

## **AGREEMENT REGARDING DATA SECURITY AND PRIVACY**

This Agreement regarding Data Security and Privacy ("Agreement") dated as of 9-28, 2022, by and between the Jasper-Troupsburg ("District") and CK-12 Foundation ("Contractor"). This Agreement covers only student accounts sanctioned by the district and set up through the jtcisd.org domain(s).

WHEREAS, the District has licensed certain services or products from Contractor, pursuant to the CK-12 Terms of Use (dated February 16, 2021 and defined herein as "Attachment A"), and as further defined in this Agreement; and

WHEREAS, Contractor is a third-party contractor as defined in Part 121 of the Commissioner's Regulations, that will receive student data or teacher or principal data from the District pursuant to "Attachment A," and this Agreement for purposes of providing services to the District; and

WHEREAS, the parties agree that if any provision of this Agreement conflicts with a provision of "Attachment A," the provision as set forth in this Agreement shall supersede and prevail over said other provision;

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements contained herein, and for other good and valuable consideration, including the above-referenced "Attachment A," the Contractor and the District hereby agree as follows:

A. The Contractor shall comply with all state, federal, and local laws, regulations, rules, and requirements related to the confidentiality of records and data security and privacy, including the Parents' Bill of Rights, hereinafter referred to as "Attachment B," and Supplemental Information, annexed hereto and herein after referred to as "Attachment C."

B. The Contractor may receive personally identifiable information from student records ("Education Records") and/or personally identifiable information from annual professional performance reviews of classroom teachers or principals that is confidential and not subject to release pursuant to Education Law § 3012-c and 3012-d (collectively, "PII Data"). The Contractor shall, therefore, comply with the following provisions in order to maintain the security and confidentiality of personally identifiable information:

- (i) adopt technologies, safeguards and practices in alignment with the NIST Cybersecurity Framework;
- (ii) limit the Contractor's internal access to Education Records to individuals with legitimate educational interests;
- (iii) use PII Data only for the purposes explicitly authorized by this Agreement and not for any other purpose;
- (iv) not disclose any personally identifiable information from PII Data to any other party without prior written consent, unless disclosure is required by statute or court order and written notice is given to the District (notice is not required if it is expressly prohibited by a statute or court order);

- (v) maintain reasonable safeguards to maintain confidentiality of personally identifiable information in PII Data;
- (vi) use legally mandated encryption technology<sup>1</sup> to protect data from unauthorized disclosure while the data is in motion or in the contractor's custody; and
- (vii) not sell, use or disclose student, teacher or principal personally identifiable information for any marketing or commercial purpose.
- (viii) For the avoidance of doubt, it is expressly understood and agreed that Education Records do not include students' "User Content," as defined in the CK-12 Terms of Use, "Attachment A."

C. The Contractor represents and warrants that it will follow and abide by the guidelines and legal standards as set forth in the Contractor's data security and privacy plan as attached hereto as "Attachment D."

The Contractor's data security and privacy plan shall, at a minimum:

- (i) outline how the Contractor will implement State and federal data security and privacy contract requirements for the life of the contract;
- (ii) specify administrative, operational and technical safeguards the third-party contractor will use to protect personally identifiable information;
- (iii) show that it complies with requirements of §121.3(c) of the Commissioner's Regulations;
- (iv) specify how the third-party contractor's employees and any assignees with access to student data, or teacher or principal data receive or will receive training on relevant confidentiality laws, before receiving access to such data;
- (v) specify if the third-party contractor will use subcontractors and how it will ensure personally identifiable information is protected;
- (vi) specify an action plan for handling any breach or unauthorized disclosure of personally identifiable information and promptly notify the school district of any breach or unauthorized disclosure; and
- (vii) describe whether, how and when data will be returned, transitioned to a successor contractor, deleted or destroyed when the contract ends or is terminated.

