

## **TERMS OF SERVICE – STUDENTS**

**Last Updated: May 21, 2019**

Honorlock Inc. (“Honorlock,” “we,” “us,” or “our”) provides you access to our proprietary cloud-based proctoring application (the “App”), and the proctoring services we provide through the App (the “Services”), subject to the following terms and conditions of service (the “Student Terms of Service”), which may be updated by us from time to time without notice to you.

BY ACCESSING THE APP AND/OR USING OUR SERVICES, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE LEGALLY BOUND BY THESE STUDENT TERMS OF SERVICE AND OUR APP PRIVACY POLICY, LOCATED AT [https://honorlock.com/legal/app\\_privacy](https://honorlock.com/legal/app_privacy) (THE “APP PRIVACY POLICY”), WHICH IS HEREBY INCORPORATED HEREIN AND MADE A PART HEREOF BY REFERENCE. THE STUDENT TERMS OF SERVICE AND THE APP PRIVACY POLICY ARE COLLECTIVELY REFERRED TO AS THE “STUDENT AGREEMENT.” IF YOU DO NOT AGREE TO ANY OF THE TERMS OF THE STUDENT AGREEMENT, THEN YOU ARE NOT AUTHORIZED TO ACCESS THE APP OR USE THE SERVICES.

**THE SECTIONS BELOW TITLED “BINDING ARBITRATION” AND “CLASS ACTION WAIVER” CONTAIN A BINDING ARBITRATION AGREEMENT AND CLASS ACTION WAIVER. THEY AFFECT YOUR LEGAL RIGHTS. PLEASE READ THEM.**

We reserve the right, at our sole discretion, to modify, discontinue, or terminate the App or the Services, or to modify the Student Agreement, at any time and without prior notice. If we modify the Student Agreement, we will post the modification on our website at <https://honorlock.com/> and/or provide you with notice of the modification at the last email address you provided to us. By continuing to access or use the App and/or our Services after we have posted a modification to the Student Agreement, or have provided you with notice of a modification, you are indicating that you agree to be bound by the modified Student Agreement. If the modified Student Agreement is not acceptable to you, your only recourse is to cease using the App and Services.

Capitalized terms not defined in these Student Terms of Service shall have the meaning set forth in our App Privacy Policy.

### **1. APP AND SERVICES DESCRIPTION**

The App is our proprietary, cloud-based proctoring solution that enables universities and other educational institutions (each, a “School”) to offer online examinations (each, an “Exam”) with confidence and ease. Schools that desire to use our proctoring Services must subscribe to our Services by contracting with Honorlock directly. When a professor or instructor of any such School (“Faculty”) desires to offer an Exam online, the School administers such online Exams via its Learning Management System, such as Blackboard Canvas or Desire2Learn (each, an “LMS”). Our App integrates with the LMS so that Honorlock’s proctors (each, a “Proctor”) can administer the Exam and monitor students taking the Exam (each, a “Student”).

As a Student, all you have to do is find your Exam on your School’s LMS and follow the Honorlock instructions prior to starting the Exam, which will include a requirement that you install the Honorlock Chrome extension. You must use Google Chrome to access your Exam. The computer on which you take the Exam is referred to here as your “Primary Device.” You may be required to create a login with the LMS; you should review the LMS terms of use and privacy policy before using it. Honorlock is not associated with, and does not endorse, any third-party website or service, including, without limitation, Google Chrome, any School, or any LMS.

## 2. TECHNICAL REQUIREMENTS; USAGE RESTRICTIONS

In order to access and use our App, you will be required to have a Primary Device that (i) has a working web camera and microphone, and (ii) meets Honorlock's minimum technical requirements which may be found at <https://honorlock.com/support>, which may be amended from time to time. We will use commercially reasonable efforts to notify you of any changes to the technical requirements via this website.

When using the App and our Services, you agree to the following:

- You will comply with all applicable laws in your use of the App and the Services, and will not use the App for any unlawful purpose;
- You will provide accurate, complete, and up-to-date information about yourself when requested;
- You will not impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity;
- You will not interfere with, or attempt to interrupt the proper operation of, the App through the use of any virus, device, information collection or transmission mechanism, software or routine, or access or attempt to gain access to any data, files, or passwords related to the App through hacking, password or data mining, or any other means;
- You will not decompile, reverse engineer, or disassemble any software, Services, or other products or processes accessible through the App, or otherwise tamper with the App;
- You will not cover, obscure, block, or in any way interfere with any safety features on the App;
- You will not use any robot, spider, scraper, or other automated means to access the App for any purpose; and
- You will not take any action that imposes or may impose (in our sole discretion) an unreasonable or disproportionately large load on our technical infrastructure.

