

Clever Services Agreement

This Services Agreement (the “Agreement”), effective as of the last date of signature on the signature page (the “Effective Date”), is by and between Clever, Inc., a Delaware corporation with offices located at 1263 Mission Street, San Francisco, CA (“Clever”, “our”, or “we”) and the school district or school listed on the signature page below (“you”, “your”, or “School”). The parties agree as follows:

This Agreement applies to you and the related entities and organizations that sign up to use the Services, including but not limited to administrators who access the Services (as defined in Section 1 below) on your behalf, as well as all non-School visitors, users, and others, including students, teachers, and their parents, who use the Services (such individuals and Schools, collectively, “Users” or “you”). You represent and warrant that you are an authorized representative of the School with the authority to bind the School to this Agreement and that you agree to this Agreement on the School’s behalf.

SECTION 1. WHAT ARE CLEVER’S SERVICES AND WHO CAN USE THEM?

What do we do? We provide Schools both data integration and single sign-on functionality, making it easier for Schools to choose, deploy, and control software applications made available by Developers that are used by their teachers and students as well as to use certain software we may make available to access the Services via a mobile device (an “App”).

You’re allowed to use the Services only if you can form a binding contract with Clever, and only in compliance with this Agreement and all applicable local, state, national, and international laws, rules and regulations. If you’ve been removed from the Services previously, you’re not allowed to use them again.

Subject to the terms and conditions of this Agreement, Clever grants to you permission to access and use the Services. We reserve all rights not expressly granted to you in the Services and the Clever Content (as defined below). We may terminate this license at any time for any or no reason.

i) DETAILS ABOUT THE CLEVER SERVICES

Your Clever account gives you access to our Services, but don’t sign up on behalf of a School if you do not have the requisite authority to do so. Once you sign up, you are responsible for your account and any data associated with it.

Your Clever account gives you access to the Services and functionality we make available from time to time and at our discretion, which may include single sign-on capability for certain applications made available by Developers. We maintain different types of accounts for different types of Users. If you open a Clever account on behalf of a School or a Developer, then (a) “you” includes you and that entity, and (b) you represent and warrant that you are an authorized representative of the entity with the authority to bind the entity to this Agreement and that you agree to this Agreement on the entity’s behalf.

Remember: you are responsible for any activity that occurs on your account, you may never use someone else’s account without permission, and you must keep your account password secure. We recommend using “strong” passwords (passwords that use a combination of upper and lower case letters, numbers and symbols, and are not reused with any other service) with your account to avoid unauthorized use. Please let us know immediately if you think your account’s security has been compromised so we can help; we are not liable for any losses of any kind caused by any unauthorized use of your account.

ii) WHAT CONTROL DO I HAVE OVER MY USE OF THE SERVICES?

You may control your profile and how you interact with the Services by changing the settings in your settings page. By providing your email address to us you consent to our using the email address to send you Services-related notices, including any required legal notices and other messages, such as additions or changes to the Services and/or notices of product offers. You may opt out or change your preferences in your settings page. While we need your email address to send you important Services-related notices, you can always ask us to stop sending you certain marketing messages. Opting out may prevent you from receiving email messages regarding updates, improvements, or offers.

iii) RESTRICTED USES

Please don't do anything to harm our product or try to hack our service. Specifically, by using the Services, you agree not to do any of these things: (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 Clever 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 our infrastructure; (vi) transmit any malicious 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 your affiliation with a person or entity, conducting fraud, hiding or attempting to hide your 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 we use 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.

We continually update our Services to offer the best possible product. While we plan to continue to offer and improve our Services, we may, without prior notice, change, cancel, create usage limits for, or permanently or temporarily stop offering or allowing you access to the Services generally ("Service Changes"). While we'll try to give you advance notice of Service Changes that will adversely affect you, this might not be practical or possible and we retain the right to make Service Changes without notice and liability for any reason. If this Agreement ends you continue to be bound by it in any interactions you may have with the Services.

You are fully responsible for your interactions with other Users, and we have no liability for your interactions with any other Users, or for any User's actions or inactions with respect to you.

iv) ADDITIONAL TERMS APPLICABLE TO OUR APP

To use any App you must have a mobile device that is compatible with the App. Company does not warrant that the App will be compatible with your mobile device. You may use mobile data in connection with the App and may incur additional charges from your wireless provider for these services. You agree that you are solely responsible for any such charges. Company hereby grants you a non-exclusive, non-transferable, revocable license to use a compiled code copy of the App for one Company User Account on one mobile device owned or leased solely by you, for your personal use. You may not: (i) modify, disassemble, decompile or reverse engineer the App, except to the extent that such restriction is expressly prohibited by law; (ii) rent, lease, loan, resell, sublicense, distribute or otherwise transfer the App to any third