D. The Contractor must notify the District of any breach of security resulting in an unauthorized release of personally identifiable information from PII Data by the Contractor or the Contractor's officers, employee's, assignees or subcontractors. This notification must be made in the most expedient way possible and without delay. In addition, the Contractor must notify the District of the breach of security in writing. This written notification must be sent by the Contractor in the most expedient way possible and without unreasonable delay, and not later than seven (7) calendar days after confirmation of the breach of security resulting in an unauthorized release of personally identifiable information from PII Data, to the designated District representative and will be delivered to the District by electronic mail to \_\_\_\_\_ name, title, email ljordan@jtcasd.org. In the case of an unauthorized release of personally identifiable

LeeAnne  
Jordan,  
Superintendent

<sup>1</sup> Encryption means methods of rendering personally identifiable information unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified or permitted by the Secretary of the United States department of health and human services in guidance issued under Section 13402(H)(2) of Public Law 111-5.

information from PII Data by the Contractor or the Contractor's officers, employees, assignees or subcontractors, the Contractor will reimburse the District for all the District's costs, up to but not in excess of any fees paid by the District to the Contractor within the affected academic/license year, associated with the District's obligation to notify the State's chief privacy officer, parents, students, teachers and/or principals of the unauthorized release.

E. The Contractor and District agree that this Agreement and the Attachments included hereto supersede and replace any previous agreements or contracts between the parties.

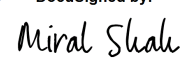
IN WITNESS WHEREOF, the parties hereto have set their respective hands and seals as of the date and year first above written.

DISTRICT: Jasper-Troupsburg

CONTRACTOR:  
CK-12 Foundation

BY: 

BY:  
Miral Shah, Chief Technology & Product  
Officer

DocuSigned by:  
  
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DATE: 9/28/22

DATE: 9/28/2022

## ATTACHMENT A

### CK-12 TERMS OF USE (February 16, 2021)

Welcome, and thank you for your interest in the CK-12 Foundation (“**CK-12**,” “**we**,” or “**us**”) and our websites at [ck12.org](http://ck12.org) and [ck12info.org](http://ck12info.org), along with our related websites, networks, applications, mobile applications, content and other services provided by us (collectively, the “**Platform**”). These Terms of Use are a legally binding contract between you and CK-12 regarding your use of the Platform.

#### PLEASE READ THE FOLLOWING TERMS CAREFULLY:

**BY CLICKING “I ACCEPT,” OR BY OTHERWISE ACCESSING OR USING THE PLATFORM, YOU AGREE THAT YOU HAVE READ AND UNDERSTOOD, AND, AS A CONDITION TO YOUR USE OF THE PLATFORM, YOU AGREE TO BE BOUND BY, THE FOLLOWING TERMS AND CONDITIONS, INCLUDING CK-12’S PRIVACY POLICY, CK-12’S DMCA NOTICE, AND THE CK-12 CURRICULUM MATERIALS LICENSE (TOGETHER, THESE “**TERMS**”). IF YOU ARE NOT ELIGIBLE, OR DO NOT AGREE TO THE TERMS, THEN YOU DO NOT HAVE OUR PERMISSION TO USE THE PLATFORM. YOUR USE OF THE PLATFORM, AND CK-12’S PROVISION OF THE PLATFORM TO YOU, CONSTITUTES AN AGREEMENT BY CK-12 AND BY YOU TO BE BOUND BY THESE TERMS.**

**ARBITRATION NOTICE.** Except for certain kinds of disputes described in Section 16, you agree that disputes arising under these Terms will be resolved by binding, individual arbitration, and BY ACCEPTING THESE TERMS, YOU AND CK-12 ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN ANY CLASS ACTION OR REPRESENTATIVE PROCEEDING. YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT to assert or defend your rights under this contract (except for matters that may be taken to small claims court). Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury. (See Section 16.)