**Please be advised that Honorlock reserves the right to permanently ban a Student from using and accessing the App if we, in our discretion, determine that an attempt to tamper with the App or Services has been made.**

## 3. AUTHENTICATION; ENABLING MONITORING DEVICES

One major component of Honorlock's proctoring Services is Student authentication. Schools and Faculty rely on Honorlock's authentication technology to ensure that Students taking their Exams are who they say they are. Accordingly, when you access the App in order to take your Exam, you will be asked to provide certain information to allow us to confirm your identity ("Authentication"). For example, you will be required to enable the camera and microphone on your Primary Device, and you will be asked to provide us with a photo, using the Primary Device camera, of your face, and another photo of your photo ID (such as a student ID card or driver's license). In some cases, depending on the Service features selected by your School and the applicable Faculty's preferences, you may also be asked to use your Primary Device to take a 360° video scan of the room in which you are sitting for the Exam. This allows us to monitor activity in the room, just as a live proctor would do in a live Exam setting. The information that you provide to us in connection with Authentication is referred to as "Authentication Data." Your Authentication Data contains personal information, and we take your privacy very seriously. Please review our App Privacy Policy

[https://honorlock.com/legal/app\\_privacy](https://honorlock.com/legal/app_privacy) to learn about how we collect, store, process, transfer, and use Authentication Data and other information that we collect about you and your devices.

In addition to providing the Authentication Data, prior to starting the Exam you will be required to enable your web camera and screen recording on your Primary Device. The web camera allows our Proctors to see you at all times during the Exam, and the screen recording allows our Proctors to monitor your screen activity during the Exam, to ensure that you are not violating any Exam rules or general principles of ethics. Depending upon the Service features selected by your School and the applicable Faculty's preferences, we may make recordings from both the web camera on your Primary Device and your screen activity. The Proctor's job is to uphold your School's ethical codes and ensure honorable behavior among Students in your academic community. Our proprietary technology allows Proctors to conduct this monitoring remotely. Therefore, we appreciate your cooperation when enabling the above-mentioned monitoring devices. If you fail to do so, you will not be able to take your Exam through Honorlock. As with the Authentication Data, we take precautions to protect your privacy with respect to all recordings from your web camera and screen activity, and only use this information as permitted by applicable law and in compliance with our App Privacy Policy [https://honorlock.com/legal/app\\_privacy](https://honorlock.com/legal/app_privacy).

#### **4. PROCTORING SERVICES**

Once your identity has been confirmed and you have enabled all applicable monitoring devices, you will be instructed to start your Exam. During each Exam, our proprietary artificial intelligence technology serves to monitor your activity through your Primary Device, as described above. Our technology can detect certain activity, both on your screen and in your Exam room. For example, the App can detect when another person enters the room while you're taking the Exam; it can detect any other websites or programs that you visit or attempt to visit on your Primary Device while taking the Exam; it can detect when you're copying, pasting, or right clicking on your Primary Device; and it can detect many other types of activities. If the App detects any suspicious activity, it promptly alerts the live Honorlock Proctor who has been assigned to your Exam. Once this occurs, the Proctor may investigate the activity in question at his or her discretion. The Proctor has the ability to pause your Exam, and to communicate with you directly via live chat. All live chat transcripts are recorded and retained by Honorlock, in accordance with our App Privacy Policy. In some cases, the Proctor may determine that the activity does not constitute any misconduct on the part of the Student, and will allow you to continue the Exam. In other cases, the Proctor may need to take immediate measures to address misconduct, including by informing the School and Faculty. Please be advised that when an Exam is paused by a Proctor due to suspicious activity, you may not recover the lost time. While our App has the functionality to credit you the time lost on your Exam, it will only do so if your School has enabled that functionality. Please contact your School for more information about its general Exam and proctoring policies.

Honorlock offers certain additional features and functionalities to Schools and Faculty for added proctoring and Exam protection. You do not have the ability to enable or disable these additional features and functionalities, and you may not know whether or not these features and functionalities are running during your Exam. Honorlock desires to be completely transparent with Students about how it monitors test taking and deters cheating and other ethics violations. Accordingly, a description of these additional features and functionalities is set forth below.