party or use the App to provide time sharing or similar services for any third party; (iii) make any copies of the App; (iv) remove, circumvent, disable, damage or otherwise interfere with security-related features of the App, features that prevent or restrict use or copying of any content accessible through the App, or features that enforce limitations on use of the App; or (v) delete the copyright and other proprietary rights notices on the App. You acknowledge that Company may from time to time issue upgraded versions of the App, and may automatically electronically upgrade the version of the App that you are using on your mobile device. You consent to such automatic upgrading on your mobile device, and agree that the terms and conditions of this Agreement will apply to all such upgrades. Any third-party code that may be incorporated in the App is covered by the applicable open source or third-party license EULA, if any, authorizing use of such code. The foregoing license grant is not a sale of the App or any copy thereof, and Company or its third-party partners or suppliers retain all right, title, and interest in the App (and any copy thereof). Any attempt by you to transfer any of the rights, duties or obligations hereunder, except as expressly provided for in this Agreement, is void. Company reserves all rights not expressly granted under this Agreement. If the App is being acquired on behalf of the United States Government, then the following provision applies. The App will be deemed to be “commercial computer software” and “commercial computer software documentation”, respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, 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 these Terms of Service and is prohibited except to the extent expressly permitted by these Terms of Service. The App originates in the United States, and is subject to United States export laws and regulations. The App may not be exported or re-exported to certain countries or those persons or entities prohibited from receiving exports from the United States. In addition, the App may be subject to the import and export laws of other countries. You agree to comply with all United States and foreign laws related to use of the App and the Services.

The following applies to any App you acquire from the Apple App Store (“Apple-Sourced Software”): You acknowledge and agree that this Agreement is solely between you and Company, not Apple, Inc. (“Apple”) and that Apple has no responsibility for the Apple-Sourced Software or content thereof. Your use of the Apple-Sourced Software must comply with the App Store Terms of Service. You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Apple-Sourced Software. In the event of any failure of the Apple-Sourced Software to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the Apple-Sourced Software to you; to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Apple-Sourced Software, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be solely governed by this Agreement and any law applicable to Company as provider of the software. You acknowledge that Apple is not responsible for addressing any claims of you or any third party relating to the Apple-Sourced Software or your possession and/or use of the Apple-Sourced Software, including, but not limited to: (i) product liability claims; (ii) any claim that the Apple-Sourced Software fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation; and all such claims are governed solely by this Agreement and any law applicable to Company as provider of the software. You acknowledge that, in the event of any third-party claim that the Apple-Sourced Software or your possession and use of that Apple-Sourced Software infringes that third party’s intellectual property rights, Company, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this Agreement. You and Company acknowledge and agree that Apple, and Apple’s subsidiaries, are third-party beneficiaries of this Agreement as relates to your license of the Apple-Sourced Software, and that, upon your acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement as relates to your license of the Apple-Sourced Software against you as a third-party beneficiary thereof.

SECTION 2. RIGHTS IN OUR CONTENT

“Student Data” is any information (in any format) that is directly related to any identifiable current or former student that is maintained by a School, and may include “educational records” as defined by the Family Educational Rights and Privacy Act (“FERPA”) that Schools provide to us. While we may need to access Student Data to provide the Services to you, Schools own the Student Data and remain responsible for it. Our Additional Terms of Use for Schools, Additional Terms of Use for Developers, and Privacy Policy provide more detail around how we handle Student Data. Current versions of our Additional Terms of Use for Schools and Privacy Policy are included as Exhibits.

“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 or the applications made available by Developers, the Services and all materials made available to you 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 “Clever Content”), and all related Intellectual Property Rights, are the exclusive property of Clever 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 you agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit or create derivative works from any Clever Content. To be clear: any use of the Clever Content for a purpose not expressly permitted by this Agreement is strictly prohibited.

If you send us ideas or comments about our Services, you agree that we may freely use or reference those ideas and comments and we do not owe you any payment or have any other obligation of any kind for such ideas or comments.

SECTION 4. GENERAL LEGAL TERMS

i) CLEVER DATA

Certain parts of the Services may allow you to obtain or access analytics or other data or information associated with your account (“Clever Data”). The data elements we collect and use to create Clever Data depends on your SIS type and the applications you are working with. You can find the data elements used by each application by going to your dashboard.

Clever Data is licensed to you for your use on a limited basis, and is governed solely by the terms of this Agreement and available for distribution only at our sole discretion. Clever owns the account you use to access the Services along with any rights of access or rights to data stored by or on behalf of Clever on Clever servers (except with respect to any Student Data that we may be storing for you), including but not limited to any data representing any or all of your Clever Data. Clever has the right to manage, control and even eliminate Clever Data, except that Clever may only use Student Data as specifically permitted by this Agreement.