1. **CK-12 Platform Overview.** CK-12 was founded with the mission to enable everyone to learn in his or her own way. To that end, CK-12 has developed a variety of content and related services in order to assist teachers and parents with teaching their students and children, and for students to aid them in learning, and has made such content and services available via the Platform.
2. **Eligibility.** By agreeing to these Terms, you represent and warrant to us that: (a) you are at least 18-years old or have your parent or guardian’s consent to agree to these Terms; (b) you have not previously been suspended or removed from the Platform; and (c) your registration and your use of the Platform is in compliance with any and all applicable laws and regulations. If you are an entity, organization, or company, the individual accepting these Terms on your behalf represents and warrants that they have authority to bind you to these Terms and you agree to be bound by these Terms.
3. **Accounts and Registration.** To access some features of the Platform, you may be required to register for an account. When you register for an account, you may be required to provide us with some information about yourself, such as your name, email address, or other contact information. You agree that the information you provide to us is accurate and that you will keep it accurate and up to date at all times. When you register, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password, and you accept responsibility for all activities that occur under your account. If you believe that your account is no longer secure, then you must immediately notify us at [support@ck12.org](mailto:support@ck12.org).
4. **Licenses**
  - 4.1 **Platform License.** Subject to your complete and ongoing compliance with these Terms, and subject to Section 6 below, CK-12 grants you, a limited, non-exclusive, non-transferable, non-sublicensable,

revocable license to access and use the Platform to obtain information and educational materials solely as follows:

- (a) If you are a student, for your own education.
- (b) If you are a parent or guardian, to educate your children or wards.
- (c) If you are a teacher, non-profit educational institution (including schools) or school district, to educate your students.
- (d) **If you are an individual tutor**, to provide tutoring services to students provided that (1) you are not employed by a third party to provide tutoring services on their behalf, and (2) you provide feedback to CK-12 regarding the Curriculum Materials and/or Platform to improve student outcomes at [feedback@ck12.org](mailto:feedback@ck12.org), collectively, ("Educational Purposes").

**4.2 Prohibited Use.** You may not access or use the Platform or any CK-12 Curriculum Materials for any purposes other than for Educational Purposes. This includes, by way of example and not limitation: (a) for any commercial purposes (unless you are an individual tutor not employed by a third party for such tutoring purposes); (b) in order to build or train artificial intelligence or machine learning algorithms or models; (c) if you are an aggregator of content, to obtain educational materials to distribute through your own online or offline services; or (d) if you are a for-profit educational institution or multi-tutor tutoring business, as part of your educational offerings, whether such offerings are for free or for a fee. If you wish to use or Distribute the CK-12 Foundation Curriculum Materials for non-Educational Purposes, you must obtain the express written permission of the CK-12 Foundation. To request permission, please contact the CK-12 Foundation at [legal@ck12.org](mailto:legal@ck12.org).

**4.3 License Restrictions.** Except and solely to the extent such a restriction is impermissible under applicable law or as otherwise permitted herein, you may not: (a) reproduce or distribute the Platform; (b) publicly display or publicly perform the platform except as necessary in connection with Educational Purposes; (c) make modifications to the Platform; or (d) interfere with or circumvent any feature of the Platform, including any security or access control mechanism. If you are prohibited under applicable law from using the Platform, you may not use it.

**4.4 Licensed Photos.** Certain photos, images or other Materials available on or through the Platform have been licensed by CK-12 from Shutterstock.com, Getty Images, or other commercial stock photo or image agencies (each a "Licensed Stock Photo"). You are allowed to retain a copy of a Licensed Stock Photo for your personal, non-commercial use, as specified in this Section 4. Notwithstanding anything to the contrary herein and subject to Section 4.1 of these Terms, you may not: (a) modify, alter, adapt or otherwise create any derivative work of a Licensed Stock Photo, and (b) you may not distribute, transmit, or disseminate a Licensed Stock Photo or any copy or derivative work thereof, to any third party. Further, you may not sublicense, assign, or make available for resale any printed copy of a Licensed Stock Photo provided by Shutterstock.com or any Materials, CK-12 Curriculum Materials, or User Content containing a Licensed Stock Photo provided by Shutterstock.com.

