



Boone County High School, KY

Quote created on September 15, 2021 - Reference: 20210915-102508964

Boone County High School

KY

7056 Burlington Pk

Florence, KY 41042

Casey Jaynes

casey.jaynes@boone.kyschool

s.us

Jennie LaMothe

Director of School-Based
Services, NaviGo College &

Career Prep Services, a
division of Learning Grove
jlamothe@learning-grove.org

8598665363

Products & Services

Summit Academic Advising Site License

1 x ~~\$3,000.00~~

High School Site License - Single Location

\$1,000.00 discount **\$2,000.00**

*Unlimited admins, teachers and students

*Aptitude-based talent discovery

for 1 year

*Career guidance platform

*Insights analytic tools, reporting suite and admin dashboard

*License expires 12 months (365 days) from date of purchase

One-time discount **\$1,000.00**

One-time subtotal **\$2,000.00**

Total **\$2,000.00**

This quote expires on December 14, 2021.



Conner High School, KY

Quote created on September 15, 2021 - Reference: 20210915-102206539

Conner High School KY

Hebron, KY

Casey Jaynes

casey.jaynes@boone.kyschool

s.us

Jennie LaMothe

Director of School-Based
Services, NaviGo College &

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*Aptitude-based talent discovery

for 1 year

*Career guidance platform

*Insights analytic tools, reporting suite and admin dashboard

*License expires 12 months (365 days) from date of purchase

One-time discount \$1,000.00

One-time subtotal \$2,000.00

Total \$2,000.00

This quote expires on December 14, 2021.



Randall K. Cooper High School, KY

Quote created on September 15, 2021 - Reference: 20210915-102907436

**Randall K. Cooper High
School KY**

8330 Us Highway, 42
Union, KY 41042
United States

Casey Jaynes

casey.jaynes@boone.kyschool
s.us

Jennie LaMothe

Director of School-Based
Services, NaviGo College &
Career Prep Services, a
division of Learning Grove
jlamothe@learning-grove.org
8598665363

Products & Services

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High School Site License - Single Location

\$1,000.00 discount \$2,000.00

*Unlimited admins, teachers and students

for 1 year

*Aptitude-based talent discovery

*Career guidance platform

*Insights analytic tools, reporting suite and admin dashboard

*License expires 12 months (365 days) from date of purchase

One-time discount **\$1,000.00**

One-time subtotal **\$2,000.00**

Total **\$2,000.00**

This quote expires on December 14, 2021.



Larry A. Ryle High School, KY

Quote created on September 15, 2021 - Reference: 20210915-102704999

Larry A. Ryle High School KY

10379 US 42 Hwy
Union, KY 41091

Casey Jaynes

casey.jaynes@boone.kyschool
s.us

Jennie LaMothe

Director of School-Based
Services, NaviGo College &
Career Prep Services, a
division of Learning Grove
jlamothe@learning-grove.org
8598665363

Products & Services

Summit Academic Advising Site License

1 x ~~\$3,000.00~~

High School Site License - Single Location

\$1,000.00 discount **\$2,000.00**

*Unlimited admins, teachers and students

for 1 year

*Aptitude-based talent discovery

*Career guidance platform

*Insights analytic tools, reporting suite and admin dashboard

*License expires 12 months (365 days) from date of purchase

One-time discount **\$1,000.00**

One-time subtotal **\$2,000.00**

Total **\$2,000.00**

This quote expires on December 14, 2021.

