party to) upload, download, transmit, post, submit or otherwise disseminate or facilitate the dissemination of any Content that:

- A. infringes any patent, trademark, trade secret, copyright, right of privacy, right of publicity or other right of any other person or entity, or violates any law or contractual duty;
- B. is false, misleading, untruthful or inaccurate;

- C. is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, obscene, offensive, or profane;
- D. impersonates any person or entity, including but not limited to any employee or representative of Ours; or
- E. is in any other way (in Our sole discretion) detrimental to the best interests of Our company, the Site, Site users, or the public.

We do not guarantee that any Content will be made available on the Site, or that Content will be retained on the Site. We do not (and have no obligation to) monitor the Site or any Content submitted to the Site by You or content submitted by other Site users. We will not be liable in any way to You or any other Site user for lost Content or lost third-party content, or loss of other data of any kind.

We reserve the right to remove, edit or modify any Content or other materials on the Site at any time, temporarily or permanently, without notice to You or other users, for any reason in Our sole discretion (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such Content, or if We are concerned that You may have violated these Terms).

Additional policies regarding Content and all third-party materials, including notice of infringement, are set forth below and elsewhere in these Terms (esp. the section below pertaining to the DMCA) and in the Privacy Policy.

(2) Student Education Records and Student Information

The Site, and/or the services available on the Site, may allow You to submit various kinds of information as part of the development of curriculum materials. In connection therewith, You are responsible for complying with all laws that regulate the sharing and/or use of student education records and student personal information, including but not limited to FERPA (the Federal Educational Rights and Privacy Act of 1974). All student-related information will be managed in accordance with the provisions of Our Privacy Policy.

(3) Digital Millennium Copyright Act (“DMCA”)

If you are a copyright owner, or are an agent thereof, and you believe that certain content hosted on the Site infringes on your copyright interests, you may submit a notice thereof pursuant to the Digital Millennium Copyright Act (“DMCA”) to Us by providing Us with the information listed below. Following receipt of a full and complete notice, We will take whatever action(s) we deem appropriate (in our sole discretion), which may include removing the subject material from the Site.

To provide full notice to Us please provide the following, in writing:

- A. Please identify the owner of the copyright that is alleged to be infringed, and please provide a name and physical or electronic signature of the copyright owner or of a person authorized to act on behalf of such owner;
- B. Please identify the copyrighted work that you claim has been infringed (images, screenshots, etc. may be acceptable, in conjunction with a written description or web link, as may be applicable), a clear description of the location on the site of

the allegedly infringing material, and a clear description of how you believe that your copyrighted material has been infringed;

- C. Please provide us with adequate contact information so that We will be able to contact you regarding your notice;
- D. Please provide a written statement to the effect that you have a good faith belief that the use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- E. Please provide a written statement to the effect that the information in your notification is accurate, and that, under penalty of perjury, you are the owner or are authorized to act on behalf of the owner of the right that is allegedly infringed.

Notice under this section should be delivered to:

info@knowwhatyoutaught.com

and

Curriculum Technology, LLC
PO Box 4120 # 64911
Portland, OR 97208-4120

VII. Additional Terms - Registration

(1) Registration

The Site may allow or require You to register for various purposes. If so, in order to register with the Site You must complete the applicable registration form and provide the information required therein. All information that You provide is managed by Us in accordance with the terms of the Privacy Policy.

(2) Registration Information

You agree and warrant that the registration information that you provide to Us at registration and at all other times will be true, accurate, current, and complete. You also agree that you will ensure that this information is kept accurate and up-to-date at all times. You agree to accept responsibility for all activities that occur under your account. When you register, You will be asked to create a password. You are solely responsible for maintaining the confidentiality of Your account information and Your password, and for restricting access to your computer and other equipment.

(3) Restrictions

- A. You may not, and may not allow any third party to, buy or sell usernames or registered accounts.
- B. You agree that We may reclaim usernames and/or registered accounts on behalf of businesses or individuals that hold legal claim or trademark to those usernames. You

agree that we can cancel any username that is offensive or inappropriate in any way, in Our discretion.