**4.5 Feedback.** If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Platform ("Feedback"), then you hereby grant CK-12 an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit the Feedback in any manner or medium, whether now known or hereafter developed, and for any purpose, including to improve the Platform and create other products and services, in CK-12's sole discretion. CK-12 is not obligated to provide you with any attribution for any Feedback.

5. **Ownership; Proprietary Rights.** The Platform is owned and operated by CK-12. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, services, and all other elements of the Platform ("**Materials**") provided by CK-12, as well as the names "CK-12" and "CK12" and associated logos and the terms Flexbook® and Flexbook® Platform, are protected by intellectual property and other laws. All Materials included in the Platform are the property of CK-12 or its third-party licensors. Except as expressly authorized by CK-12, you may not make use of the Materials. CK-12 reserves all rights to the Materials not granted expressly in these Terms.
6. **CK-12 Curriculum Materials.** Notwithstanding the rights granted in Section 4.1, unless otherwise agreed by CK-12 in writing, your use of any CK-12 curriculum materials, course materials, textbooks, teaching guides, study guides, tests, practice materials, or other similar materials made available to you by CK-12 whether or not via the Platform ("**CK-12 Curriculum Materials**"), will be subject to the terms and conditions of the CK-12 Curriculum Materials License ("**CK-12 Curriculum Materials License**") which is hereby incorporated by reference into these Terms.

## 7. Third-Party Terms

- 7.1 **Third-Party Services and Linked Websites.** CK-12 may provide tools through the Platform that enable you to export information, including User Content (defined below), to third-party services. By using one of these tools, you agree that CK-12 may transfer that information to the applicable third-party service. Third-party services are not under CK-12's control, and, to the fullest extent permitted by law, CK-12 is not responsible for any third-party service's use of your exported information. The Platform may also contain links to third-party websites. Linked websites are not under CK-12's control, and CK-12 is not responsible for their content.
- 7.2 **Third-Party Software.** The Platform may include or incorporate third-party software components that are generally available free of charge under licenses granting recipients broad rights to copy, modify, and distribute those components ("**Third-Party Components**"). Although the Platform is provided to you subject to these Terms, nothing in these Terms prevents, restricts, or is intended to prevent or restrict you from obtaining Third-Party Components under the applicable third-party licenses or to limit your use of Third-Party Components under those third-party licenses.

## 8. User Content

- 8.1 **User Content Generally.** Certain features of the Platform may permit users to upload content to the Platform, including messages, reviews, photos, videos, images, folders, data, text, and other types of works ("**User Content**") and to publish User Content on the Platform. You retain any copyright and other proprietary rights that you may hold in the User Content that you post to the Platform.
- 8.2 **Limited License Grant to CK-12.** By providing User Content to or via the Platform, you grant CK-12 a perpetual, worldwide, non-exclusive, irrevocable, royalty-free, fully paid right and license (with the right to sublicense) to host, store, transfer, publicly display and publicly perform (in each instance on a through to the user or viewer basis), reproduce, modify, distribute, or otherwise use and exploit your User Content, in whole or in part, in any media formats and through any media channels now known or hereafter developed.
- 8.3 **Limited License Grant to Other Users.** By providing User Content to or via the Platform to other users of the Platform, you grant those users a non-exclusive license to access and use that User Content as permitted by these Terms and the functionality of the Platform.
- 8.4 **User Content Representations and Warranties.** CK-12 disclaims any and all liability in connection with User Content. You are solely responsible for your User Content and the consequences of providing

User Content via the Platform. By providing User Content via the Platform, you affirm, represent, and warrant to us that:

- (a) you are the creator and owner of the User Content, or have the necessary licenses, rights, consents, and permissions to authorize CK-12 and users of the Platform to use and distribute your User Content as necessary to exercise the licenses granted by you in this Section, in the manner contemplated by CK-12, the Platform, and these Terms;
- (b) your User Content, and the use of your User Content as contemplated by these Terms, does not and will not: (i) infringe, violate, or misappropriate any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; (iii) cause CK-12 to violate any law or regulation; or (iv) require CK-12 to obtain any other licenses, permissions, authorizations, or consents from or pay any royalties or other amounts to any third parties; and
- (c) your User Content could not be deemed by a reasonable person to be objectionable, profane, indecent, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate.

