

## Terms and Conditions

These Terms and Conditions govern the use of the 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; AUTHORIZATION

- A. Services; Authorization. CampusLogic authorizes Customer and its authorized Users on a subscription basis, subject to payment of the Subscription Fees, to access and use the Services as defined in one or more Subscription Order Forms between CampusLogic and Customer, during the Term of Service and subject to the Agreement between CampusLogic and Customer, including without limitation the Service Level Agreement (“SLA”). CampusLogic has and will retain sole control over the operation, provision, maintenance, and management of the Services.
- B. Implementation Services. CampusLogic agrees to provide on a one-time basis, and in exchange for the Implementation Fees, the implementation services (“Implementation Services”) as defined in any Subscription Order Form.
- C. Additional Services; Changes. CampusLogic reserves the right, in its sole discretion, to make any changes to the Services that it deems necessary to maintain or enhance the quality or delivery of the Services to its customers, the competitive strength or market for the Services, the Services’ cost efficiency or performance, or to comply with applicable law. 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 for the fees agreed upon between CampusLogic and Customer.
- D. Student Users. Customer agrees that Student Users’ use of the Services may be conditioned upon acceptance of the CampusLogic terms of use and privacy policy available upon registration for use of the Services.
- E. Customer Obligations. Customer agrees to make available sufficient personnel, data, and information to CampusLogic as required for the Services to be completed in a timely manner. This includes, without limitation, applicable logos and trademarks, required data, including without limitation student data, any customized content, and sample student profiles and award amounts.

### 2. FEES AND PAYMENT

- A. Fees. Unless otherwise specified in a Subscription Order Form, all Subscription Fees are subscription-based, not usage-based. Implementation Fees are one-time fees due prior to the Service Effective Date, unless otherwise specified in any Subscription Order Form. Customer agrees to pay the fees set forth in each Subscription Order Form between CampusLogic and Customer (the “Fees”), in accordance with this Section 2. Except as may otherwise be set forth herein, all fees are non-refundable.
- B. Payment. Unless otherwise specified in a Subscription Order Form, Customer agrees to pay all Fees in advance on the due date specified in each applicable Subscription Order Form or within thirty (30) calendar days of the date of invoice therefor. Customer shall make all payments in US dollars

to the address or account on the Subscription Order Form or such other address or account as CampusLogic may specify from time to time.

- C. Fee Increases. CampusLogic may, in its sole discretion in accordance with this Section 2, increase Fees annually by providing electronic notice to Customer at least ninety (90) calendar days prior to commencement of the subsequent annual period during the Term of Service. Following such fee increase, if any, the applicable Subscription Order Form will be deemed amended accordingly.
- D. Reimbursable Expenses. To the extent applicable, Customer shall reimburse CampusLogic for out-of-pocket expenses incurred by CampusLogic in connection with performing the Services, subject to Customer's prior written approval and any applicable Customer policies.
- E. Taxes. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on CampusLogic's income. If applicable, Customer shall provide a certificate of tax exempt status.
- F. Suspension of Service. If any Fees are past due, CampusLogic may, without limiting CampusLogic's other rights and remedies, suspend 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 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 successive one-year periods unless terminated by either party by written notice at least sixty (60) calendar days prior to expiration of the then current Term of Service (each, a "Renewal Term," and collectively, with the Term of Service, the "Term").
- B. Termination.
  - a. Customer may terminate its use of the Services and the applicable Subscription Order Form at any time and for any reason; provided, however, that in the event Customer terminates this Agreement for convenience, then Customer shall not be entitled to a refund for the relevant subscription fee paid in advance for the existing Term of Service, and CampusLogic shall have no further obligation to provide the Services to Customer.
  - b. CampusLogic may terminate a Subscription Order Form if Customer fails to make payments when due or commits a material breach of Customer's obligations, representations, or warranties under the Agreement. CampusLogic may terminate a Subscription Order form at any time and for any reason by providing 90 days written notice to Customer.
  - c. Either party may terminate this Agreement, effective immediately upon written notice to the other party, if the other party: (i) becomes insolvent; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or Customer may terminate this Agreement, effective immediately upon written notice to CampusLogic, (iv) if funding for this

Agreement is allocated from a state or federal agency and such funding is not allocated for subsequent terms.

