

5-STAR STUDENTS SERVICES AGREEMENT

This Services Agreement ("Agreement") is entered into on this 20th day of November, 2020 (the "Effective Date") between 5-Star Students, LLC with a place of business at 27393 Ynez Rd, Suite 257, Temecula, CA 92591 ("Company"), and the Customer listed above ("Customer"). This Agreement includes the attached Terms and Conditions and contains, among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different terms of any related agreement or similar form even if signed by the parties after the date hereof.

5-Star Students, LLC

Customer

By: 

By: _____

Name: Brian Bourgeois

Name: Sherri Kemp, Ed.D.

Title: Managing Member

Title: Assistant Superintendent, Educational Services

TERMS AND CONDITIONS

1. SERVICES AND SUPPORT

1.1 Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer the Services. As part of the registration process, Customer will identify an administrative user for Customer's management account. Company reserves the right to refuse registration of, or cancel access it deems inappropriate.

1.2 Subject to the terms hereof, Company will provide Customer with reasonable technical support services in accordance with Company's standard practices. This includes text and video documentation, daily email support, online chat services, and phone support within 1 business day.

2. RESTRICTIONS AND RESPONSIBILITIES

2.1 Customer will not, directly or indirectly: (i) copy, distribute, or disclose any part of the Services in any medium, including but not limited to by any automated or non-automated "scraping"; (ii) use any automated system, including but not limited to "robots," "spiders," "offline readers," etc., to access the Services in a manner that sends more request messages to the Company servers than a human can reasonably produce in the same period of time by using a conventional online web browser; (iii) transmit spam, chain letters, or other unsolicited email; (iv) attempt to interfere with, compromise the system integrity or security or decipher any transmissions to or from the servers running the Services; (v) take any action that imposes, or may impose an unreasonable or disproportionately large load on Company's infrastructure; (vi) upload invalid data, viruses, worms, or other software agents through the Services; (vii) collect or harvest any third-party personally identifiable information, including account names or Student Data (as defined below), from the Services; (viii) use the Services for any commercial solicitation purposes; (ix) impersonate another person or otherwise misrepresenting Customer's affiliation with a person or entity, conducting fraud, hiding or attempting to hide Customer's identity; (x) interfere with the proper working of the Services; (xi) access any content on the Services through any technology or means other than those provided or authorized by the Services; or (xii) bypass the measures Company uses to prevent or restrict access to the Services, including but not limited to features that prevent or restrict use or copying of any content or enforce limitations on use of the Services or related content.

2.2 Company may continually update Services to offer the best possible product. While Company plans to continue to offer and improve the Services, Company may, without prior notice, change, cancel, create usage limits for, or permanently or temporarily stop offering or allowing

Customer access to the Services generally ("Service Changes"). Company will attempt to give Customer advance notice of Service Changes that will adversely affect Customer, however Company retains the right to make Service Changes without notice and liability for any reason. If this Agreement ends, Customer continues to be bound by it in any interactions Customer may have with the Services.

2.3 Customer user accounts provide access to the Services. Company maintains different types of accounts for different user roles. Individuals may be invited by an authorized Customer management user and create an account with a specific level of access. Customer is responsible for any activity that occurs within Customer's user accounts. Individuals with access to Customer's data must never use someone else's account without permission, and must keep account passwords secure. Company recommends using "strong" passwords (passwords that use a combination of upper and lower case letters, numbers and symbols) with user accounts to avoid unauthorized use. Customer must advise Company immediately if user account security has been compromised. Company is not liable for any losses of any kind caused by any unauthorized use of Customer user accounts.

2.4 Customer shall be fully responsible for interactions with other users of the Services, and Company has no liability for Customer interactions with any other users of the Services, or for any users of the Services actions or inactions with respect to the Customer.

2.5 Company maintains strict administrative, technical and physical procedures to protect information stored on hosted servers, which are located in the United States. Access to information is limited (through user/password credentials) to only those employees who require it to perform their job functions. Company uses industry-standard Secure Socket Layer (SSL) encryption technology to safeguard account registration processes and access to the Services. There is no means of self-registration to gain instant access to the Services, it is by invitation only. Other security safeguards include but are not limited to data encryption and firewalls.

2.6 If the Services are ever compromised by an unauthorized individual, we will notify impacted Customers as soon as administratively possible. The notification will include as much information as possible about the nature of the data breach and Company's steps to mitigate the situation.

3. CONFIDENTIALITY; PROPRIETARY RIGHTS

3.1 "Student Data" is any information (in any format) that is directly related to any identifiable current or former student that is maintained by the Customer and may include "educational records" as defined by the Family Educational Rights and Privacy Act ("FERPA"). While Company may need to access Student Data to provide the Services to the Customer, Customer owns the Student Data and remains responsible for it.