- **Search and Destroy**

One additional feature of the App is our Search and Destroy feature. If Faculty chooses to enable this feature, the applicable Faculty member provides Honorlock with an advance copy of the Exam. Honorlock then crawls the Internet for copies of the Exam or portions thereof, and initiates take-down procedures under the Digital Millennium Copyright Act (DMCA), which allows copyright holders (or their designees) to demand that copyrighted materials be removed from any websites for which permission was not given by the

copyright holder. The Search and Destroy feature ultimately aims to remove any copies of the Exam (or portions of the Exam) that are on the Internet, either temporarily or permanently, while Students are taking the Exam. This protects against Students searching for the Exam (and its answers) on the Internet using their mobile devices or any other devices that they have in the Exam room (“Secondary Devices”).

**As noted above, as a Student, you will not know whether or not Search and Destroy has been activated for your Exam. We urge you to assume, for your own benefit and that of the School, Faculty, and your fellow Students, that Search and Destroy is always active, so you should never search the Internet for your Exam while you are taking the Exam.**

- **Secondary Device Detection**

Generally, Secondary Devices are not permitted to be in the room while you’re taking your Exam. The App technology aims to detect Secondary Devices through your web camera, and during the initial 360° video room scan. However, some Secondary Devices, such as mobile phones, may go undetected by the App. To combat this issue, Faculty may enable our Secondary Device Detection feature. This feature uses proprietary technology to detect Internet activity from your Secondary Device while you are taking an Exam. The Secondary Device Detection functionality is twofold: first, the App detects Internet searches for Exam questions and traces the searches back to the Secondary Device used to conduct the search (thereby determining which Student attempted to search for the Exam online); second, it replaces the search results on the applicable Secondary Device with “dummy” websites owned and operated by Honorlock. All Exam information, including answers to the Exam questions, have been wiped from these “dummy” websites, so that the Student who conducted the search on his or her Secondary Device does not actually benefit from any answers. In short, the Secondary Device Detection feature of our App both blocks a Student’s ability to cheat by replacing search results with “dummy” websites that do not contain Exam answers, and notifies the School and Faculty of any Student who attempted to cheat by tracing the search back to the Secondary Device and its owner.

Secondary Device Detection not only traces activity on the Internet back to a specific Secondary Device, it also records the search activity on that Secondary Device. Honorlock may use a third-party service provider called to record Secondary Device activity. Honorlock currently uses a service provided by Inspectlet, but may use other third-party service providers in the future without notice. Inspectlet provides Secondary Device activity to us in anonymous format. You may review Inspectlet’s privacy policy and terms of use at <https://www.inspectlet.com/legal>. Notwithstanding the foregoing, our technology is able to match this activity to a particular Student based on the Student’s location, the time the Student commenced the Exam, and the specific question on the Exam that was searched. In addition to recording the Secondary Device activity, we may also collect information from your Secondary Device, such as your IP address, user agent, browser, and device type. All of this information derived from your Secondary Device, including the recorded activity provided to us by Inspectlet, is private information that we collect and use only in accordance with applicable law and in compliance with our App Privacy Policy at [https://honorlock.com/legal/app\\_privacy](https://honorlock.com/legal/app_privacy).

**The Secondary Device Detection feature cannot be activated without the Search and Destroy feature (although Search and Destroy can be activated without Secondary Device Detection). As a Student, you will not know whether or not Secondary Device Detection has been activated for your Exam. We urge you to assume, for your own benefit and that of the School, Faculty, and your fellow Students, Secondary Device Detection is always active, so you should never use your Secondary Device to search the Internet for your Exam while you are taking the Exam.**

## 5. **SUPPORT**

If you are having technical difficulties with the App at any time, or if you have questions about our Services, you may email or call us using the contact information on our website at <https://www.honorlock.com/support>. You will also have the ability to live chat with your Proctor during your exam (just as your Proctor has the ability to live chat you should he or she detect any suspicious activity). All interactions between you and Honorlock may be recorded, including phone calls, emails, and live chats, and the transcripts from such communications may be provided to Faculty and/or the School.

With respect to all communications between you and any Honorlock personnel, including, but not limited to, feedback, questions, comments, suggestions, and the like, we shall be free to use any ideas, concepts, know-how, or techniques contained in your communications for any purpose whatsoever, including but not limited to, the development, production, and marketing of products and services that incorporate such information, without compensation or attribution to you.