- C. Obligations upon Termination. Upon termination of any Subscription Order Form for any reason: (i) 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; (ii) CampusLogic will return or destroy all Customer Data in accordance with Section 7B of these Terms and Conditions; (iii) CampusLogic may disable all Customer and User access to the Services; and (iv) CampusLogic may retain Customer Data in its backups, archives, and disaster recovery systems until such Customer Data is deleted in ordinary course. Customer agrees to pay any and all reasonable costs for requested conversion and transition of Customer Data and CampusLogic agrees to use commercially reasonable efforts to assist Customer with such requested conversion and transition of Customer Data, subject to payment of applicable and agreed upon fees.

#### **4. CUSTOMER RESPONSIBILITIES**

- A. Compliance. 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 Services only in accordance with the Documentation and all applicable laws and government regulations, including without limitation the Family Educational Rights and Privacy Act (FERPA) and Title IV of the HEA.
- B. Access and Customer Cooperation. Customer will use commercially reasonable efforts to prevent unauthorized access to or use of the 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, or if any activity prohibited by Section 4.C below is occurring or threatened, Customer will immediately (i) take all reasonable and lawful measures within its control to stop the activity or threatened activity and to mitigate its effects, and (ii) promptly notify CampusLogic of such actual or threatened activity. Customer shall at all times during the Term of Service provide CampusLogic with such access to Customer Data, personnel, and systems as is necessary for CampusLogic to perform the Services in accordance with the Agreement.
- C. Restrictions on Use. Customer shall not, and shall not permit any other person or User to: (i) copy, modify, create derivative works or improvements of the Services; (ii) make the Services available to anyone other than Users; (iii) reverse engineer, disassemble, decompile, decode, adapt or otherwise attempt to derive or gain access to CampusLogic's source code; (iv) sell, resell, rent, lease, or otherwise make available the Services to any third party; (v) use the Services to store or transmit infringing, libelous, or otherwise unlawful material, or to store or transmit material in violation of third-party rights, or otherwise access or use the Services in any manner or for any purpose that infringes or violates Intellectual Property Rights of any third party; (vi) use the Services to store or transmit Malicious Code; (vii) interfere with or disrupt the integrity or performance of the Services; (viii) attempt to gain unauthorized access to the Services or their related systems or networks; or (ix) access or use the Services for purposes of competitive analysis of the Services, or to develop a competing software service or product or for any other purpose that is to the detriment or commercial disadvantage of CampusLogic. In the event Customer fails to comply with this section, CampusLogic may, without limiting CampusLogic's other rights and remedies, suspend the Services to Customer without incurring any obligation or liability, until such breach has been remedied to CampusLogic's reasonable satisfaction.

- 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 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 Services for all Users.
5. **TITLE IV ADMINISTRATION**. CampusLogic and Customer agree that, if the Services are deemed to be, and solely to the extent CampusLogic performs, a 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, then CampusLogic will comply with all applicable statutory and regulatory provisions solely to the extent applicable to the Title IV functions provided by CampusLogic, and the related contractual requirements as found in 34 CFR 668.25, as set forth below. Additionally, CampusLogic agrees to abide by any special arrangements, agreements, limitations, suspension, and terminations that apply to Customer, and which Customer provides copies of to CampusLogic, under Title IV of the HEA.
- a. Solely to the extent it is agreed or acknowledged that CampusLogic performs a Third Party Servicer function under Title IV of the HEA, then CampusLogic will be jointly and severally liable with the Customer for any violation of Title IV of the 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 of the 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 contract with Customer for the administration of any aspect of the Customer's participation in any Title IV of the 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 of the 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 of the 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 event 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 of the 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.