**8.5 User Content Disclaimer.** We are under no obligation to edit or control User Content that you or other users post or publish and will not be in any way responsible or liable for User Content. CK-12 may, however, at any time and without prior notice, screen, remove, edit, or block any User Content that in our sole judgment violates these Terms or is otherwise objectionable. You understand that, when using the Platform, you will be exposed to User Content from a variety of sources and acknowledge that User Content may be inaccurate, offensive, indecent, or objectionable. You agree to waive, and do waive, any legal or equitable right or remedy you have or may have against CK-12 with respect to User Content. If notified by a user or content owner that User Content allegedly does not conform to these Terms, we may investigate the allegation and determine in our sole discretion whether to remove the User Content, which we reserve the right to do at any time and without notice. For clarity, CK-12 does not permit copyright-infringing activities on the Platform.

**8.6 Monitoring Content.** CK-12 does not control and does not have any obligation to monitor: (a) User Content; (b) any content made available by third parties; or (c) the use of the Platform by its users. You acknowledge and agree that CK-12 reserves the right to, and may from time to time, monitor any and all information transmitted or received through the Platform for operational and other purposes. If at any time CK-12 chooses to monitor the content, CK-12 still assumes no responsibility or liability for content or any loss or damage incurred as a result of the use of content. During monitoring, information may be examined, recorded, copied, and used in accordance with our Privacy Policy (defined below).

**9. Communications.** We may send you emails concerning our products and services. You may opt out of promotional emails by following the unsubscribe instructions in the promotional email itself.

**10. Prohibited Conduct.** BY USING THE PLATFORM, YOU AGREE NOT TO:

- (a) use the Platform for any illegal purpose or in violation of any local, state, national, or international law;
- (b) harass, threaten, demean, embarrass, bully, or otherwise harm any other user of the Platform;
- (c) violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third-party intellectual property right;

- (d) interfere with security-related features of the Platform, including by: (i) disabling or circumventing features that prevent or limit use or copying of any content; or (ii) reverse engineering or otherwise attempting to discover the source code of any portion of the Platform except to the extent that the activity is expressly permitted by applicable law;
- (e) interfere with the operation of the Platform or any user's enjoyment of the Platform, including by: (i) uploading or otherwise disseminating any virus, adware, spyware, worm, or other malicious code; (ii) making any unsolicited offer or advertisement to another user of the Platform; (iii) collecting personal information about another user or third party without consent; or (iv) interfering with or disrupting any network, equipment, or server connected to or used to provide the Platform;
- (f) perform any fraudulent activity including impersonating any person or entity, claiming a false affiliation, accessing any other Platform account without permission, or falsifying your age or date of birth;
- (g) sell or otherwise transfer the access granted under these Terms or any Materials (as defined in Section 5) or any right or ability to view, access, or use any Materials;
- (h) access or use the Platform or any portion thereof via automated or partially automated means (including via scraping or robots) in order to collect information (including CK-12 Curriculum Materials) from or relating to the Platform, CK-12 or any other website owned or operated by CK-12;
- (i) access or use the Platform or any portion thereof in order to build or train artificial intelligence or machine learning models or algorithms;
- (j) access the Platform if your right to access the Platform has previously been terminated; or
- (k) attempt to do any of the acts described in this Section 10 or assist or permit any person in engaging in any of the acts described in this Section 10.