- C. You may not, and may not allow any third party to, hold inactive user account(s). Accounts that are inactive for more than six months may be terminated at Our discretion and without further notice.

(4) Termination

- A. We may freeze or terminate Your registration and Your access to all or any part(s) of the Site at any time, with or without notice, and with immediate effect, in the event of any breach by You of any of the Terms or if we believe such action(s) by Us are in the best interests of the Site or the public, as determined in Our sole discretion. Such action may result in the forfeiture and destruction of all information associated with Your registration and/or Your account.
- B. In the event of any termination of any kind, all fees paid prior to such termination are non-refundable.
- C. You may terminate your account at any time by following the instructions on the Site. You may terminate these Terms at any time by canceling your registration on the Site and discontinuing your use of the Site. However, all provisions of these Terms which by their nature should survive termination, shall survive termination; including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability. If You have any questions about this section or need help administering Your account, please contact Us at the contact information provided in these Terms.

VIII. General Conditions Governing Your Usage of the Site

(1) Eligibility/Use Limitations

A. General

You may not use the Site if you have been barred from doing so by Us, or are otherwise barred from using the Site under the laws (including treaties) of the US or of any other nation or jurisdiction.

B. Individuals

The Site is available only to individuals who are at least 18 years old. By accessing the Site, You represent and warrant (if You are an individual) that You are of legal age to form a binding contract, and that all of the registration and payment information that You submit (if any) is accurate, current and truthful.

C. Companies and Other Corporate Entities

If you are registering or using an account on behalf of a company, entity, or organization (a "Corporate Entity"), then you represent and warrant that you are an authorized representative of that Corporate Entity with the authority to bind such organization to

these Terms; and You agree to be bound by these Terms on behalf of such Corporate Entity.

D. Geographic Limits

Access to and use of the Site is limited to the United States. Accessing the Site is prohibited from territories where the Site is illegal. If You access the Service from locations outside of the United States, You do so at Your own initiative and risk and are responsible for all aspects of compliance with applicable local laws.

(2) Right to Suspend, Refuse, Cancel, Modify, or Limit Your Use of the Site:

You agree that We may, in Our sole discretion, change, suspend, or discontinue the Site as a whole (including without limitation, the availability of any feature or Content) or any portion thereof at any time by posting a notice on the Site.

In addition, You agree that We may refuse to provide You with access to the Site (in whole or in part), and we also may cancel any registration or subscription (if applicable) of Yours in the event of any breach by You of any of the Terms or if we believe such action(s) by Us are in the best interests of the Site or the public, as determined in Our sole discretion; and We may take such action(s) without notice or liability to You. In addition, We may change our eligibility criteria at any time. These provisions are void if prohibited by law, and in such circumstances, Your ability to use the Site is revoked in such jurisdictions.

(3) Passwords, Security

If the Site requires or allows the creation of an account using password-based security, You are responsible for the security of Your passwords and other information, and for any use of Your account. If you become aware of any unauthorized use of your password or of your account, you agree to notify Us immediately at the contact information provided in these Terms.

We have implemented security measures that We consider to be reasonable and appropriate to protect against the loss, misuse and alteration of the information under Our control. Please be advised, however, that We cannot (and do not) guarantee or warrant the security of any information you disclose or transmit to Us online, and We are not responsible for the theft, destruction, or inadvertent disclosure of Your information. If You feel that the security features of the Site are not adequate for Your purposes, You agree to cease all use of the Site.

If You need help resetting Your password, or otherwise need assistance in administering Your account, please contact Us at the contact information provided in these Terms.