This next sentence is in bold letters because it’s important: **You understand and agree that any data, account history and account content residing on Clever’s servers may be deleted at any time for any reason in Clever’s sole discretion, with or without notice and with no liability of any kind. We do not provide or guarantee, and expressly disclaim, any value, cash or otherwise, attributed to any data residing on Clever’s servers. If you’re a school, you should be absolutely sure to keep secure copies of Student Data in your Student Information System (“SIS”) or in other secure storage. You should not rely on us to provide copies of or access to your Student Data.**

ii) PRIVACY AND SECURITY

We take very seriously the privacy of our users, including schools, teachers, parents, and students. By using the Services you consent to the collection, use and disclosure of your information (including but not limited to Student Data) as set forth in our Privacy Policy and, if you're a School, in the Additional Terms of Use for Schools, and to have your information (including but not limited to Student Data) collected, used, transferred to and processed in the United States pursuant to our [Privacy Policy](#) (Exhibit B).

iii) THIRD-PARTY SERVICES

Our website may contain links to third-party websites, services (including but not limited to applications made available by Developers), or other materials or information that are not owned or controlled by us. Keep in mind that we do not endorse or assume any responsibility for any third-party sites, information, materials, products, or services (including but not limited to applications made available by Developers). If you access a third party website or application made available by Developers from the Services, you understand that you do so at your own risk, and you understand that this Agreement, the [Additional Terms of Use for Schools](#) (Exhibit A), [Additional Terms of Use for Developers](#), and our [Privacy Policy](#) (Exhibit B) do not apply to your use of those sites or services—those sites and services have their own applicable terms and policies. Additionally, your dealings with Developers found on the Services, including payment, use of your Student Data by the Developers, and any other terms (such as warranties or privacy policies) are only between you and such Developers. We are not responsible for any loss or damage of any sort relating to your dealings with such Developers.

iv) INDEMNITY

You agree to defend, indemnify and hold harmless Clever 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) your use of and access to the Services, including any data or content transmitted or received by you; (ii) your violation of any term of this Agreement, including but not limited to your breach of any of the representations and warranties; (iii) your violation of any third-party right, including but not limited to any right of privacy or Intellectual Property Rights; (iv) your violation of any applicable law, rule or regulation, including but not limited to FERPA, the Protection of Pupil Rights Amendment ("PPRA"), and the Children's Online Privacy and Protection Act ("COPPA"); (v) any content or information that is submitted via your account; or (vi) any other party's access and use of the Services with your unique username, password or other appropriate security code.

v) WARRANTY DISCLAIMER

These next few sections are bold lettered so we can be sure we have your attention (conspicuous code). Formally, this section was in capital letters, but that makes this important information even more difficult to read. Again, please feel free to contact us by visiting our Help Center if any of this is unclear or if you have any questions about what these sections mean.

The services is provided on an "as is" and "as available" basis. Use of the services is at your 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, Clever, its subsidiaries, its affiliates, and its licensors do not warrant that the content is accurate, reliable or correct; that the services will meet your requirements; that

the services will be available at any particular time or location, uninterrupted; 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 your own risk and you will be solely responsible for any damage to your computer system or loss of data that results from such download or your use of the services.

We do 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 we will not be a party to or in any way monitor any transaction between you 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 you.

vi) LIMITATION OF LIABILITY

To the maximum extent permitted by applicable law, in no event shall Clever, 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 Clever be responsible for any damage, loss or injury resulting from hacking, tampering or other unauthorized access or use of the services or your account or the information contained therein.

To the maximum extent permitted by applicable law, Clever 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 your access to or use of our services; (iii) any unauthorized access to or use of our 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 malicious software agents that may be transmitted to or through our 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) content you create or the defamatory, offensive, or illegal conduct of any third party. In no event shall Clever, its affiliates, agents, directors, employees, suppliers, or licensors be liable to you for any claims, proceedings, liabilities, obligations, damages, losses or costs in an amount exceeding the amount you paid to Clever 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 Clever 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.

The Services are controlled and operated from US-based facilities, and we make no representations that they're appropriate or available for use in other locations. If you access or use the Services from other jurisdictions, you understand that you're entirely responsible for compliance with all applicable United States and local laws and regulations, including but not limited to export and import regulations. Because we have to say this, you may not use the Services if you are a resident of a country embargoed by the United States, or are a foreign person or entity blocked or denied by the United States government.

vii) GOVERNING LAW

You agree 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 us, 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. You agree to submit to the personal jurisdiction of the federal and state courts located in Santa Clara County, California for any actions related to this Agreement.

viii) SEVERABILITY AND WAIVER

This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by us in accordance with the terms of our Privacy Policy. This Agreement, together with any amendments and any additional agreements you may enter into with Clever in connection with the Services including other agreements referenced herein, constitute the entire agreement between you and Clever 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 Clever'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. Neither party will hold themselves out to be joint venturers, and neither party is authorized or empowered to act as the agent of the other.

IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized representatives to sign this Agreement as set forth below.

School

Clever Inc.

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:

Address: