

Standard Terms of Service

1. **LIMITED LICENSE.** By agreeing to implement the Program, EOD grants to School a limited, non-exclusive, revocable license (“the License”) to use the Program in accordance with and subject to the terms and conditions outlined below.

1.1 **Acknowledgement.** School acknowledges and agrees that the Program and associated logos and trademarks are the sole and exclusive property of EOD and are licensed, not sold, to School for use and controlled distribution in accordance with the terms and conditions of the Agreement.

1.2 **Authorized Users.** The Program may be used and implemented only by School and any trained and enrolled instructor (“**Instructor**”) during the term of the Agreement. Any enrolled student of School may use the Program at the direction and under the supervision of School and any applicable Instructor. Prior to any Instructor implementing the Program, School shall require each such Instructor to acknowledge the Terms of Use (defined below) by accepting the terms of the Acknowledgement of License and Use Agreement provided in the teacher portal at www.eodportal.org.

1.3 **Terms of Use.** Upon payment of all applicable fees, and subject to the terms of the Agreement, School may use the Program during the Term in accordance with the following “**Terms of Use**”:

(a) The Program shall be utilized and followed to ensure the learning objectives are adequately covered in accordance therewith. The Program shall be implemented in its entirety, and neither School nor any Instructor may omit any portion of the Program unless designated by EOD as “optional,” “discretionary,” “preferred,” or such other similar designation.

(b) Use of the Program is restricted to Authorized Users at the School; provided that at the discretion or direction of School or an Instructor, the Materials may be distributed to students to take and use off-site as required by the Program (e.g., assigned homework, tutoring). School agrees to use commercially reasonable efforts to restrict network or any other access to the Program by anyone at or away from the School who is not an Authorized User. School may not transfer, sublicense, or assign the License or any rights granted hereunder to any other person or entity without the prior express written consent of EOD, and any such purported transfer, sublicense, or assignment without EOD’s consent is void and may result in immediate termination of the License at EOD’s sole and absolute discretion.

(c) School has the right to print an unlimited number of downloadable files in the learning management system or, if applicable, access or permit access to all or any portion of the Program electronically from an unlimited number of electronic devices (e.g., computers, laptops, tablets, memory devices, LAN servers or cloud-based servers) as deemed appropriate and necessary for proper Program implementation; provided the Distribution Materials remain at the School unless otherwise permitted by the Agreement. School and any Instructor may use the Program on electronic devices that, on a temporary basis, are away from the School only so long as such use is in connection with the Program for the purposes permitted herein. Notwithstanding anything to the contrary herein, School is prohibited from posting any portion of the Program on any publicly accessible Internet site.

(d) Materials such as resource files, parent letters, certificates, templates, samples, and assessment tools may be customized for the purpose of meeting the School’s objectives, so long as the copyright and trademark notices and any trademarks are clearly displayed within all files and any such copyright or trademark remains with EOD.

(e) School acknowledges and agrees that School, as a condition to the continued grant of the License and as a material part of the Agreement, shall comply with certain Program instruction schedules and reporting requirements (the “**Program Requirements**”). EOD acknowledges and agrees that, so long as School is in compliance with the Program Requirements, EOD shall provide any necessary support services and assistance (the “**Support Services**”) set forth in the Agreement. Failure to comply with the Program Requirements will result in EOD’s right to refuse to provide data reporting for pre- and post-program surveys and assessments, as would otherwise be provided as part of the Support Services.

(f) School may use the Education Opens Doors name and EOD's associated logo, trademarks, and service marks only to refer to EOD and the Program. School shall not use EOD's trademarks in any misleading manner, or in any way that implies affiliation with EOD other than as a licensee of the Program. School agrees that it will not use EOD's trademarks in any way that is disparaging to EOD, and will not use any trademarks that are confusingly similar to EOD's trademarks. School shall use the following disclaimer on any printed materials containing EOD's trademarks: "Education Opens Doors and the Education Opens Doors Logo are trademarks of Education Opens Doors, Inc." School agrees to comply with any additional trademark usage guidelines imposed by EOD and to immediately cease any use of EOD's trademarks that EOD determines, in its sole discretion, violate these terms.

2. **INTELLECTUAL PROPERTY.** All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how, and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "**Intellectual Property Rights**") in and to all documents, work product and other materials that are delivered to School under the Agreement or prepared by or on behalf of EOD in the course of implementing the Program (collectively, the "**Deliverables**") shall be owned exclusively by EOD. EOD hereby grants School a license to use all Intellectual Property Rights in the Deliverables free of additional charge and on a non-exclusive, non-transferable, non-sublicensable, fully paid-up, royalty-free and perpetual basis, solely to the extent necessary to enable School to make reasonable use of the Deliverables and the Program.