(4) Links, Third Party Products and Services

A. Links. The Site may contain links to third-party websites or resources on the Internet, and in addition, third-party websites may contain links to this Site. When You access third party websites, You do so at Your own risk. Third party websites are not under Our control, We have no obligation to monitor third party websites, and You acknowledge and agree that We are not responsible or liable for the content, functions, accuracy,

legality, appropriateness or any other aspect of such third-party websites or resources. The inclusion of any link to a third party website on the Site does not imply any endorsement of that website by Us or any association with its operators. You further acknowledge and agree that We shall not be responsible or liable, directly or indirectly, for any harm, damage or loss caused, or alleged to be caused, by or in connection with the use of or reliance on any content, goods or services available on or through any such third party website or resource. YOUR ACCESS AND USE OF LINKED SITES AND THIRD PARTY RESOURCES IN GENERAL IS SOLELY AT YOUR OWN RISK.

B. Service Partners. We may, from time to time, contract with third parties to provide a portion of the services associated with the hosting, administration and/or service features (e.g. payment processing) of the Site (hereafter "Service Partners"). You are responsible for ensuring that You comply with the terms of service (or equivalent agreement) of each Service Partner if You use applicable Service Partner services via a separate website or mobile site, and You will indemnify, defend, and hold Us harmless from any breach of such agreement.

(5) Notices, Contact Information

A. Notice to Us: You can contact Us at the following:

info@knowwhatyoutaught.com

and

Curriculum Technology, LLC
PO Box 4120 # 64911
Portland, OR 97208-4120

B. Notice to You:

- (i) If you have registered with the Site and We need to contact You directly for any reason, We will do so via the email address that you provided during the registration process. Such notice will be deemed given 24 hours after email is sent, unless the sending party is notified that the email address is invalid.
- (ii) By using the Site, and by providing Us with contact information, You consent to receive reasonable communications from Us electronically. Such communications may include, but will not be limited to, general notices, notice of changes to these Terms, legally required disclosures or other information in connection with the Site (collectively, "Service Notices").
- (iii) We may also provide electronic Service Notices by posting them on the Site, and You consent to such notice. You also agree that all notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing. If You desire to withdraw Your consent to receive Service Notices electronically, You must discontinue Your use of the Site.

IX. Ownership and Proprietary Rights

(1) We Retain Ownership of the Site, Our Property and Our Content

You agree that the Site contains content and proprietary materials created and/or owned by Us or our partners; that such content is protected under the laws of the United States and other countries, international conventions, and other relevant intellectual property and proprietary rights laws; and that such protections may include copyright, trademark, service mark, patent, trade secret and/or trade dress, and/or other proprietary rights. You shall abide by and maintain all copyright, trademark and other proprietary rights notices, information, and restrictions contained in any content accessed through the Site. You acknowledge and agree that, except as specifically noted to the contrary in these Terms, Our proprietary materials include, and we own all legal right, title and interest in and to: (a) the Site and all of Our content (including intellectual property rights of all kinds) that is incorporated into the Site, and (b) all materials that may be used to provide Enhanced Services, whether such rights are registered or not, and wherever in the world those rights may exist. We retain all rights except those rights expressly granted to You by these Terms.

(2) Grant of Limited License to Site (for Site Use)

Subject to these Terms, We grant to You a limited, non-exclusive, non-sublicensable and non-transferable license to use the Site and Our content, solely for personal (or authorized entity) use in conjunction with Your use of the Site. Unauthorized use, reproduction, modification, distribution or storage of any of Our content or third-party content for other than personal, non-commercial use of the Site is expressly prohibited. Use of the Site in any way that is contrary to these Terms is prohibited.

(3) Your Rights/Obligations with Regard to Content You Submit to the Site

A. You are Publishing the Content: By submitting Content to the Site, You acknowledge that You are publishing that Content, and that You may be identified publicly by Your site ID or other account information in association with any such Content.

B. We Do not Own Your Content: Except for the licensed use of Content as expressly provided in these Terms, We acknowledge and agree that we obtain no right, title or interest from You (or anyone else) under these Terms in or to any Content that you create, submit, post, transmit or display on or through the Site, including any intellectual property rights in that Content. You are solely responsible for protecting and enforcing Your rights in such Content, and We will have no obligation to do so on Your behalf.