YouScience Terms of Service Last updated: February 1, 2019 YouScience, LLC (“**YouScience**,” “**we**,” “**us**,” or “**our**”) oversees this website, including the services underlying the website and the content at www.youscience.com (the “**Site**” and, together with the services offered therein, the “**Services**”). These Terms of Service (these “**Terms of Service**”) are applicable to you (including authorized users of the Services, as designated in an Online Order Form, “**User(s)**,” “**you**,” or “**your**”). The terms contained herein apply to all Users of this Site. These Terms of Service govern your use of our Services. You accept this Agreement by using the Services, by indicating your acceptance on our website, or by executing an Online Order Form. If you are using the Services pursuant to a Sponsored Program (as defined below), additional or different terms may apply to the use of our services. Please contact the sponsor of the program for additional information. This Agreement is effective as of the date of your acceptance, as described below (the “**Effective Date**”) and applies whether you are a casual visitor to the Site or a User with a subscription to the Services. You may not access the Services: (a) if you do not agree to these terms and conditions; (b) if you are our direct competitor; or (c) for purposes of monitoring the availability, performance, or functionality of the Services.^[1] Additionally, you understand that use of a keyboard, the ability to see the Site, and the ability to read and comprehend the “brain games” incorporated in the Services are necessary for the use of the Site and Services, so the Site and Services may not accommodate all users. The Services and the Site are evolving and are continually under development. If you are dissatisfied with the Service in any way, we ask you to tell us by sending an email to support@youscience.com. We may make changes to this Agreement from time to time. When these changes are made, we will make a new copy of the Agreement available to you through your Account. Your use of the Services after the date on which the updated Agreement is made available to you through your Account constitutes your acceptance of the updated Agreement. If you disagree with changes to the Service or updates to the Agreement, your exclusive remedy is: (i) if you are a casual visitor, to stop visiting the Site; or (ii) if you are a subscribing customer, to provide us notice of your intention not to renew your subscription through the link in your Account (as defined below). In some cases, our Users or visitors to the Site may include students under the age of thirteen (13) and/or the parents’ of those students for the purposes of complying with the Children’s Online Privacy Protection Act (“**COPPA**”), as well as the applicable child data protection requirements under the General Data Protection Regulation (“**GDPR**”) for students residing in the European Economic Area (“**EEA**”). For more information on COPPA, GDPR, and how YouScience complies with data protection regulations, please read our Privacy Policy [<https://www.youscience.com/privacy-policy/>].

1. **Definitions.**

“**Account**” means the particular instance of the Site authorized for use by you and your Users under your specific login. “**Documentation**” means the specifications and materials located at the Site about the Services. “**Online Order Form**” means the page for signing up for the Services (located on the Site) that are entered into between you and us, including any addenda and supplements thereto. Online Order Forms shall be deemed incorporated herein by reference. “**Services**” means all services you order from us or are using pursuant to a Sponsored Program, whether as a free trial or as a paid subscription and made available by us via the customer login link on the Site and/or other locations designated by us. “**Sponsored Program**” means that you, the user, did not pay for access to the Services directly, but are accessing the Services as a result of a government, school, non-profit organization, corporate buyer, or other entity that purchased or acquired the Services on your behalf. “**Subscription Period**” means the subscription time period outlined in the Online Order Form, in the Sponsored Program agreement, or further described in these Terms of Service. “**User Data**” means all electronic data or information submitted by you and your Users.

2. **Free Trial.**

If you register for a free trial, we will make one or more Services available to you on a trial basis free of charge until the earlier of (a) the time period indicated in the Online Order Form or (b) the start date of any paid Services you order. Additional trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this

Agreement by reference and are legally binding. User Data and configurations made by or for you during your free trial will be discarded unless you subscribed to a paid Service before the end of your trial period. NOTWITHSTANDING SECTION 9 (WARRANTIES AND DISCLAIMERS), DURING THE FREE TRIAL THE SERVICES ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY.

3. **Subscription.**

3.1 *Subscription Services.* We will make the Services available to you through your Account during the Subscription Period upon your payment for Services and submission of an Online Order Form or, if you are covered by a Sponsored Program, pursuant to the terms of the applicable Sponsored Program. 3.2 *Users.* Your Account is only authorized for the number of Users specified in the Online Order Form. Each User shall be provided separate login credentials, and

User subscriptions cannot be shared or used by more than one person. You may neither reassign User subscriptions nor designate new Users to replace former Users who no longer use the Services. You may add additional Users by paying a prorated subscription fee for the new Users; the subscription for additional Users shall be coterminous with your existing subscription.