3. **CONFIDENTIALITY.** From time to time during the Term of the Agreement, either party (as the "**Disclosing Party**") may disclose or make available to the other party (as the "**Receiving Party**"), non-public, proprietary, and confidential information of Disclosing Party that, if disclosed in writing or other tangible form is clearly labeled as "confidential," or if disclosed orally, is identified as confidential when disclosed and within five (5) days thereafter, is summarized in writing and confirmed as confidential ("**Confidential Information**"); provided, however, that Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of Receiving Party's breach of this Section 4; (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was in Receiving Party's possession prior to Disclosing Party's disclosure hereunder; or (d) was or is independently developed by Receiving Party without using any Confidential Information. The Receiving Party shall: (x) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (y) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under the Agreement; and (z) not disclose any such Confidential Information to any person or entity, except to the Receiving Party's Group who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under the Agreement. If the Receiving Party is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to making such disclosure, use commercially reasonable efforts to notify Disclosing Party of such requirements to afford Disclosing Party the opportunity to seek, at Disclosing Party's sole cost and expense, a protective order or other remedy. For purposes of this Section 2 only, Receiving Party's Group shall mean the Receiving Party's affiliates and its or their employees, officers, directors, shareholders, partners, members, managers, agents, independent contractors, service providers, sublicensees, subcontractors, attorneys, accountants, and financial advisors.

4. **LIMITED WARRANTY.** EOD warrants that it shall implement the Program (a) using personnel of required skill, experience, and qualifications; and (b) in a timely, workmanlike, and professional manner in accordance with generally recognized industry standards for similar services. EOD (a) MAKES NO WARRANTIES EXCEPT FOR THOSE SET OUT ABOVE; AND (b) DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. EOD's sole and exclusive liability and School's sole and exclusive remedy for breach of the limited warranty set out in this Section shall be reperformance of the affected services. If EOD cannot reperform the services in compliance with the warranty set forth above within a reasonable time (but no more than 30 days) after School's written notice of such breach, School may, at its option, terminate the Agreement by serving written notice of termination in accordance with Section 7. EOD shall within 30 days after the effective date of such termination, refund to School a portion of the fees previously paid by School as of the date of termination corresponding to the defective Services.

5. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL EOD BE LIABLE TO SCHOOL OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT EOD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL EOD'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED TWO (2) TIMES THE AGGREGATE AMOUNTS PAID OR PAYABLE TO EOD PURSUANT TO THE AGREEMENT IN THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

6. **FURTHER ASSURANCES.** Each of the parties hereto shall use commercially reasonable efforts to, from time to time at the request of the other party, furnish the other party such further information or assurances, execute and deliver such additional documents, instruments, and conveyances, and take such other actions and do such other things, as may be reasonably necessary to carry out the provisions of the Agreement and give effect to the transactions contemplated hereby.

7. **NOTICE.** Each party shall deliver all communications in writing either in person, by certified or registered mail, return receipt requested and postage prepaid, by email, or by recognized overnight courier service, and addressed to the other party at the addresses set forth above (or to such other address that the receiving party may designate from time to time in accordance with this Section).

8. **APPLICABLE LAW.** The Agreement and all matters arising out of or relating to the Agreement, including tort and statutory claims are governed by, and construed in accordance with, the laws of Texas without giving effect to any conflict of laws provisions thereof that would result in the application of the laws of a different jurisdiction. Either party shall institute any legal suit, action, or proceeding arising out of or relating to the Agreement in the federal or state courts in each case located in Dallas County, Texas. EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY: (A) CONSENTS AND SUBMITS TO THE JURISDICTION OF THE AFOREMENTIONED COURTS; (B) WAIVES ANY OBJECTION TO THAT CHOICE OF FORUM BASED ON VENUE OR TO THE EFFECT THAT THE FORUM IS NOT CONVENIENT.

9. **ENTIRE AGREEMENT.** The Agreement contains the entire understanding of the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous written or oral understandings, agreements, representations, and warranties with respect to such subject matter.

10. **SEVERABILITY.** The invalidity, illegality, or unenforceability of any provision herein does not affect any other provision herein or the validity, legality, or enforceability of such provision in any other jurisdiction.

11. **AMENDMENT AND WAIVER.** The parties may not amend the Agreement except by written instrument signed by the parties. No waiver of any right, remedy, power, or privilege under the Agreement ("**Right(s)**") is effective unless contained in a writing signed by the party charged with such waiver. No failure to exercise, or delay in exercising, any Right operates as a waiver thereof. No single or partial exercise of any Right precludes any other or further exercise thereof or the exercise of any other Right.

12. **ASSIGNMENT AND DELEGATION.** Neither party may directly or indirectly assign, transfer, or delegate any of or all of its rights or obligations under the Agreement, voluntarily or involuntarily, including by change of control, merger (whether or not such party is the surviving entity), operation of law, or any other manner, without the prior written consent of the other party. Any purported assignment or delegation in violation of this Section shall be null and void.

13. **SUCCESSORS AND ASSIGNS.** The Agreement is binding upon and inures to the benefit of the parties and their respective successors and permitted assigns.

14. **THIRD-PARTY BENEFICIARIES.** Except for the parties, their successors and permitted assigns, there are no third party beneficiaries under the Agreement.

15. **COUNTERPARTS.** The Agreement may be executed in counterparts.