C. Your License to Us: By submitting any Content to the Site, You hereby grant Us a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, fully paid, sublicensable and transferable license to use, edit, modify, reproduce, distribute, prepare derivative works of, display, perform, and otherwise fully exploit such Content in connection with the Site and Our (and Our successors and assigns') business, including, without limitation, for promoting and redistributing part or all of the Site (and derivative works thereof) in any media formats and through any media channels (including, without limitation, third party websites).

D. Your License to Other Users: By submitting Content to the Site, You also hereby grant each other user of the Site a non-exclusive license to access Your Content through the Site, solely to view such Content while such party is using the Site.

E. Your Representations and Warranties Regarding Your Content: By submitting Content to the Site, You hereby agree, represent and warrant, that You can demonstrate to Our full satisfaction upon request that You: (1) own or otherwise control all necessary rights to all of the materials in the Content, or that the contents of such Content is in the public domain, (2) You have the full authority to act on behalf of any and all owners of any right, title or interest in and to any and all materials in Your Content to use such Content as contemplated by these Terms and to grant the license rights set forth above, (3) You have the permission to use the name and likeness of each identifiable individual person and to use such individual's identifying or personal information as contemplated by these Terms; (4) You will pay all royalties and other amounts owed to any person or entity due to Your submission of any Content; and (5) that the licenses granted by You in previous sections of these Terms will not infringe or violate the rights of any third party.

(4) Additional Terms Relating to Your Use of Software and/or Enhanced Products

A. Definitions:

- (i) The terms “Enhanced Products” and “Software” are defined in Article XI of these Terms.
- (ii) “Derivative Works” shall mean any work of authorship that is based upon or includes any of Our proprietary materials (including all software), in any form in which such property may be recast, transformed, or adapted. The term Derivative Works shall not include, and We shall not obtain any rights with respect to, any of Your Confidential Information or Content used in conjunction with Our proprietary materials but that is not based upon or derived from Our proprietary materials or any portion thereof.

B. Customer License to Use, and/or Sublicense the Use of, Customer's Derivative Works:

Subject to Your compliance with these Terms, We hereby grant to You a limited license to use those Derivative Works generated by You through the use of either the Site or Our Enhanced Services (collectively the “Service Offerings”) for Your internal purposes. In addition, We hereby grant to You the right to sublicense the use of such Derivative Works to third parties via the applicable Service Offering, subject to the following preconditions: (a) each such third party sublicensee must enter into a license agreement directly with Us for access to the applicable Service Offering; and (b) in each case, You must enter into a written agreement with such third parties for such sublicense rights.

Note: For the avoidance of confusion, the foregoing paragraph is intended to allow customers to sublicense access to their works (e.g. curriculum plans, etc.) via Our Service Offerings, to third parties, but only if those third parties have signed a license agreement with Us so that such sublicensees are directly licensed to use applicable Service Offerings. Also, each such sublicense must be authorized in writing between

the You and such third party (We will not be responsible for supervising or monitoring such sublicensing).

C. General License/Usage Restrictions:

You agree not to use any Service Offering or any Derivative Works (or any part thereof) in any way or for any purpose except for those uses that are expressly authorized by these Terms. Without limiting the foregoing, You shall not: (1) modify the Service Offering(s) or create any derivative product of the Service Offerings except with Our prior written consent, provided that the foregoing shall not be construed to prohibit You from configuring the Service Offering to the extent permitted by the solution's standard user interface, (2) sublicense, assign, sell, lease or otherwise transfer or convey, or pledge as security or otherwise encumber, Your rights under these Terms other than as expressly provided for herein, or (3) use the Service Offering(s) to provide services to third parties other than authorized end users of the Service Offerings in the nature of a service bureau, time sharing arrangement or as an application service provider, as such terms are ordinarily understood within the software industry, or for any other reason. You will not obscure, remove or alter any of the trademarks, trade names, logos, patent, trademark, or copyright notices or markings to the from the Service Offerings, nor will You add any other notices or markings to the Service Offerings or any portion thereof except as may be permitted by the standard user interface for such service.