3.3 *Service Commitment.* We will use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for: (a) planned downtime (generally during low traffic times during the week) or (b) any unavailability caused by circumstances beyond our reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems, infrastructure or Internet connectivity provider failures or delays, and denial of service or other malicious attacks. We will provide the Services in accordance with applicable laws and government regulations. We are not responsible for the loss of your records and User Data. 3.4 *Updates.* The Service may automatically implement updates from time to time. These updates are designed to improve, enhance and further develop the Services and may take the form of bug fixes, enhanced functionality, or updates. You understand that we may or may not be able to inform you of these updates as they are implemented, and that your use of the Service may be affected by these updates. 3.5 *Your Duties.* You are responsible for all activities that occur under your Account, including, without limitation, for Users' compliance with this Agreement. You are responsible for the accuracy, quality, and legality of User Data, and for ensuring that the Services are used only in accordance with the Documentation and applicable laws and government regulations. You agree to provide true, accurate, current, and complete information about yourself and your Users as requested in any Online Order Form. You also agree to update the information about yourself and your Users promptly and, as necessary, to keep it current and accurate. You agree to use commercially reasonable efforts to prevent unauthorized access to or use of the Services and to notify us promptly of any such unauthorized access or use.

4. **Restrictions.**

4.1 *Usage Limitations.* You may only purchase the Service for Users on whose behalf you are legally able to accept this Agreement. The Services may be subject to other limitations, as specified in the Documentation. As a condition of use, you agree not to use the Service for any purpose that is prohibited by this Agreement. You further agree not to build any product or service that is competitive to the Services. 4.2 *Prohibited Activities.* You shall not: (a) make the Services available to anyone other than the Users specified in the Online Order Form or in the Sponsored Program agreement, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services for any malicious purpose, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks. By way of example, and not as a limitation, you shall not (and shall not permit any third party to): (a) take any action or (b) upload, download, post, submit or otherwise distribute or facilitate distribution of any content or likeness of, on or through the Services, including without limitation any User Data, that:

- infringes any patent, trademark, trade secret, copyright, right of publicity or other right of any other person or entity or violates any law or contractual duty;
- modifies, adapts, appropriates, reproduces, distributes, translates, creates derivative works or adaptations of, publicly displays, republishes, repurposes, sells, trades, or in any way exploits the Service, except as expressly authorized by Us;
- deciphers, decompiles, disassembles, reverse engineers or otherwise attempts to derive any source code or underlying ideas or algorithms from any part of the Service (including without limitation any application or widget), except to the limited extent applicable laws specifically prohibit such restriction;
- you know is false, misleading, untruthful or inaccurate;
- is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, obscene, vulgar, pornographic, offensive, profane, contains or depicts nudity, contains or depicts sexual activity, promotes bigotry, discrimination or violence, or is otherwise inappropriate as determined by us in our sole discretion;
- imposes or may impose (as we determine in our sole discretion) an unreasonable or disproportionately large load on our (or our third party providers') infrastructure;
- constitutes unauthorized or unsolicited advertising, junk or bulk e-mail ("spamming");
- interferes with or may interfere with the proper working of the Services or any activities conducted on the Service;
- involves commercial activities (whether or not for profit) and/or sales, such as contests, sweepstakes, barter, advertising, or pyramid schemes, without our prior written consent;
- bypasses any measures we may use to prevent or restrict access to the Services (or other accounts, computer systems or networks connected to the Services);
- contains software viruses or any other computer codes, files, worms, logic bombs or programs that are designed or intended to disrupt, disable, damage, limit or interfere with the proper function of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any system, data, password or other information belonging to us or any third party;
- employs manual or automated software, devices, or other processes to "crawl" or "spider" any page of the Site;
- harvests or scrapes any data or content from the Services;
- impersonates any person or entity, including our employees or representatives;
- includes anyone's identification documents or sensitive financial information;

- breaches our Privacy Policy [<https://www.youscience.com/privacy-policy/>] and/or any of the other policies and rules incorporated herein; or
- that otherwise violates our guidelines and policies.

