

Terms and Conditions

These Terms and Conditions govern the use of the Online Services, Implementation Services and Additional Services provided by CampusLogic, Inc., a Delaware corporation having offices at 1325 N. Fiesta Blvd. Suite 102, Gilbert, AZ 85233 (“CampusLogic”), to the Customer identified on any applicable Subscription Order Form. Capitalized terms in these Terms and Conditions shall have the meaning ascribed to them in Appendix A (Definitions).

1. DESCRIPTION OF THE SERVICES

- A. **Online Services.** CampusLogic agrees to provide to Customer on a subscription basis, and in exchange for the Subscription Fees, the Online Services as defined in any Subscription Order Form. CampusLogic may modify the features of the Online Services at its sole discretion; except that any modification shall not materially reduce the usability of the Online Services.
- B. **Implementation Services.** CampusLogic agrees to provide on a one-time basis, and in exchange for the Implementation Fees, the Implementation Services as defined in any Subscription Order Form.
- C. **Additional Services.** CampusLogic may offer custom development, custom reports, specialized training or other advanced services to Customer (collectively “Additional Services”). Additional Services shall be provided under a separate professional services agreement mutually agreed upon by CampusLogic and Customer.

2. FEES AND PAYMENT

- A. **Fees.** Unless otherwise specified in a Subscription Order Form, all Subscription Fees are subscription-based, not usage-based. Payment of Subscription Fees entitle Customer to access the Online Services specified in any executed Subscription Order Form. Implementation Fees are one-time fees due prior to the Service Effective Date, unless otherwise specified in any Subscription Order Form.
- B. **Payment.** Unless otherwise specified in a Subscription Order Form, Customer agrees to pay all Subscription Fees and Implementation Fees (collectively “Fees”) in advance. If any Fees are past due, CampusLogic may, without limiting CampusLogic’s other rights and remedies, suspend Online Services and all other CampusLogic services to Customer until such amounts are paid in full.

3. TERM AND TERMINATION

- A. **Term of Service.** Unless otherwise specified in any executed Subscription Order Form, all Online Services commence on the Service Effective Date and extend for a period of time specified in a Subscription Order Form (“Term of Service”) and will thereafter automatically renew for one-year periods until Termination as described herein.
- B. **Termination.** Unless otherwise specified in any Subscription Order Form, Customer may terminate its use of any Online Services at any time and for any reason without penalty by providing written notice to CampusLogic. During the Term of Service, CampusLogic may terminate a Subscription Order Form if Customer fails to make all payments when due or commits a material breach of

Customer Responsibilities as defined in any applicable Subscription Order Form. After the Term of Service, CampusLogic may terminate any Subscription Order Form at any time and for any reason by providing 90 days written notice to Customer.

- C. Obligations upon Termination. Other than Termination for Cause as described herein, CampusLogic will not refund to Customer any pre-paid Fees. Upon Termination of any Subscription Order Form for any reason, all rights and obligations of the parties under the applicable Subscription Order Form will terminate except for payment obligations and the surviving sections described in Section 9A of these Terms and Conditions.

4. CUSTOMER RESPONSIBILITIES

- A. Compliance. As the sole data owner and data controller of Customer Data, Customer shall (i) be responsible for ensuring that all Users comply with these Terms and Conditions, (ii) be solely responsible for the accuracy and legality of Customer Data and of the means by which Customer acquired Customer Data, and (iii) use the Online Services only in accordance with the Documentation and all applicable laws and government regulations.
- B. Access. Customer will use commercially reasonable efforts to prevent unauthorized access to or use of the Online Services, and notify CampusLogic promptly of any such unauthorized access or use. Customer will, and will cause its Users to, take reasonable steps to maintain the confidentiality of the security procedure and the user names and passwords. If Customer believes or suspects that any such information or instructions have been known or accessed by unauthorized persons, Customer will immediately act on such information.
- C. Restrictions. Customer shall not (i) make the Online Services available to anyone other than Users, (ii) sell, resell, rent, or lease the Online Services, (iii) use the Online Services to store or transmit infringing, libelous, or otherwise unlawful material, or to store or transmit material in violation of third-party rights, (iv) use the Online Services to store or transmit malicious code, (v) interfere with or disrupt the integrity or performance of the Online Services, or (vi) attempt to gain unauthorized access to the Online Services or their related systems or networks.
- D. Customer Administrators. Customer will assign at least one Customer Administrator as the primary Customer contact. Customer may change the Customer Administrator(s) upon written notice to CampusLogic. The maximum number of Customer Administrators to whom Customer Support is available will be specified in each Subscription Order Form. Each Customer Administrator is responsible to ensure that the Online Services are used in accordance with the applicable Subscription Order Form, Customer's responsibilities contained therein, and Customer's compliance with all applicable laws and regulations, under federal, state, local laws and regulations in every material respect. The Customer Administrator has the ability to control access to all features and access of any Online Services for all Users.
- E. Title IV Administration. CampusLogic and Customer agree that to the extent CampusLogic performs any function required by any statutory provision of or applicable to Title IV of the HEA, any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the HEA, such as, but not restricted to those Third Party Servicer functions as found in 34