D. Additional Agreement with Regard to Derivative Works:

In addition to the license(s) granted above, You understand and agree as follows: We will be authorized to display all Derivative Works to other authorized users of the Service Offerings on a "review only" basis. You hereby grant CuUsa fully-paid, royalty-free, non exclusive license to display any of Your Content or Derivative Works for such purpose. Such Derivative Works may include (but may not be limited) to curriculum maps and instruction plans. You agree that You may have view-only access to the works of other users of the Service Offerings, and in conjunction therewith, You agree that You will not copy or otherwise appropriate any Derivative Work(s) or other intellectual property of other users of the Service Offerings unless You have previously secured all necessary rights to do so from the entity(ies) that generated the Derivative Work(s) (for all rights that are not in the public domain).

(5) Feedback and Future Development

If you provide Us with any suggestions or feedback (including but not limited to suggestions for improvements to the Site, hereafter "Feedback"), You hereby grant Us a fully-paid, royalty-free, perpetual, irrevocable, nonexclusive license to use and/or exploit such Feedback in any way, including but not limited to by incorporating such Feedback into the Site.

X. Liability Provisions, Dispute Resolution

(1) Warranties and Representations by Us

We make the Site available to You – and to the public in general – on a limited basis. You agree that We have no special relationship with, or fiduciary duty to, You. You acknowledge that We have no control over, and no duty to take any action regarding: (i) which individuals, companies or other entities gain access to or use the Site; (ii) the content that You may access or view via the site; (iii) the effects that that content may have on You; (iv) how You or other individuals may interpret or use the content; or (v) the actions You or other individuals or entities may take as a result of having been exposed to the content. The Site may contain, or may contain links to websites that contain, content or materials that some people may find offensive or inappropriate. We make no representations concerning any content or third-party materials of any kind contained in or accessed through the Site, and We will not be responsible or liable for the accuracy, copyright compliance, legality or decency of content or other third party materials contained in or accessed through the Site.

THE SITE IS PROVIDED "AS IS" AND "AS AVAILABLE" AND IS PROVIDED WITHOUT ANY WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND/OR ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. WE, AND OUR DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, PARTNERS AND CONTENT PROVIDERS DO NOT WARRANT THAT: (A) THE SERVICE WILL BE SECURE OR AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; (B) ANY DEFECTS OR ERRORS CAN OR WILL BE CORRECTED; (C) ANY CONTENT OR SOFTWARE AVAILABLE AT OR THROUGH THE SERVICE IS OR WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; AND/OR (D) THE RESULTS OF USING THE SERVICE WILL MEET YOUR EXPECTATIONS OR REQUIREMENTS. YOUR USE OF THE SITE IS SOLELY AT YOUR OWN RISK. IN NO EVENT WILL WE BE LIABLE FOR LOSS OF ANY OF YOUR CONTENT OR DATA, AND/OR FOR THE LOSS OF ANY THIRD PARTY CONTENT OR DATA.

SOME STATES MAY NOT ALLOW LIMITATIONS ON CERTAIN WARRANTIES OR ON HOW LONG AN IMPLIED WARRANTY MAY LAST, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU OR MAY BE LIMITED BY ACTION OF LAW. IN SUCH EVENT, YOU AGREE THAT OUR LIABILITY WILL BE THE LOWEST LIABILITY ALLOWABLE UNDER APPLICABLE LAW.

Electronic Communications Privacy Act Notice (18 USC 2701-2711): **WE MAKE NO GUARANTY OF CONFIDENTIALITY OR PRIVACY OF ANY COMMUNICATION OR INFORMATION TRANSMITTED ON THE SITE OR ANY WEBSITE LINKED TO THE SITE.** We will not be liable for the privacy of email addresses, registration and identification information, disk space, communications, confidential or trade-secret information, or any other user content stored on Our

equipment, transmitted over networks accessed by the Site, or otherwise connected with Your use of the Site.