**It is important to us that our support staff is treated with respect. Please use good judgment when interacting with our staff. If we determine, in our sole discretion, that your behavior is inappropriate or disrespectful, Honorlock reserves the right to immediately end the support session, and, in its sole discretion, to ban you from using our support services in the future.**

## **6. OUR DISCLAIMER; LIMITATION OF LIABILITY**

YOU ACKNOWLEDGE THAT ALTHOUGH THE APP, THE SERVICES, AND OTHER INFORMATION OR MATERIALS PROVIDED BY HONORLOCK CAN BE USED AS AIDS TO SCHOOLS AND FACULTY TO MAKE INFORMED DECISIONS ABOUT DISCIPLINARY ACTION FOR STUDENT MISCONDUCT, THE APP, THE SERVICES, AND ALL OTHER INFORMATION AND MATERIALS PROVIDED BY HONORLOCK ARE NOT MEANT TO BE SUBSTITUTES FOR THE SCHOOL'S AND FACULTY'S EXERCISE OF THEIR OWN JUDGMENT AND COMPLIANCE WITH THEIR OWN INTERNAL PROTOCOLS. YOUR SCHOOL HAS ITS OWN HONOR CODE, ETHICS RULES, AND DISCIPLINARY POLICIES AND PROCEDURES. HONORLOCK'S APP AND SERVICES ARE FOR USE BY THE SCHOOL AND FACULTY FOR INFORMATIONAL PURPOSES ONLY, AND HONORLOCK ITSELF DOES NOT MAKE ANY DETERMINATIONS ABOUT STUDENT MISCONDUCT OR IMPOSE ANY PUNITIVE ACTION ON STUDENTS. FURTHER, IF THE APP DETECTS MISCONDUCT, HONORLOCK DOES NOT REPRESENT OR WARRANT THAT THE OFFENDING STUDENT IS GUILTY OF SUCH MISCONDUCT, OR THAT A FULL INVESTIGATION HAS BEEN UNDERTAKEN. HONORLOCK DOES NOT INVESTIGATE MISCONDUCT ALLEGATIONS BEYOND THE PROCTOR'S LIMITED ABILITY WHILE REMOTELY MONITORING THE EXAM. IF A STUDENT DESIRES TO CONTEST AN ALLEGATION OF MISCONDUCT, HE OR SHE MUST GO DIRECTLY TO THE SCHOOL OR FACULTY, AND NOT TO HONORLOCK. HONORLOCK DOES NOT GUARANTEE OR ENDORSE THE ACCURACY, COMPLETENESS, OR RELIABILITY OF ANY SERVICES OR ANY INFORMATION OR MATERIALS PROVIDED BY HONORLOCK.

THE APP, SERVICES, AND THEIR FEATURES ARE INTENDED TO DETER STUDENT MISCONDUCT. HONORLOCK DOES NOT INTENTIONALLY MISLEAD, TEMPT, OR DECEIVE STUDENTS. NOTWITHSTANDING THE FOREGOING, YOU ACKNOWLEDGE AND AGREE THAT HONORLOCK HAS PERMISSION FROM THE SCHOOL AND FACULTY TO TRACK YOUR DEVICE ACTIVITY, TAKE DOWN ONLINE EXAMS, REPLACE EXAM QUESTIONS USING "DUMMY" WEBSITES, AND OTHERWISE PROVIDE ALL APPLICABLE PROCTORING SERVICES. HONORLOCK IS NOT LIABLE TO YOU OR ANY THIRD PARTY FOR ANY MISINFORMATION OBTAINED BY YOU WHEN USING THE APP. YOUR USE OF THE APP AND YOUR DEVICES WHILE TAKING AN EXAM IS AT YOUR OWN RISK.

YOU ACKNOWLEDGE THAT THE APP AND SERVICES MAY CONTAIN BUGS, ERRORS, AND OTHER PROBLEMS THAT COULD CAUSE SYSTEM FAILURES. EXCEPT AS EXPRESSLY SET FORTH IN THIS STUDENT AGREEMENT, THE SERVICES, THE APP, AND ALL OTHER INFORMATION AND MATERIALS PROVIDED BY HONORLOCK ARE PROVIDED “AS IS” AND “AS AVAILABLE,” AND HONORLOCK MAKES NO ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SAME OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT, AND HEREBY DISCLAIMS ANY AND ALL EXPRESS, IMPLIED, OR STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AVAILABILITY, ERROR-FREE OR UNINTERRUPTED OPERATION, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE.