3.2 Company considers Customer's Student Data as confidential and does not knowingly share it with third parties other than as described in Section 3.6 and in Company's Privacy Policy located at <http://5starstudents.com/privacy>.

3.3 By submitting Student Data or other information to the Company, whether via the Services or otherwise, Customer expressly grants, and Customer represents and warrants that Customer has all rights necessary to grant, to the Company a non-exclusive, royalty-free, worldwide license during the term of these Services to use, transmit, distribute, modify, reproduce, display, and store the Student Data only for the purposes of: (i) providing the Services, and (ii) enforcing Company's rights under this Agreement. Subject to Section 3.4, Company will not use Student Data for any purpose except as explicitly authorized by this Agreement. For clarity and without limitation, Company will not use Student Data to engage in targeted advertising.

3.4 Customer agrees that Company may collect and use data derived from Student Data, including data about any user account's access and use of the Services, that has been anonymized, aggregated, or otherwise de-identified such that the data cannot reasonably identify a particular student, user, or Customer. Company may use such data to operate, analyze, improve or market Company's Services. If Company shares or publicly discloses information (e.g., in marketing materials) that is derived from Student Data, that data will be aggregated or anonymized to reasonably avoid identification of a specific Customer or individual student. For example, Company may (i) track the number of Customer users on an anonymized aggregate basis as part of Company's marketing efforts to publicize the total number of users of the Services, and (ii) analyze aggregated usage patterns for product development efforts. Customer further agrees that Company may use, store, transmit, distribute, modify, copy, display, sublicense, and create derivative works of the anonymized, aggregated Student Data even after this Agreement has expired or been terminated.

3.5 Both parties agree to uphold responsibilities under the Family Educational Rights and Privacy Act ("FERPA"), the Protection of Pupil Rights Amendment ("PPRA"), and the Children's Online Privacy and Protection Act ("COPPA"). Company provides the Services as an outsourced institutional function under FERPA 34 CFR

Part 99.31(a)(1). The Children's Online Privacy and Protection Act ("COPPA") requires that online service providers obtain clear and verifiable parental consent before collecting personal information from children under 13. Customer represents and warrants that Customer has received consent from parents, or have the authority to provide consent on behalf of parents, for Company to receive Student Data related to children under 13. Company recommends that Customer provide appropriate disclosures to students and parents regarding the use of service providers such as the Company and that Customer provides a copy of Company's Privacy Policy to parents and guardians.

3.6 Company may disclose or provide access to Student Data to employees and certain service providers with a legitimate need to access such information in connection with providing the Services. Company and its employees, subcontractors, service providers, or agents involved in the handling, transmittal, and/or processing of Student Data will maintain the confidentiality of any data that includes personally identifiable information and shall not redisclose such data except as necessary in order to provide the Services.

3.7 Student Data is created solely by the Customer; there is no pupil-generated data.

3.8 Student Data is controlled by the Customer and Company cannot permit anyone else to delete or control Student Data or to transfer such content, or allow access to Student Data by parents or legal guardians; as such, Company will refer any data access requests to the applicable Customer.

3.9 "Intellectual Property Rights" means all worldwide patent rights, copyright rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now exist or hereafter come into existence, and all related applications and registrations, renewals and extensions. Except for Student Data, the Services and all materials made available to Customer in connection with them, including, but not limited to, software, images, text, graphics, illustrations, logos, patents, trademarks, service marks, copyrights, photographs, audio, videos, music, and any content belonging to other users (the "Company Content"), and all related Intellectual Property Rights, are the exclusive property of Company and its licensors. Except as specified in this Agreement, nothing may be deemed to create a license in or under any such Intellectual Property Rights, and Customer agrees not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit or create derivative works from any Company Content. To be clear: any use of Company Content for a purpose not expressly permitted by this Agreement is strictly prohibited.

4. PAYMENT OF FEES

4.1 Customer will pay Company the then applicable fees described in the Order Form for the Services and Training Services in accordance with the terms therein (the "Fees"). Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Service Term or then-current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). If Customer believes that Company has billed Customer incorrectly, Customer must contact Company no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Company's customer support department.

4.2 Company may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Company thirty (30) days after the mailing date of the invoice. Unpaid amounts may result in immediate termination of Service.