(2) Warranties and Representations by You

You agree to defend, indemnify, and hold harmless Us, Our affiliates and each of Our employees, agents, members, partners, contractors, directors, suppliers and representatives, from all liabilities, claims, and expenses, including reasonable attorneys' fees, that arise from or relate to Your use, misuse, or access to, the Site, Your Content, Your violation of any of the Terms, or infringement by You or any third party using Your account of any intellectual property or other right of any person or entity. We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by You pursuant to this section, in which event You will assist and cooperate with Us in asserting any available defenses and will remain financially responsible for such liability.

(3) Waiver, Release

As a condition of the use of the Site, You, to the fullest extent permitted by law, hereby waive and release all claims of any kind against Us, Our parent companies, subsidiaries or affiliated entities, and each of their respective officers, directors, members, employees, consultants, contract employees, representatives and agents, and each of their respective successors and assigns, for any claims, actions, suits, procedures, costs, expenses, damages and liabilities of any kind that may arise out of or in any way are related to Your use of the Site.

Further, **YOU HEREBY EXPRESSLY WAIVE ALL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1542** (or any statute of like effect in the jurisdiction in which you are located). This waiver extends to and includes any and all claims, liabilities, injuries, damages, and causes of action that You do not anticipate, know, or suspect to exist at the time that You use the Site but that may develop, accrue, or be discovered in the future.

You further understand and acknowledge that you may be exposed to user submissions that are inaccurate, offensive, indecent, or objectionable. **YOU AGREE TO WAIVE, AND HEREBY DO WAIVE, ANY LEGAL OR EQUITABLE RIGHTS OR REMEDIES YOU HAVE OR MAY HAVE AGAINST US WITH RESPECT THERETO.**

(4) Limitation of Liability

IN NO EVENT SHALL WE, NOR OUR DIRECTORS, MEMBERS, SHAREHOLDERS, EMPLOYEES, AGENTS, PARTNERS, SUPPLIERS OR CONTENT PROVIDERS, BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY WITH RESPECT TO THE SITE: (I) FOR ANY LOST PROFITS, DATA LOSS, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, OR FOR SUBSTITUTE GOODS OR SERVICES (HOWEVER ARISING); (II) FOR ANY DAMAGES OF ANY KIND CAUSED BY BUGS, VIRUSES, TROJAN HORSES,

OR THE LIKE (REGARDLESS OF THE SOURCE OF ORIGINATION); (III) FOR ANY DIRECT DAMAGES IN EXCESS OF (IN THE AGGREGATE) ONE-HUNDRED U.S. DOLLARS (\$100.00) IN ANY CIRCUMSTANCE (SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU); OR (IV) FOR ANY AND ALL INJURIES, DEATH, LOSSES, COSTS, AND EXPENSES INCURRED BY YOU AND/OR ANY PERSON CLAIMING BY OR THROUGH YOU.

THE LIMITATIONS ON OUR LIABILITY TO YOU AS SET FORTH ABOVE SHALL APPLY TO THE MAXIMUM AMOUNT PERMITTED UNDER APPLICABLE LAW WHETHER OR NOT WE HAVE BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

(5) Statute of Limitations

UNLESS OTHERWISE SPECIFICALLY PROVIDED IN THESE TERMS, YOU AND WE AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THESE TERMS OR THE SITE MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

(6) Dispute Resolution, Arbitration

If you have any concerns, questions or issue regarding the Site, You agree to notify Us of such concern, question or issue before taking any other action of any kind. You can contact us for this purpose at the contact information provided with these Terms.