We reserve the right, in our sole discretion, to audit or otherwise monitor any communication transmitted using the Services. We further reserve the right at all times to review, retain, and/or disclose any information as necessary to satisfy any applicable law, regulation, legal process, governmental request, or business assessment. Please note that portions of our Site may allow certain Users to generate and post content. IT IS YOUR RESPONSIBILITY AS THE USER TO ENSURE THAT ANY SUCH USER-GENERATED CONTENT POSTED THROUGH THE SERVICES DOES NOT VIOLATE ANY OF THE FOREGOING PROHIBITED ACTS. ANY ATTEMPT TO DO ANY OF THE FOREGOING PROHIBITED ACTS OR TO OTHERWISE UNDERMINE THE OPERATION OF THE SERVICES MAY BE A VIOLATION OF CRIMINAL AND CIVIL LAW. SHOULD SUCH AN ATTEMPT BE MADE, WE RESERVE THE RIGHT, IN ADDITION TO OUR OTHER REMEDIES, TO SEEK DAMAGES (INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES) FROM ANY SUCH INDIVIDUAL OR ENTITY TO THE FULLEST EXTENT PERMITTED BY LAW. NOTWITHSTANDING THE FOREGOING, WE HEREBY DISCLAIM ANY OBLIGATION TO MONITOR USE OF THE SERVICES, OR TO RETAIN THE CONTENT ON THE SERVICES, UNLESS OTHERWISE AGREED. YOUSCIENCE RESERVES THE RIGHT TO TERMINATE ACCESS TO AND USE OF THE SITE AND SERVICES AT OUR SOLE DISCRETION, AT ANY TIME, AND WITHOUT NOTICE TO YOU. 4.3 *Image Restrictions.* If the User Data includes any image, our image guidelines shall apply. We have a zero-tolerance policy regarding child pornography and will terminate and report to the appropriate authorities any User who publishes or distributes child pornography.

5. **Third Party Services and User Data You Send to Public Forums.**

5.1 *Integration with Third Party Services.* The Services may contain features designed to interoperate with third-party applications (e.g., Google, Facebook, or Twitter applications). To use such features, you must have an account with such third-party applications. If the provider of any such third-party application ceases to allow us to integrate on reasonable terms, we may cease providing such Services features without entitling you to any refund, credit, or other compensation.

5.2 *User Data You Submit to Public Forums.* The Services include features that facilitate your use of third party publicity applications (e.g., Google, Facebook or Twitter) and/or public forums ("**Public Forums**"). The Services will tell you when your User Data is being submitted in a manner that will be posted to a Public Forum. When you submit User Data using these features of the Services, we and such Public Forums only grant you the right to use the Services on a through-to-the-audience basis. Neither we nor such Public Forums shall have any liability to you or any third party for such User Data uploaded to, transmitted, or publicly performed through the Service and made publicly available through such a Public Forum.

6. **Fees and Payment.**

6.1 *Fees.* Unless you are using the Services pursuant to a Sponsored Program (in which case, the terms of the Sponsored Program will apply), you shall pre-pay all fees specified in your Online Order Form(s) at the beginning of your Subscription Period and you acknowledge that the fees are not based on your actual usage. All fees are paid online via the Online Order Form and are non-refundable. 6.2 *Payment.* Unless you are using the Services pursuant to a Sponsored Program (in which case the terms of the sponsored program will apply), you will provide us with valid and updated credit card or debit card information. You authorize us to charge your credit card or debit card for all Services listed in the Online Order Form for each Subscription Period. You are responsible for providing complete and accurate card and contact information to us and notifying us of any changes to such information. For more information about our payment processing, please see our Privacy Policy [<https://www.youscience.com/privacy-policy/>]. 6.3 *Overdue Charges.* Unless you are using the Services pursuant to a Sponsored Program (in which case the terms of the

sponsored program will apply), if any charges are not paid by beginning of the applicable Subscription Period, then at our discretion we may (a) charge late interest at the rate of 1.5% of the outstanding balance per month or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid; (b) suspend or terminate the Services; and/or (c) condition future Subscription Periods and Online Order Forms on earlier payment and in shorter payment intervals. 6.4 **Access Charges.** You are responsible for all connectivity costs and expenses required to access the Site, including, without limitation, Internet service provider fees.

6.5 **Taxes.** Unless otherwise stated, our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "**Taxes**"). Unless you are using the Services pursuant to a sponsored program (in which case the terms of the sponsored program will apply), you are responsible for paying all Taxes associated with your Account. If we are legally obligated to pay or collect your Taxes under this paragraph, the appropriate amount shall be invoiced to and paid by you.