IN CONNECTION WITH ANY WARRANTY, CONTRACT, OR COMMON LAW TORT CLAIMS: (I) WE AND OUR LICENSORS SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOST PROFITS, OR DAMAGES RESULTING FROM YOUR ACCESS TO OR USE OF THE APP OR THE SERVICES, INCLUDING, WITHOUT LIMITATION ANY LOST DATA RESULTING FROM THE USE OR INABILITY TO ACCESS AND USE THE APP, THE SERVICES, OR ANY WEBSITE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (II) WE SHALL NOT BE LIABLE FOR ANY DIRECT DAMAGES, NOT ATTRIBUTABLE TO PERSONAL INJURIES, THAT YOU MAY SUFFER AS A RESULT OF YOUR USE OF THE APP OR THE SERVICES IN EXCESS OF ONE HUNDRED U.S. DOLLARS (\$100). NO COMMON-LAW CAUSE OF ACTION ARISING UNDER TORT, CONTRACT, OR WARRANTY RELATED TO THE APP OR THE SERVICES, OR OTHERWISE ARISING UNDER THIS STUDENT AGREEMENT, REGARDLESS OF FORM, MAY BE BROUGHT BY YOU MORE THAN ONE (1) YEAR AFTER SUCH ACTION HAS ACCRUED.

SOME JURISDICTIONS, INCLUDING THE STATE OF NEW JERSEY, DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN WARRANTIES; THEREFORE, SOME OF THE ABOVE LIMITATIONS IN THIS SECTION MAY NOT APPLY TO YOU.

NOTHING IN THESE STUDENT TERMS OF SERVICE SHALL AFFECT ANY NON-WAIVABLE STATUTORY RIGHTS THAT APPLY TO YOU.

## **7. INDEMNIFICATION**

You agree to defend, indemnify, and hold us and our affiliates and our and their respective officers, directors, employees, agents, successors, licensees, licensors, and assigns harmless from and against any damages, liabilities, losses, expenses, claims, actions, and/or demands, including, without limitation, reasonable legal and accounting fees, arising or resulting from: (i) your breach of this Student Agreement; (ii) your misuse of the App or the Services; and/or (iii) your violation of any third-party rights, including without limitation any copyright, trademark, property, publicity, or privacy right. We shall provide notice to you of any such claim, suit, or proceeding and shall assist you, at your expense, in defending any such claim, suit, or proceeding. We reserve the right to assume the exclusive defense and control (at your expense) of any matter that is subject to indemnification under this section. In such case, you agree to cooperate with any reasonable requests assisting our defense of such matter.

## **8. INTELLECTUAL PROPERTY**

The App may contain material such as videos, photographs, software, text, graphics, images, sound recordings, and other material provided by or on behalf of Honorlock (collectively referred to as the “App Content”). The App Content may be owned by us or third parties. The App Content is protected under both

United States and foreign laws. Unauthorized use of the App Content may violate copyright, trademark, and other laws.

You may view all App Content for your own personal, non-commercial use. No other use is permitted without the prior written consent of Honorlock. Honorlock and its licensors retain all right, title, and interest, including all intellectual property rights, in and to the App Content. You must retain all copyright and other proprietary notices contained in the original App Content. You may not sell, transfer, assign, license, sublicense, or modify the App Content or reproduce, display, publicly perform, make a derivative version of, distribute, or otherwise use the App Content in any way for any public or commercial purpose. The use or posting of the App Content on any other website, social media page, or in a networked computer environment for any purpose is expressly prohibited.

The trademarks, service marks, and logos of Honorlock (the “Honorlock Trademarks”) used and displayed on the App are registered and unregistered trademarks or service marks of Honorlock. Other company, product, and service names located on the App may be trademarks or service marks owned by others (the “Third-Party Trademarks,” and, collectively with Honorlock Trademarks, the “Trademarks”). Nothing on the App should be construed as granting, by implication, estoppel, or otherwise, any license or right to use the Trademarks, without our prior written permission specific for each such use. Use of the Trademarks as part of a link to or from any site is prohibited unless establishment of such a link is approved in advance by us in writing. All goodwill generated from the use of Honorlock Trademarks inures to our benefit.

Elements of the App are protected by trade dress, trademark, unfair competition, and other state and federal laws and may not be copied or imitated in whole or in part, by any means, including, but not limited to, the use of framing or mirrors. None of the App Content may be retransmitted without our express, written consent for each and every instance.

## **9. COMPLIANCE WITH APPLICABLE LAWS**

The App and Services are based in the United States. We make no claims concerning whether the App may be accessed, downloaded, viewed, or be appropriate for use outside of the United States. If you access the App from outside of the United States, you do so at your own risk. Whether inside or outside of the United States, you are solely responsible for ensuring compliance with the laws of your specific jurisdiction.