It is Our hope that any issues and/or concerns with the Site can be quickly and amicably resolved. However, should the matter remain unresolved, then, at Our election in Our sole and absolute discretion, such matter shall be subject to binding arbitration before the American Arbitration Association, with proceedings to be conducted in Cook county, IL. The subject matter before the arbitration tribunal may include claims for monetary damages, and equitable and injunctive relief. The arbitration tribunal shall consist of one arbitrator, the decision or award of whom shall be final and binding and upon which judgment may be entered in any competent court, expressly including such sitting in the state and county of Cook county, Illinois.

(7) Choice of Law

These Terms shall be governed in all respects by the laws of the State of Illinois, without regard to such state's conflict of law provisions. You agree that any claim or dispute you may have against Us must be resolved by a court located in Cook county, Illinois except as otherwise agreed by the parties or as described in the Arbitration Agreement paragraph above. You agree to submit to the personal jurisdiction of the courts located within Cook county, Illinois for the purpose of litigating any such claims or disputes.

XI. Downloadable Software, Access to Software or SaaS Services

(1) General

The Site may allow You to download software products that are owned or licensed by Us (“Software”); and the Site may allow You to purchase access to or the use of SaaS Services and/or Hosting Services (collectively “Enhanced Services”) owned by Us, in exchange for certain payments. The amount of the payments, the payment structure (e.g. lump sum, subscription plan, etc.) and other relevant details (e.g. subscription periods) are detailed on the Site or in the License Agreement (as defined below).

You agree that Your use of Enhanced Services is governed both by these Terms and by the terms set forth in the license agreement or other contract terms, if any, which are required by Us in connection with the licensed use of such Enhanced Services (hereafter a “License Agreement”). If there is a conflict between the terms of a License Agreement and these Terms, the terms of the License Agreement (when executed by the parties) will take precedence.

Unless the terms of a signed License Agreement provide otherwise, by using this Site You agree that: (a) these Terms apply to and govern Your use of and access to all Software and/or Enhanced Services, (b) these Terms apply to and govern the use of and access to Software and Enhanced Services by Your end users, and (c) that You are and will remain responsible for all user activity (including but not limited to the activities of Your end users) on or in conjunction with Software and Enhanced Services (in accordance with these Terms), including but not limited to the posting of all Content by You or third parties.

(2) Definitions

- A. “Hosting Services” shall mean Site-based hosting services provided by Us to Site users who have: (i) registered on the Site, (ii) paid a subscription or other fees as may be required by the Site, and (iii) who have taken any other steps required by the Site.
- B. “SaaS Services” shall refer to the delivery via the Site of: (1) access to software applications, code or other computing or data processing resources (“SaaS Resources”), or (2) access to the functionality of such SaaS Resources, when such SaaS Resources are separate from and/or additional to the functions of the Site itself.

(3) Termination

We may freeze or terminate Your registration and/or access to all or any part of the Site and/or Enhanced Services at any time for any breach or threatened breach of these Terms, with or without notice, and with immediate effect, which may result in the forfeiture and destruction of all information associated with Your registration and/or Your Enhanced Services. Unless otherwise provided, any fees paid hereunder are non-refundable.

(4) Subscription Terms

If You elect to purchase a subscription for Enhanced Services then (unless otherwise indicated on the Site) the date upon which You complete Your registration on the Site

and We receive Your initial payment will be the effective date (the "Effective Date") of Your subscription; and the date on which Your subscription ends will be last day of the subscription period as indicated on the Site. Following the end of any subscription period You agree that we may terminate all applicable services as provided in these Terms.

XII. General Provisions

(1) Integration and Severability

The agreement between You and Us with respect to the Site, as reflected in these Terms, supersedes all other prior or contemporaneous communications and proposals (whether oral, written or electronic) between You and Us. If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these Terms will otherwise remain in full force and effect and enforceable. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.