## **6. REPRESENTATIONS AND WARRANTIES**

- A. Services Warranty; Compliance with Law. CampusLogic represents, covenants and warrants to Customer that CampusLogic will (i) perform the Services using personnel of required skill, experience, or qualifications and in accordance with generally recognized industry standards for similar services and will devote adequate resources to meet its obligations under this Agreement; and (ii) comply with all applicable laws and regulations in every material respect. To the extent that such regulations apply to any Services, CampusLogic will comply with (i) 16 CFR Part 314, "Standards for Safeguarding Customer Information" and (ii) handling, processing, security and protection of confidential information which is "non-public personal information" (as defined in the Gramm-Leach-Bliley Act) and other requirements that are specifically required of an educational institution under the Federal Trade Commission's Privacy of Consumer Financial Information and/or Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99).
- B. Authority. CampusLogic represents, covenants and warrants to Customer it has full power and all necessary permits, licenses, approvals, authorizations, and registrations to perform the Services.
- C. Customer Warranty. Customer represents, covenants, and warrants to CampusLogic that it has and will have the necessary rights and consents in and relating to the Customer Data that is provided to CampusLogic under this Agreement.
- D. Mutual Representations. Each party represents and warrants to the other party that it has the full right, power, and authority to enter into and perform its obligations and grant the rights under this Agreement, and when executed and delivered by both parties, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.
- E. DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTION 6, CAMPUSLOGIC HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, CAMPUSLOGIC MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES WILL OPERATE WITHOUT INTERRUPTION, OR BE ERROR-FREE. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY CONCERNING ANY THIRD-PARTY MATERIALS IS STRICTLY BETWEEN CUSTOMER AND SUCH THIRD PARTY.

## **7. DATA**

- A. Customer Data.
  - a. Ownership. As between Customer and CampusLogic, Customer is and will remain the sole and exclusive owner of all right, title, and interest in and to all Customer Data, subject to

the rights and permissions granted herein. CampusLogic's use and possession of Customer Data is solely as Customer's agent. Customer hereby grants all such rights and permissions in or relating to Customer Data: (i) to CampusLogic and its authorized personnel and subcontractors solely as necessary to perform the Services; and (ii) to CampusLogic as necessary to enforce this Agreement and perform hereunder.

- b. Access and Use of Customer Data. Customer may access and copy any Customer Data provided to CampusLogic for use in the Services at any time and CampusLogic will use commercially reasonable efforts to facilitate such access and copying promptly after Customer's request. CampusLogic maintains only that information which Customer has asked it to process and processes it only upon, and in accordance with, Customer's direction and instructions. Unless it receives Customer's prior written consent, CampusLogic: (i) will not access or use Customer Data other than as necessary to facilitate the applicable Services; and (ii) will not give any third party access to Customer Data. CampusLogic will not permit its employees to access Customer Data, except to the extent necessary to provide the Services under the applicable Subscription Order Form. Notwithstanding the foregoing, CampusLogic may disclose Customer Data as required by applicable law or by proper legal or governmental authority. CampusLogic will give Customer prompt notice of any such legal or governmental demand and reasonably cooperate with Customer in any effort to seek a protective order or otherwise to contest such required disclosure, at Customer's expense.
  - c. Customer Data Retention and Deletion. CampusLogic will retain any Customer Data in its possession until Erased as defined herein. CampusLogic will Erase: (i) all copies of Customer Data promptly after Customer's written request and (ii) all copies of Customer Data no sooner than 60 days and no longer than 120 days after Termination of any applicable Subscription Order Form for Services unless otherwise required by law. Promptly after Erasure, CampusLogic will certify such Erasure in writing to Customer. ("Erase" and "Erasure" refer to the destruction of data so that no copy of the data remains or can be accessed or restored in any way.)
- B. De-Identified Data; Platform Data. CampusLogic may create de-identified and aggregated data (the "De-Identified Data") and Customer grants CampusLogic a non-exclusive, irrevocable right and license to use such De-Identified Data in its business, including in its development of products and services; provided that such De-Identified Data does not identify Customer or any of Customer's Users and is aggregated with data from other customers. CampusLogic may use certain data capture and analysis tools to compile and extract statistical information and platform data generated from the use and operation of the Services ("Statistical Data"). Such Statistical Data shall be owned exclusively by CampusLogic and CampusLogic shall retain all intellectual property rights in such Platform Data. CampusLogic shall comply with all applicable privacy laws and may use such Statistical Data for any lawful purpose, provided such use does not permit the identification of Customer or any User.
- C. Data Backup. The Services do not replace the need for Customer to maintain regular data backups or redundant data archives. CAMPUSLOGIC HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION, OR RECOVERY OF CUSTOMER DATA.
- D. Customer Control and Responsibility. Customer has and will retain sole responsibility for (i) all Customer Data, including the legality, accuracy, integrity, and completeness of its content and use; (ii) all information, instructions, and materials provided by or on behalf of Customer or any User in connection with the Services, or Customer's information technology infrastructure; and (iii) all access