7. Ownership of Site and Services.

7.1 **Rights in Services.** We reserve all rights, title and interest in and to the Site and the Services, including all related intellectual property rights. No rights are granted to you hereunder other than as expressly set forth herein. 7.2 **Suggestions.** We shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Site and the Services any suggestions, enhancement requests, recommendations or other feedback provided by you, including Users. 7.3 **Government Use.** The Services include "commercial computer software" and related documentation within the meaning of Federal Acquisition Regulation 2.101, 12.212, and 27.405-3 and Defense Federal Acquisition Regulation Supplement 227.7202 and 52.227-7014(a). The Services are highly proprietary to us and our licensors. You shall ensure that all Users, including those that are representatives of the U.S. Government or any other government body, are permitted to use the Services only as expressly authorized under this Agreement. Neither you nor any government body shall receive any ownership, license, or other rights other than those expressly set forth herein, irrespective of: (a) whether you are an agency, agent, or other instrumentality of the U.S. Government or any other government body, (b) whether you are entering into or performing under this Agreement in support of a U.S. Government or any other government agreement or utilizing any U.S. Government or any other government funding of any nature, or (c) anything else.

8. Confidentiality.

8.1 **Privacy and User Information.** For information about our data protection practices, please read our Privacy Policy [<https://www.youscience.com/privacy-policy/>], which explains how we treat User Data and protect your privacy when you use the Services. You agree to the use of User Data in accordance with our Privacy Policy. 8.2 **User Data.** As described more fully in our Privacy Policy, unless you are a User under the age of thirteen (13), you grant us broad rights to use data, including de-identified User Data, collected by us through your use of the Services, which rights continue even after this Agreement ends. Except for our limited rights to use the User Data set forth throughout this Section 8 and in our Privacy Policy, we acquire no right, title or interest from you or your Users under this Agreement in or to User Data, including any intellectual property rights therein. Please see our Privacy Policy [<https://www.youscience.com/privacy-policy/>] for more information on our User Data practices with regard to Users under the age of thirteen (13). So long as the Services and Reports (as defined below) are generally available, you will have continued access through the Site to your online results and post-assessment experience, reports and other feedback output generated by the Services ("**Reports**") for ten (10) years after the creation of your Account.

9. Warranties.

9.1 **Our Warranties.** We warrant that (i) we have validly entered into this Agreement and have the legal power to do so, (ii) the Services shall perform materially in accordance with the Documentation, and (iii) we will not transmit any malicious software to you, provided it is not a

breach of this subpart (iii) if you or a User uploads a file containing malicious software into the Services and later downloads that file again. For any breach of a warranty above, your exclusive remedy shall be as provided in Section 12.3 (Termination for Cause) and Section 12.4 (Refund or Payment upon Termination) below.

9.2 *Your Warranties.* You warrant that you have validly entered into this Agreement and have the legal power to do so, and that you will abide by the restrictions on use of the Services contained herein. If you are acting on behalf of a company or other legal entity, you represent and warrant that you have the authority to bind that entity to this Agreement. You represent and warrant that any User Data is truthful, accurate, not misleading, offered in good faith, and that you and your Users have all rights, licenses, permissions and authorizations necessary to upload and transmit such User Data to us and/or through the Service.

9.3 *Disclaimer.* NOTWITHSTANDING ANYTHING ELSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SUBJECT ONLY TO SECTION 9.1 AND SECTION 11.1, ALL SERVICES, INFORMATION AND MATERIALS ARE PROVIDED "AS IS", AND WE EXPRESSLY DISCLAIM ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION: (A) ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE (WHETHER OR NOT WE KNOW, HAVE REASON TO KNOW, OR HAVE BEEN ADVISED OF ANY SUCH PURPOSE); (B) ANY WARRANTY REGARDING RESULTS OBTAINABLE OR TO BE OBTAINED BY USERS AS A RESULT OF PROVISION OR USE OF THE SERVICES AND MATERIALS PROVIDED HEREUNDER; AND (C) ANY WARRANTY OF UNINTERRUPTED, TIMELY, OR ERROR-FREE OPERATION OF ANY SERVICES. NO ADVICE OR INFORMATION, WHETHER WRITTEN, ORAL OR MULTIMEDIA, OBTAINED BY YOU FROM THE SERVICES SHALL CREATE ANY ADDITIONAL WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