(2) Additional Terms

We shall not be liable for any failure to perform Our obligations hereunder where such failure results from any cause beyond Our reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation (including 'line-noise' interference). The Terms are personal to You and are not assignable, transferable or sublicensable by You except with Our prior written consent. We may assign, transfer or delegate any of our rights and obligations hereunder without Your consent. No agency, partnership, joint venture, or employment relationship is created as a result of these Terms and neither party has any authority of any kind to bind the other in any respect. In any action or proceeding to enforce rights under the Terms, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under these Terms will be in writing and will be deemed to have been duly given: (a) when received (if personally delivered) or sent by certified or registered mail, return receipt requested; (b) when receipt is electronically confirmed, if transmitted by facsimile or e-mail; or (c) the day after it is sent, if sent for next day delivery by recognized overnight delivery service. No action by any third party or any statement by any person other than the Our chief executive or managing partner shall operate to amend these Terms. To the extent there is an inconsistency between the Terms of Service and other terms or policies, these Terms of Service shall govern. The heading references herein are for convenience purposes only, do not constitute a part of these Terms, and will not be deemed to limit or affect any of the provisions hereof.

(3) U.S. Government Users and U.S. Government Restricted Rights

Certain of the components that comprise the Site, and/or certain Software that may be available on the Site, may be "commercial items" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and/or "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire only those rights set forth herein in all such Site materials. Use, duplication, or disclosure of any Site materials by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and

Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable.

XIV. Payments and Charges

(1) Payment Processing:

The Site may allow or require You to make certain payments in conjunction with Your use of the Site and/or certain services available on the Site. In connection therewith:

- (i) We have contracted with third party service providers to process credit card payments and/or to process other kinds of payments. The only payment methods accepted by the Site are those specifically listed and described on the Site. Our access to credit card information, to other payment service information, and to information about Your payments is limited to the access described in the Privacy Policy.
- (ii) We make require or allow You to make payments in other ways (e.g. we may agree to send You an invoice and accept payment via a check). Any such arrangement will be made solely in Our discretion. If We do make such arrangements with You, You agree to pay all fees and/or charges for services as required.

(2) Your Agreement re Payment Processing:

If you use a credit card (and/or a non-credit card based payment method (e.g. Paypal), if allowed by the Site) to make a payment on the Site, You understand and agree that We (and/or our third party service provider, as applicable) may process charges for the transactions initiated by You in accordance with the fees and rates set forth on the Site.

(3) Additional Obligations/Restrictions:

- A. You will indemnify, defend, and hold Us harmless from: (i) any breach by You of any credit or debit card processing and/or issuing agreement, and/or any violation of applicable law by You; and (ii) any breach by You of any agreement with an alternative payment service provider (e.g. Paypal).

You may not share accounts, and may not create multiple user accounts or multiple user connections to the Site in order to evade an obligation to pay service fees or other charges.

- B. For all purchased resources and services, we will charge You in the manner and/or amounts indicated on the Site or as otherwise expressly agreed by Us in writing. If for any reason Your payments are late, such payments may bear interest at the rate of 1.5% per month (or the highest rate permitted by law, if less) until paid. All charges are exclusive of taxes. If Your payments are late we reserve the right to suspend or cancel Your transactions and related Site privileges.
- C. You are responsible for paying all taxes and government charges applicable to payments You make in conjunction with the Site. And You are responsible for paying reasonable expenses and attorney's fees that We incur collecting late

payments from You. To the fullest extent permitted by law, and notwithstanding anything to the contrary in these Terms, you waive all claims relating to Site-related charges unless claimed within 60 days after the due date of the charge (this does not affect your credit card issuer rights). To the fullest extent permitted by law, refunds (if any) are at Our discretion and will be provided only in the form of credit for the Site unless otherwise agreed, in Our discretion. Nothing in these Terms obligates Us to extend credit to any party.

- D. You acknowledge and agree that any credit card information, other payment service information, and/or related billing and payment information that you provide may be shared by Us with third party service providers such as payment processors and/or credit agencies, solely for the purposes of checking credit, processing payments and otherwise servicing your account. You agree that we may convey such information as we have access to in response to valid legal process (such as subpoenas and court orders), or to establish or exercise Our legal rights. We will not be liable for any use or disclosure of such information by such third parties.