to and use of the Services directly or indirectly by Customer or its Users. Customer assumes all risk and liability related to any claim arising from the accuracy, quality, integrity, and completeness of such data, information, and materials, and all access to and use of the Services directly or indirectly by Customer or its Users. CampusLogic is not responsible for Customer's compliance with its data security practices or privacy policies. Customer shall ensure that its Customer Data are being utilized and shared in accordance with all applicable federal and state statutes and regulations including, but not limited to, [FERPA](#), the [Higher Education Act](#), and the [Privacy Act](#) and CampusLogic shall not be liable for any violations thereof by Customer not related to the Services.

- E. **Sandbox.** CampusLogic will grant Customer a non-exclusive, non-transferable, limited right to access and use a training and testing "sandbox" environment (e.g. the applicable software hosted in a secure online environment by CampusLogic), solely for the limited purpose of training authorized users and testing integration capabilities with the Services and for no other purposes. Customer agrees not to use or reproduce the training and testing "sandbox" environment except as provided herein and further agrees not to upload actual student or customer data into such environment. CampusLogic shall have no responsibility for any actual student or customer data uploaded to such environment and Customer agrees to defend, indemnify, and hold harmless CampusLogic for any liability related to or arising out of a breach of this section.
- F. **Security and Breach Notification.** CampusLogic will implement commercially reasonable and appropriate safeguards to protect Customer Data in accordance with applicable laws and regulations. CampusLogic will promptly notify Customer of any unauthorized disclosure of Customer Data that comes to CampusLogic's attention. CampusLogic will coordinate with Customer and Users in the event of any exposure or break-in of the Services or CampusLogic's security protocols or networks, in the event student financial information or PII is disclosed, and any notification to the affected Users shall be agreed upon by CampusLogic and Customer.

## 8. INTELLECTUAL PROPERTY.

- A. Customer acknowledges that CampusLogic is (i) the exclusive owner of the Services, including all features, design, functionality and reports, and (ii) retains all right, title and interest in the Services, including all Intellectual Property Rights therein. Nothing in this Agreement grants any right, title, or interest in or to any Intellectual Property Rights in or relating to, the Services.
- B. Neither party hereto shall use the trademarks of the other party without the prior written consent of the other party, provided however that Customer hereby grants to CampusLogic the limited license to use the Customer's trademarks as required for operation of the Services.

## 9. CONFIDENTIALITY

- A. 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. Without limiting the foregoing, all CampusLogic Services, data, and materials are the Confidential Information of CampusLogic. 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 the Agreement; 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. The Receiving Party shall ensure its authorized representatives' compliance with, and be responsible for and liable for its authorized representatives' non-compliance with, the terms of this Section 9.

- B. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (i) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information's being disclosed or made available to the Receiving Party in connection with this Agreement; (ii) was or becomes generally known by the public other than by the Receiving Party's or any of its authorized representatives noncompliance with this Agreement; (iii) was or is received by the Receiving Party on a non-confidential basis from a third party; or (iv) was or is independent developed by the Receiving Party without reference to or use of the Confidential Information.
- C. If the Receiving Party or any of its authorized representatives is compelled by applicable law to disclose any Confidential Information the, the extent permitted by applicable law, the Receiving Party shall: (i) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy; and (ii) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. Subject to this subsection, the Receiving Party shall disclose only that portion of the Confidential Information that, on the advice of Receiving Party's counsel, the Receiving Party is legally obligated to disclose.