**11. Copyright and Intellectual Property Protection.** We comply with the provisions of the Digital Millennium Copyright Act applicable to Internet service providers (17 U.S.C. §512, as amended). Please review our [DMCA Notice](#) (the "DMCA Notice"). The DMCA Notice is incorporated by this reference into, and made a part of, these Terms.

## **12. Term, Termination, and Modification of the Platform**

**12.1 Term.** These Terms are effective beginning when you accept the Terms or first download, install, access, or use the Platform, and ending when terminated as described in Section 12.2.

**12.2 Termination.** If you violate any provision of these Terms, your authorization to access the Platform and these Terms automatically terminates. In addition, CK-12 may, at its sole discretion, terminate these Terms or your account on the Platform, or suspend or terminate your access to the Platform, at any time for any reason or no reason, with or without notice. You may terminate your account and these Terms at any time by contacting customer service at [support@ck12.org](mailto:support@ck12.org).

**12.3 Effect of Termination.** Upon termination of these Terms: (a) your license rights will terminate and you must immediately cease all use of the Platform; (b) you will no longer be authorized to access your account or the Platform; (c) you must pay CK-12 any unpaid amount that was due prior to termination;



and (d) all payment obligations accrued prior to termination and Sections 4.2, 4.3, 4.4, 5, 8.2, 8.3, 12.3, 13, 14, 15, 16 and 17 will survive.

**12.4 Modification of the Platform.** CK-12 reserves the right to modify or discontinue the Platform at any time (including by limiting or discontinuing certain features of the Platform), temporarily or permanently, without notice to you. CK-12 will have no liability for any change to the Platform or any suspension or termination of your access to or use of the Platform.

**13. Indemnity.** To the fullest extent permitted by law, you are responsible for your use of the Platform, and you will defend and indemnify CK-12, its affiliates and their respective shareholders, directors, managers, members, officers, employees, consultants, and agents (together, the **“CK-12 Entities”**) from and against every claim brought by a third party, and any related liability, damage, loss, and expense, including attorneys’ fees and costs, arising out of or connected with: (a) your unauthorized use of, or misuse of, the Platform; (b) your violation of any portion of these Terms, any representation, warranty, or agreement referenced in these Terms, or any applicable law or regulation; (c) your violation of any third-party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; or (d) any dispute or issue between you and any third party. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of those claims.

#### **14. Disclaimers; No Warranties**

**14.1 THE PLATFORM AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE PLATFORM ARE PROVIDED “AS IS” AND ON AN “AS AVAILABLE” BASIS. CK-12 DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE PLATFORM AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE PLATFORM, INCLUDING: (a) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; AND (b) ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. CK-12 DOES NOT WARRANT THAT THE PLATFORM OR ANY PORTION OF THE PLATFORM, OR ANY MATERIALS OR CONTENT OFFERED THROUGH THE PLATFORM, WILL BE UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND CK-12 DOES NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED.**

**14.2 NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE PLATFORM OR CK-12 ENTITIES OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE PLATFORM WILL CREATE ANY WARRANTY REGARDING ANY OF THE CK-12 ENTITIES OR THE PLATFORM THAT IS NOT EXPRESSLY STATED IN THESE TERMS. WE ARE NOT RESPONSIBLE FOR ANY DAMAGE THAT MAY RESULT FROM THE PLATFORM AND YOUR DEALING WITH ANY OTHER PLATFORM USER. YOU UNDERSTAND AND AGREE THAT YOU USE ANY PORTION OF THE PLATFORM AT YOUR OWN DISCRETION AND RISK, AND THAT WE ARE NOT RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY OR ANY LOSS OF DATA, INCLUDING USER CONTENT.**

**14.3 THE LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS IN THIS SECTION 14 APPLY TO THE FULLEST EXTENT PERMITTED BY LAW. CK-12 does not disclaim any warranty or other right that CK-12 is prohibited from disclaiming under applicable law.**