5. TERM AND TERMINATION

5.1 Subject to earlier termination as provided below, this Agreement is for the Service Term as specified in the Order Form, and may be renewed for additional periods of the same duration as the Service Term (collectively, the "Term"), unless either party requests termination prior to the end of the then-current term.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days' notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided. Within seventy-two (72) hours of Agreement termination or earlier if commercially reasonable to do so, Company will delete or de-identify all Student Data, except for Student Data residing on backups or internal logs which will be removed within sixty (60) days, and will provide notice to Customer when Student Data has been deleted and/or anonymized as described in Section 3.4. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

6. WARRANTY AND DISCLAIMER

Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Training Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for

unscheduled emergency maintenance, either by Company or by third-party providers, or because of other causes beyond Company's reasonable control, but Company shall use reasonable efforts to provide advance notice of any scheduled service disruption. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. USE OF THE SERVICES IS AT CUSTOMER'S OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES IS PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, 5-STAR STUDENTS, ITS SUBSIDIARIES, ITS AFFILIATES, AND ITS LICENSORS DO NOT WARRANT THAT THE CONTENT IS ACCURATE, RELIABLE OR CORRECT; THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS; THAT THE SERVICES WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE SERVICES IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DOWNLOADED AT CUSTOMER'S OWN RISK AND CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD OR CUSTOMER'S USE OF THE SERVICES. COMPANY DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICES ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE SERVICES OR ANY HYPERLINKED WEBSITE OR SERVICES (INCLUDING WITHOUT LIMITATION APPLICATIONS), AND COMPANY WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN CUSTOMER AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES (INCLUDING WITHOUT LIMITATION DEVELOPERS). FEDERAL LAW, SOME STATES, PROVINCES AND OTHER JURISDICTIONS DO NOT ALLOW EXCLUSIONS AND LIMITATIONS OF CERTAIN IMPLIED WARRANTIES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO CUSTOMER.

7. INDEMNITY

Customer agrees to defend, indemnify and hold harmless Company and its subsidiaries, agents, licensors, managers, and other affiliated companies, and their employees, contractors, agents, officers and directors, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i)

Customer's use of and access to the Services, including any data or content transmitted or received by Customer; (ii) Customer's violation of any term of this Agreement, including but not limited to Customer's breach of any of the representations and warranties above; (iii) Customer's violation of any third-party right, including but not limited to any right of privacy or intellectual property rights; (iv) Customer's violation of any applicable law, rule or regulation, including but not limited to COPPA; (v) any content or information that is submitted via Customer's account; or (vi) any other party's access and use of the Services with Customer's users unique username, password or other appropriate security code.

8. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL COMPANY, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES, THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THIS SERVICES. UNDER NO CIRCUMSTANCES WILL COMPANY BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICES OR CUSTOMER'S ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COMPANY ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT; (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM CUSTOMER'S ACCESS TO OR USE OF THE SERVICES; (III) ANY UNAUTHORIZED ACCESS TO OR USE OF COMPANY'S SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN; (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICES; (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH COMPANY'S SERVICES BY ANY THIRD PARTY; (VI) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH THE SERVICES; AND/OR (VII) SCHOOL CONTENT OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY. IN NO EVENT SHALL COMPANY, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS, OR

LICENSORS BE LIABLE TO CUSTOMER FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT EXCEEDING THE AMOUNT CUSTOMER PAID TO COMPANY HEREUNDER OR \$100.00, WHICHEVER IS GREATER.

THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO CUSTOMER. THIS AGREEMENT GIVES CUSTOMER SPECIFIC LEGAL RIGHTS, AND CUSTOMER MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE. THE DISCLAIMERS, EXCLUSIONS, AND LIMITATIONS OF LIABILITY UNDER THIS AGREEMENT WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

9. GOVERNING LAW

Customer agrees that: (i) the Services will be deemed solely based in California; and (ii) the Services will be deemed passive services that do not give rise to personal jurisdiction over Company, either specific or general, in jurisdictions other than California. This Agreement will be governed by the laws of the State of California, without respect to its conflict of laws principles. The application of the United Nations Convention on Contracts for the International Sale of Goods does not apply. Customer agrees to submit to the personal jurisdiction of the federal and state courts located in Riverside County, California for any actions related to this Agreement.

10. MISCELLANEOUS

This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by Customer, but may be assigned by Company in accordance with the terms of Company's Privacy Policy. This Agreement, together with any amendments and any additional agreements Customer may enter into with Company in connection with the Services including other agreements referenced herein, constitute the entire agreement between Customer and Company concerning the Services. If any provision of this Agreement is deemed invalid by a court of competent jurisdiction, the invalidity of such provision will not affect the validity of the remaining provisions of this Agreement, which will remain in full force and effect. No waiver of any term of this Agreement will be

deemed a further or continuing waiver of such term or any other term, and Company's failure to assert any right or provision under this Agreement will not constitute a waiver of such right or provision. If access to the Services is licensed to the United States government or any agency thereof, then the Services will be deemed to be "commercial computer software" and "commercial computer software documentation," pursuant to DFARS Section 227.7202 and FAR Section 12.212, respectively, as applicable. Any use, reproduction, release, performance, display, or disclosure of the Services and any accompanying documentation by the U.S. Government will be governed solely by this Agreement and is prohibited except to the extent expressly permitted by this Agreement to serve as a reference account upon request.