## **10. LIMITATION OF LIABILITY**

EXCEPT FOR MISAPPROPRIATION OR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, IN NO EVENT SHALL CAMPUSLOGIC'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, INCLUDING WITHOUT LIMITATION 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. THE FOREGOING LIMITATION APPLIES NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR ANY BUSINESS INTERRUPTION OR DELAY OR LOSS OF DATA 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.

## **11. MUTUAL INDEMNIFICATION**

- A. Indemnification by CampusLogic. CampusLogic shall indemnify, defend and hold Customer, and Customer's officers, directors, employees, and agents (each, a "Customer Indemnitee") harmless from and against any claim, demand, suit, loss cost, damages, or proceeding ("Claim") made or brought against a Customer Indemnitee by a third party (i) arising out of a CampusLogic's negligence or willful misconduct or a material breach of CampusLogic's obligations under Section 7 (Data) or Section 9 (Confidentiality); or (ii) alleging that the use of the Services infringes or misappropriates the intellectual property rights of a third party. Such indemnification obligations are limited solely to the extent such Claim does not arise from any modification of the Services by Customer, or access to or use of the Services in combination with any hardware, system, software, network, or other



materials not provided or authorized by CampusLogic, or access to or use of the Services in violation of any applicable laws and regulations or for a purpose not contemplated by the Documentation. CampusLogic 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.

If the Services violate any third-party Intellectual Property Right, or if Customer's or Users' use of the Services is threatened to be enjoined, CampusLogic may, at its sole cost and expense, obtain the right for Customer to continue to use the Services as contemplated by the Agreement; modify or replace the Services to make the Services non-infringing; or by written notice to Customer, terminate this Agreement and provide Customer with a pro-rated refund of prepaid and unused fees for the then-current annual term. THIS SECTION SETS FORTH CUSTOMER'S SOLE REMEDY AND CAMPUSLOGIC'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIM THAT THE SERVICES INFRINGE OR OTHERWISE VIOLATE ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

- B. Indemnification by Customer. To the extent not precluded by applicable law, Customer shall indemnify, defend and hold CampusLogic, and CampusLogic's officers, directors, employees, and agents (each, a "CampusLogic Indemnitee") harmless against any Claim made or brought against a CampusLogic Indemnitee by third party alleging that (i) the Customer Data or Customer's use of the Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party or (ii) Customer's violation of applicable law, including without limitation any violations of Title IV of the HEA. Customer 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.

## **12. CUSTOMER SUPPORT**

- A. Scope. Customer Support will consist of: (i) telephone and email support; (ii) correction of errors to keep the Services in conformance with the user Documentation included in the Services; and (iii) updated versions of the Services provided by CampusLogic Customer Support to its general customer base of subscribers at no additional charge. Support will not include: (i) set-up, training, installation, or configuration of hardware and/or software required for the Customer to access the Online Service; or (ii) custom reporting.
- B. CampusLogic will provide customer support pursuant to its Customer Support Guide then in effect, which may be located here: <http://campuslogic.com/CustomerSupportGuide>. CampusLogic agrees that it will not materially decrease the levels of support current provided in its Customer Support Guide. Customer agrees and acknowledges that CampusLogic may modify its Customer Support Guide at any time and that such modifications will be posted on the CampusLogic website.
- C. The Customer Administrator shall initiate all requests for Support. The Customer Administrator must be trained, qualified and authorized to communicate all necessary information, perform

diagnostic testing under the direction of a CampusLogic customer support representative and be available during the performance of any support if required.