9.4 *Risk of Inaccuracy of Information.* YOU ACKNOWLEDGE THAT MANY FEATURES PROVIDED BY THE SITE ARE INTENDED TO AGGREGATE AND MANAGE DATA AND INFORMATION FROM NUMEROUS SOURCES. WE ARE NOT RESPONSIBLE FOR THE ACCURACY, INTEGRITY, QUALITY, LEGALITY, USEFULNESS, OR SAFETY OF SUCH INFORMATION. ADDITIONALLY, YOU ACKNOWLEDGE THAT THE SITE IS NOT INTENDED TO DIAGNOSE OR ADVISE IN SITUATIONS WHERE YOUR USERS HAVE KNOWN LEARNING DISABILITIES. YOU WAIVE ANY CLAIMS YOU MAY OTHERWISE HAVE, AND YOU AGREE THAT WE WILL NOT BE LIABLE FOR ANY DAMAGES OR INCONVENIENCES YOU MAY SUFFER AS A RESULT OF INACCURATE OR INCOMPLETE DATA OR INFORMATION PROVIDED TO YOU OR YOUR USERS BY THE SERVICE.

9.5 *Beta Services.* From time to time we may invite you to try, at no charge, our products or services that are not generally available to our customers ("**Beta Services**"). You may accept or decline any such trial in your sole discretion. Any Beta Services will be clearly designated as Beta, pilot, limited release, developer preview, non-production or by a description of similar import. Beta Services are provided for evaluation purposes and not for production use, are not supported, may contain bugs or errors, and may be subject to additional terms. BETA SERVICES ARE NOT CONSIDERED "SERVICES" HEREUNDER AND ARE PROVIDED "AS IS" WITH NO EXPRESS OR IMPLIED WARRANTY. We may discontinue Beta Services at any time in our sole discretion.

10. **Indemnification.**

10.1 *Indemnification by You.* To the extent permitted by applicable law, you shall defend us against any claim, demand, suit, or proceeding made or brought against us due to your breach of this Agreement, alleging that your User Data or your use of the Services in violation of this Agreement infringes or misappropriates the rights of a third party or applicable law (a "**Claim You Cover**") and shall indemnify us for any damages, attorney fees and costs as a result of, or for any amounts paid by us in respect of a Claim You Cover; provided that we: (a) promptly give you written notice of the Claim You Cover; (b) give you sole control of the defense and settlement of the Claim You Cover (provided that you may not settle any Claim You Cover unless the settlement unconditionally releases us of all liability); and (c) provide to you all reasonable assistance. For purposes of clarity, these indemnification obligations apply to your use of the Site, along with your use of the Site's content and Services, your use of any information obtained from the Services, and

any information you provide to this Site. 10.2 *Indemnification by Us.* We shall defend you against any claim, demand, suit, or proceeding made or brought against you by a third party alleging that the use of the Services (except for information described in [Section 9.4](#) hereof) as permitted hereunder infringes or misappropriates the intellectual property rights of a third party (a “**Claim We Cover**”), and we shall indemnify you for any damages, attorney fees and costs finally awarded against you as a result of, and for amounts paid by you under a court-approved settlement of a Claim We Cover; provided that you: (a) promptly give us written notice of the Claim We Cover; (b) give us sole control of the defense and settlement of the Claim We Cover; and (c) provide to us all reasonable assistance. In the event of a Claim We Cover, or if we reasonably believe the Services may infringe or misappropriate, we may in our discretion and at no cost to you (i) modify the Services so that they no longer infringe or misappropriate the rights of a third party, (ii) obtain a license for your continued use of the Services in accordance with this Agreement, or (iii) terminate your Account and User subscriptions for such Services upon 30 days written notice and refund any prepaid fees covering the remainder of the term of such User subscriptions after the effective date of termination. 10.3 *Exclusive Remedy.* This [Section 10](#) (Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section.