CFR 668.2, CampusLogic will comply with the related contractual requirements as found in 34 CFR 668.25, including but not limited to:

- a. To the extent CampusLogic performs any of the aforementioned Third Party Servicer functions, CampusLogic will be jointly and severally liable with the Customer for any violation of Title IV, HEA requirements resulting from the functions performed by CampusLogic.
- b. CampusLogic will refer to the Office of Inspector General (OIG) of the Department any information indicating there is reasonable cause to believe that the Customer or an applicant for Title IV, HEA funds might have engaged in fraud or other criminal misconduct.
- c. If CampusLogic or Customer terminates the contract, or if CampusLogic stops providing services for the administration of a Title IV, HEA program, goes out of business, or files a petition under the Bankruptcy Code, CampusLogic will return to Customer all records in CampusLogic's possession pertaining to the Customer's participation in the program or programs for which services are no longer provided; and
- d. CampusLogic will not enter into a written contract with Customer for the administration of any aspect of the Customer's participation in any Title IV, HEA program, if—
 - i. CampusLogic has been limited, suspended, or terminated by the Secretary within the preceding five years;
 - ii. CampusLogic has had, during its two most recent audits of the its administration of the Title IV, HEA programs, an audit finding that resulted in CampusLogic's being required to repay an amount greater than five percent of the funds that it administered under the Title IV, HEA programs for any award year; or
 - iii. CampusLogic has been cited during the preceding five years for failure to submit audit reports required under Title IV of the HEA in a timely fashion;
 - iv. In the case CampusLogic has been subjected to a termination action by the Secretary, either CampusLogic, or one or more persons or entities that the Secretary determines (under the provisions of § 668.15) exercise substantial control over CampusLogic, or both, have not submitted to the Secretary financial guarantees in an amount determined by the Secretary to be sufficient to satisfy CampusLogic's potential liabilities arising from its administration of the Title IV, HEA programs; and
 - v. One or more persons or entities that the Secretary determines (under the provisions of § 668.15) exercise substantial control over CampusLogic have not agreed to be jointly or severally liable for any liabilities arising from its administration of the Title IV, HEA programs and civil and criminal monetary penalties authorized under Title IV of the HEA.

5. CAMPUSLOGIC WARRANTIES

- A. Compliance. CampusLogic represents, covenants and warrants that the Online Services shall (i) perform in accordance with the Documentation, (ii) be subject to the CampusLogic Service Level Agreement, incorporated herein by reference (iii) comply at all times with the CampusLogic Data Protection Policy, incorporated herein by reference (iv) be supported according to the CampusLogic Customer Support Guide, incorporated herein by reference, (v) comply at all times with the CampusLogic Privacy Policy, incorporated herein by reference (vi) not violate or infringe any

copyright, trade secret of any third party, and (vii) comply with all applicable laws and regulations in every material respect.

- B. Authority. CampusLogic represents, covenants and warrants it has full power and all necessary permits, licenses, approvals, authorizations, and registrations to perform the Online Services.

6. CONFIDENTIALITY

As used herein, "Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall maintain in strict confidence and shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of these Terms and Conditions and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with these Terms and Conditions and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

7. LIMITATION OF LIABILITY

EXCEPT FOR BREACHES OF CONFIDENTIALITY AND MISAPPROPRIATION OR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS AND CONDITIONS, OR ANY SUBSCRIPTION ORDER FORM REFERENCING THESE TERMS CONDITIONS, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT. THE FOREGOING SHALL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. MUTUAL INDEMNIFICATION

- A. Indemnification by CampusLogic. CampusLogic shall indemnify, defend and hold Customer harmless against any claim, demand, suit, loss cost, damages, or proceeding ("Claim") made or brought against Customer by a third party (i) arising out of any breach by CampusLogic under these Terms and Conditions, (ii) alleging that the use of the Online Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party, and shall indemnify Customer for any damages to the extent based upon such a claim, and for reasonable attorney's fees incurred thereby; provided, that Customer (a) promptly gives CampusLogic written notice of the Claim; (b) gives CampusLogic sole control of the defense and settlement of the Claim (provided that CampusLogic may not settle any Claim unless the settlement unconditionally releases Customer of all liability); and (c) provides to CampusLogic all reasonable assistance, at CampusLogic's expense.

- B. Indemnification by Customer. Customer shall indemnify, defend and hold CampusLogic harmless against any Claim made or brought against CampusLogic by third party (i) arising out of any breach by Customer under these Terms and Conditions, (ii) alleging that the Customer Data or Customer's use of the Online Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party or violates applicable law, and shall indemnify CampusLogic for any damages to the extent based upon such a claim, and for reasonable attorney's fees incurred thereby; provided, that CampusLogic (a) promptly gives Customer written notice of the Claim, (b) gives Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle any Claim unless the settlement unconditionally releases CampusLogic of all liability); and (c) provides to Customer all reasonable assistance, at Customer's expense.

9. GENERAL PROVISIONS

- A. Surviving Sections. Sections 6 (Confidentiality), 7 (Limitation of Liability), 8 (Indemnification) and 9 (General Provisions) shall survive termination of all Subscription Order Forms.
- B. Modifications to Terms and Conditions. CampusLogic reserves the right to modify these Terms and Conditions only with respect to prospective use of the Online Services, at any time, by providing notice of such modified terms to Customer. All Modifications will be posted on the CampusLogic website and Customers will be notified of such Modifications at least 30 days prior to posting. Modifications will be deemed accepted and become effective 30 days after such notice unless Customer first gives CampusLogic written notice of rejection of the Modification. Customer's continued use of the Online Service following the effective date of a Modification will confirm Customer's consent thereto.
- C. Intellectual Property. Customer acknowledges that CampusLogic is (i) the exclusive owner of the Online Services, including all features, design, functionality and reports and (ii) retains all right, title and interest in the Online Services. Customer agrees to not develop any service for use by others that is substantially similar to or that competes directly with the Online Services.
- D. Free Trials. Customer acknowledges that Free Trials of Online Services are provided "as is" and CampusLogic does not offer any CampusLogic Warranties for such services.
- E. Relationship of the Parties. The parties are independent contractors. The Subscription Order Forms and these Terms and Conditions do not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.
- F. Force Majeure. Whenever performance of the Online Services is substantially prevented beyond CampusLogic's reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, or Internet service provider failures or delays, such performance shall be excused and these Terms and Conditions deemed suspended during the continuation of such circumstance.
- G. Insurance. CampusLogic shall maintain in force at its sole expense a Commercial General Liability insurance policy or policies (including coverage for Contractual Liability, Errors and Omissions, Bodily injury, Property Damage and Personal Injury) with minimum limits of one million dollars

(\$1,000,000) per occurrence. Such policies shall cover the Online Services and CampusLogic shall furnish a copy of such policy to Customer at Customer's written request.

- H. **Governing Laws.** These Terms and Conditions are governed by and shall be construed in accordance with the laws of the United States and the State of Delaware, except for conflict of law provisions.
- I. **Publicity.** Customer agrees CampusLogic may use Customer's name, logo and profile for marketing programs, including, but not limited to, collateral, advertising and Web site references, subject to Customer's prior written approval.
- J. **Conflicts.** If any provision of a Subscription Order Form conflicts with any provision in these Terms and Conditions, the provisions of the Subscription Order Form shall take precedence.
- K. **Entire Agreement.** The Subscription Order Form(s) executed by the parties, these Terms and Conditions, and all schedules and addenda hereto or incorporated by reference constitute the entire Agreement between the parties and supersedes all prior proposals or representations, written or oral, regarding Online Services.

APPENDIX A - DEFINITIONS

“Agreement” means collectively these Terms and Conditions, the CampusLogic Service Level Agreement, the CampusLogic Support Guide, the CampusLogic Support Guide, the CampusLogic Data Protection Policy, the CampusLogic Privacy Policy and any Subscription Order Form mutually agreed to by Customer and CampusLogic.

“Customer Administrators” means the primary Customer contact(s) for communicating with CampusLogic concerning Support, or making any other request or providing any notice.

“Customer Data” means all electronic data or information submitted or used in connection with the Online Services by Customer, Users, and third parties on behalf of or pertaining to Customer, and authorities and agencies.

“Customer Support” means CampusLogic’s Technical Support on any Online Services to which a Customer has subscribed and as defined in the CampusLogic Customer Support Guide.

“Documentation” means CampusLogic’s published guides, manuals, configuration documents, online help system, and other User and system materials made available to Customer. CampusLogic reserves the right to add, delete, or modify the Documentation at any time.

“Malicious Code” means any virus, sniffer, back door, worm, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents, or programs.

“Online Services” means the right to use on a subscription basis the CampusLogic products, programs, features, and services specified in any Subscription Order Form.

“Service Effective Date” means the date specified on any Subscription Order Form whereby CampusLogic agrees to activate the Online Services to which the Customer has subscribed.

“Subscription Order Form” shall mean the document by which Customer orders any Online Services; each Subscription Order Form will incorporate these Terms and Conditions by reference.

“Termination for Cause” means any material breach by CampusLogic of its obligations with such breach remaining uncured at the end of 30 days following written notice by Customer of such breach.

“Users” means individuals who are authorized by Customer to use the Online Services on behalf of and for the benefit of Customer only, and who have created an account in the Online Services or have been supplied user identifications and passwords by Customer (or by CampusLogic at Customer’s request). “Student Users” may include but are not limited to Users who are Customer’s students, prospective students, parents or guardians or other authorized users of students or prospective students. “Customer Users” may include but are not limited to Users who are Customer employees or third parties with which Customer transacts business.