### **13. GENERAL PROVISIONS**

- A. **Surviving Sections.** Sections 6 (Representations and Warranties), 7 (Data), 8 (Intellectual Property), 9 (Confidentiality), 10 (Limitation of Liability), 11 (Mutual Indemnification), and 13 (General Provisions) shall survive termination of this Agreement.
- B. **Modifications.** CampusLogic reserves the right to modify these Terms and Conditions, at any time, by providing notice of such modified terms to Customer as set forth herein. All modifications will be posted on the CampusLogic website ([www.campuslogic.com/legal](http://www.campuslogic.com/legal)) and Customer will be notified of such modifications at least thirty (30) days prior to posting of the modified Terms and Conditions. Modifications will be deemed accepted and become effective thirty (30) days after the date of such notice unless Customer provides CampusLogic written notice of rejection of the modifications during such thirty (30) day period. Customer's continued use of the Service following the effective date of the modification and silence during the notice period will constitute Customer's consent to the modified Terms and Conditions.
- C. **The Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.**
- D. **Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- E. **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective permitted assigns and nothing herein, express or implied, is intend to or shall confer upon any other person any legal or equitable right.
- F. **Relationship of the Parties.** The parties are independent contractors. The Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties, and neither party shall have the authority to contract for or bind the other party in any matter whatsoever.
- G. **Subcontractors.** CampusLogic may from time to time in its discretion engage third parties to perform certain Services.
- H. **Force Majeure.** Whenever performance of the 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.
- I. **Notices.** All notices, requests, and other communications hereunder have binding legal effect only if in writing and addressed to a party at the contact information specified in the applicable Subscription Order Form. Notices sent in compliance with this section will be deemed effectively given (i) when received, if sent by a nationally recognized overnight courier, or (ii) when sent, if by email, in each case with confirmation of transmission.

- J. Equitable Relief. Each party acknowledges and agrees that a breach of such party's obligations under Section 9 (Confidentiality) would cause the other party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach, the other party will be entitled to equitable relief that may be available from any court, without any requirement to post a bond or security. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.
- K. 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.
- L. 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.
- M. Entire Agreement. The Subscription Order Form(s) executed by the parties, these Terms and Conditions and the CampusLogic Service Level Agreement (both available at [www.campuslogic.com/legal](http://www.campuslogic.com/legal)), together with all schedules and addenda hereto or incorporated by reference constitute the entire Agreement between the parties and supersedes all prior proposals or representations, contracts or agreements, whether written or oral, regarding the Services. Notwithstanding any prior agreements or anything to the contrary in any Subscription Order Form(s), these Terms and Conditions and the Service Level Agreement shall supersede and replace in their entirety all prior versions of the CampusLogic Terms and Conditions, Data Protection Policy, Customer Support Guide, and Service Level Agreement, shall exclusively govern the Services provided, and the Agreement shall be defined as set forth in these Terms & Conditions.
- N. Attorneys' Fees. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either party hereto against the other party arising out of or related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing party.

## **APPENDIX A - DEFINITIONS**

“Agreement” means collectively these Terms and Conditions, the CampusLogic Service Level Agreement, and one or more Subscription Order Forms executed on behalf of Customer and CampusLogic, each incorporated herein by reference.

“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 provided to CampusLogic in connection with the Services by Customer, and third parties on behalf of or pertaining to Customer, including without limitation all data collected from Customer’s students and parents.

“Customer Users” may include but are not limited to Users who are Customer employees or third parties with which Customer transacts business.

“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.

“Intellectual Property Rights” means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

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

“Services” means the right to use, on a subscription basis, the CampusLogic products, programs, features, and services specified in all Subscription Order Forms between CampusLogic and a Customer. Services shall include the Implementation Services and Additional Services, if any.

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

“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.

“Subscription Order Form” shall mean the document by which Customer orders any Services; each Subscription Order Form will incorporate these Terms and Conditions and the CampusLogic Service Level Agreement by reference, each of which is incorporated into the Agreement.

“Users” means individuals who are authorized by Customer to use the Services on behalf of and for the benefit of Customer only, and who have created an account in the Services or have been supplied user identifications and passwords by Customer (or by CampusLogic at Customer’s request).