## **10. TERMINATION OF THE STUDENT AGREEMENT**

We reserve the right, in our sole discretion, to restrict, suspend, or terminate this Student Agreement and your access to all or any part of the App, at any time and for any reason without prior notice or liability. We reserve the right to change, suspend, or discontinue all or any part of the App at any time without prior notice or liability. Sections 6-15 shall survive the termination of this Student Agreement.

## **11. CONTROLLING LAW**

This Student Agreement and any action related thereto will be governed by the laws of the State of New York without regard to its conflict of laws provisions.

## **12. BINDING ARBITRATION**

In the event of a dispute arising under or relating to this Student Agreement, the Services, or the App (each, a “Dispute”), either party may elect to finally and exclusively resolve the dispute by binding arbitration governed by the Federal Arbitration Act (“FAA”). Any election to arbitrate, at any time, shall be final and binding on the other party. IF EITHER PARTY CHOOSES ARBITRATION, NEITHER PARTY SHALL HAVE THE RIGHT TO LITIGATE SUCH CLAIM IN COURT OR TO HAVE A JURY TRIAL, EXCEPT

EITHER PARTY MAY BRING ITS CLAIM IN ITS LOCAL SMALL CLAIMS COURT, IF PERMITTED BY THAT SMALL CLAIMS COURT RULES AND IF WITHIN SUCH COURT'S JURISDICTION. ARBITRATION IS DIFFERENT FROM COURT, AND DISCOVERY AND APPEAL RIGHTS MAY ALSO BE LIMITED IN ARBITRATION. All disputes will be resolved before a neutral arbitrator selected jointly by the parties, whose decision will be final, except for a limited right of appeal under the FAA. The arbitration shall be commenced and conducted by JAMS pursuant to its then current Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those rules, or, where appropriate, pursuant to JAMS' Streamlined Arbitration Rules and Procedures. All applicable JAMS' rules and procedures are available at the JAMS website [www.jamsadr.com](http://www.jamsadr.com). Each party will be responsible for paying any JAMS filing, administrative, and arbitrator fees in accordance with JAMS rules. Judgment on the arbitrator's award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The arbitration may be conducted in person, through the submission of documents, by phone, or online. If conducted in person, the arbitration shall take place in the United States county where you reside. The parties may litigate in court to compel arbitration, to stay a proceeding pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator. The parties shall cooperate in good faith in the voluntary and informal exchange of all non-privileged documents and other information (including electronically stored information) relevant to the Dispute immediately after commencement of the arbitration. As set forth in Section 14 below, nothing in this Student Agreement will prevent us from seeking injunctive relief in any court of competent jurisdiction as necessary to protect our proprietary interests.

### **13. CLASS ACTION WAIVER**

You agree that any arbitration or proceeding shall be limited to the Dispute between us and you individually. To the full extent permitted by law, (i) no arbitration or proceeding shall be joined with any other; (ii) there is no right or authority for any Dispute to be arbitrated or resolved on a class action-basis or to utilize class action procedures; and (iii) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons. YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST US ONLY IN YOUR INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

### **14. EQUITABLE RELIEF**

You acknowledge and agree that in the event of a breach or threatened violation of our intellectual property rights and confidential and proprietary information by you, we will suffer irreparable harm and will therefore be entitled to injunctive relief to enforce this Student Agreement. We may, without waiving any other remedies under this Student Agreement, seek from any court having jurisdiction any interim, equitable, provisional, or injunctive relief that is necessary to protect our rights and property pending the outcome of the arbitration referenced above. You hereby irrevocably and unconditionally consent to the personal and subject matter jurisdiction of the federal and state courts in the State of New York, Borough of Manhattan for purposes of any such action by us.

### **15. MISCELLANEOUS**

Our failure to act on or enforce any provision of this Student Agreement shall not be construed as a waiver of that provision or any other provision in this Student Agreement. No waiver shall be effective against us unless made in writing, and no such waiver shall be construed as a waiver in any other or subsequent instance. Except as expressly agreed by us and you in writing, this Student Agreement constitutes the entire Student Agreement between you and us with respect to the subject matter, and supersedes all previous or contemporaneous agreements, whether written or oral, between the parties with respect to the subject matter.



The section headings are provided merely for convenience and shall not be given any legal import. This Student Agreement will inure to the benefit of our successors, assigns, licensees, and sublicensees.

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