11. **Limitation of Liability.**

11.1 *Limitations.* NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER WE NOR OUR LICENSORS SHALL BE LIABLE WITH RESPECT TO ANY SERVICES AND/OR UNDER CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY FOR: ANY AMOUNTS IN EXCESS OF THE APPLICABLE FEES PAID DURING THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT, ACTION, OR OMISSION GIVING RISE TO THE CLAIM FOR WHICH ANY CREDITS OR DAMAGES ARE PAID OR HELD RECOVERABLE HEREUNDER. FOR CLARIFICATION, ANY SERVICE CREDITS PAID BY US SHALL REDUCE OUR LIABILITY CAP ON A DOLLAR-FOR-DOLLAR BASIS AND SHALL NOT BE DEEMED OR TREATED AS AN ADMISSION OF LIABILITY. ALL OF THE FOREGOING LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. YOU MAY ONLY BRING A CLAIM AGAINST US WITHIN SIX (6) MONTHS FROM THE DATE THE PARTICULAR CLAIM ACCRUED OR THE APPLICABLE CAUSE OF ACTION IS PERMANENTLY BARRED. 11.2 *Exclusion of Consequential and Related Damages.* IN NO EVENT SHALL WE HAVE ANY LIABILITY TO YOU FOR ANY BUSINESS INTERRUPTION, LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMERS SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW. HOWEVER, IN SUCH EVENT, YOU AGREE THAT SUCH LIMITATIONS OF LIABILITY ARE REASONABLE, AND ARE FUNDAMENTAL ELEMENTS FOR THE SCOPE OF THE SERVICE AND THE FEES CHARGED TO YOU. YOU UNDERSTAND AND ACKNOWLEDGE THAT WE WOULD NOT BE ABLE TO OFFER THE SERVICE TO YOU WITHOUT THESE LIMITATIONS.

12. **Term and Termination.**

12.1 *Term.* This Agreement commences on the Effective Date and continues until all User subscriptions granted in accordance with this Agreement or the appropriate Sponsored Program Agreement have expired or been terminated. If you elect to use the Services for a free trial period and do not purchase a subscription before the end of that period, this Agreement will terminate at the end of the free trial period. 12.2 *Term of Purchased User Subscriptions.* User subscriptions commence on the start date specified in the applicable Online Order Form and continue for the Subscription Period specified therein. User subscriptions shall automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party

gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The pricing during any such renewal term shall be the pricing effective at the time of renewal.

12.3 *Termination.* A party may terminate this Agreement for cause: (i) upon thirty (30) days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. We may also terminate this Agreement for any reason upon thirty (30) days written notice to you.

12.4 *Surviving Provisions.* Section 6 (Fees and Payment), 7 (Ownership), 8 (Confidentiality), 9.3 (Disclaimer), 10 (Indemnification), 11 (Limitation of Liability), 12.4 (Refund or Payment upon Termination), and 14 (Miscellaneous) shall survive any termination or expiration of this Agreement.

13. **Miscellaneous.**

13.1 *Notices.* You agree that we may provide you with notice, including changes to this Agreement, by email, regular mail or postings in your Account. 13.2 *Governing Law/Forum.* If your use of the Services is pursuant to a Sponsored Program, this Agreement shall be governed by and construed in accordance with the laws stated in the Sponsored Program agreement, disregarding any conflict-of-laws rules which may direct the application of the laws of another jurisdiction. Otherwise, this Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee, disregarding any conflict-of-laws rules which may direct the application of the laws of another jurisdiction, and venue shall be exclusively in Davidson County, Tennessee. 13.3 *Export Compliance.* The Services, other technology we make available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. You shall not permit Users to access or use Services in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. export law or regulation.

13.4 *Relationship of the Parties.* This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties. 13.5 *No Third-Party Beneficiaries.* There are no third-party beneficiaries to this Agreement. 13.6 *Waiver.* No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. 13.7 *Severability.* If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect. 13.8 *Attorney Fees.* You shall pay on demand all of our reasonable attorney fees and other costs incurred by us to collect any fees or charges due us under this Agreement following your breach of Section 6.2 (Payment).

13.9 *Assignment.* Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, we may assign this Agreement in its entirety, without consent of the other party, to its affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of our assets. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns. 13.10 *Interpretation.* No provision shall be construed against a party by reason of the fact that such party or its legal counsel drafted that provision, notwithstanding any rule of law or any legal decision to the contrary. For purposes of interpreting this Agreement: (a) the terms "herein," "hereof," "hereto," "herewith," "hereunder," "hereinafter," and similar terms shall refer to this Agreement as a whole; (b) the terms "includes" and "including" shall mean "include[ing]", without limitation"; (c) references to Sections in any particular attachment shall refer to Sections in that same Attachment, unless otherwise specified therein; and (d) headings contained herein are for convenience of reference only and shall not affect the interpretation of this Agreement. For purposes of this Agreement, whenever the context requires, the singular number will include the plural, and vice versa. 13.11 *Entire Agreement.* This Agreement, including all exhibits and addenda hereto and all Online Order Forms and any applicable Sponsored Program agreement, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements,

proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Online Order Form, the terms of such exhibit, addendum or Online Order Form shall prevail.