## 15. Limitation of Liability

- 15.1 TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE CK-12 ENTITIES BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, OR ANY OTHER INTANGIBLE LOSS) ARISING OUT OF OR RELATING TO YOUR ACCESS TO OR USE OF, OR YOUR INABILITY TO ACCESS OR USE, THE PLATFORM OR ANY MATERIALS OR CONTENT ON THE PLATFORM, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT ANY CK-12 ENTITY HAS BEEN INFORMED OF THE POSSIBILITY OF DAMAGE.
- 15.2 EXCEPT AS PROVIDED IN SECTION 16.6 AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE AGGREGATE LIABILITY OF THE CK-12 ENTITIES TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE USE OF OR ANY INABILITY TO USE ANY PORTION OF THE PLATFORM OR OTHERWISE UNDER THESE TERMS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO THE GREATER OF: (a) THE AMOUNT YOU HAVE PAID TO CK-12 FOR ACCESS TO AND USE OF THE PLATFORM IN THE 12 MONTHS PRIOR TO THE EVENT OR CIRCUMSTANCE GIVING RISE TO CLAIM AND (b) US\$100.
- 15.3 EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THESE TERMS. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS. THE LIMITATIONS IN THIS SECTION 15 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

## 16. Dispute Resolution and Arbitration

- 16.1 **Generally.** In the interest of resolving disputes between you and CK-12 in the most expedient and cost effective manner, and except as described in Section 16.2 and 16.4, you and CK-12 agree that every dispute arising in connection with these Terms will be resolved by binding arbitration. Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. This agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these Terms. YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND CK-12 ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.
- 16.2 **Exceptions.** Despite the provisions of Section 16.1, nothing in these Terms will be deemed to waive, preclude, or otherwise limit the right of either party to: (a) bring an individual action in small claims court; (b) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (c) seek injunctive relief in a court of law in aid of arbitration; or (d) to file suit in a court of law to address an intellectual property infringement claim.
- 16.3 **Opt-Out.** If you do not wish to resolve disputes by binding arbitration, you may opt out of the provisions of this Section 16 within 30 days after the date that you agree to these Terms by sending a

letter to CK-12 Foundation, Attention: Legal Department – Arbitration Opt-Out, 2300 Geng Road, Suite 150, Palo Alto, CA 94303 that specifies: your full legal name, the email address associated with your account on the Platform, and a statement that you wish to opt out of arbitration (“**Opt-Out Notice**”). Once CK-12 receives your Opt-Out Notice, this Section 16 will be void and any action arising out of these Terms will be resolved as set forth in Section 17.2. The remaining provisions of these Terms will not be affected by your Opt-Out Notice.

- 16.4 Arbitrator.** Any arbitration between you and CK-12 will be settled under the Federal Arbitration Act and administered by the American Arbitration Association (“**AAA**”) under its Consumer Arbitration Rules (collectively, “**AAA Rules**”) as modified by these Terms. The AAA Rules and filing forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at +1-800-778-7879, or by contacting CK-12. The arbitrator has exclusive authority to resolve any dispute relating to the interpretation, applicability, or enforceability of this binding arbitration agreement.
- 16.5 Notice of Arbitration; Process.** A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified U.S. Mail or by Federal Express (signature required) or, only if that other party has not provided a current physical address, then by electronic mail (“**Notice of Arbitration**”). CK-12’s address for Notice is: CK-12 Foundation, Attention: Legal Department, 2300 Geng Road, Suite 150, Palo Alto, CA 94303. The Notice of Arbitration must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought (“**Demand**”). The parties will make good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within 30 days after the Notice of Arbitration is received, you or CK-12 may commence an arbitration proceeding. All arbitration proceedings between the parties will be confidential unless otherwise agreed by the parties in writing. During the arbitration, the amount of any settlement offer made by you or CK-12 must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any. If the arbitrator awards you an amount higher than the last written settlement amount offered by CK-12 in settlement of the dispute prior to the award, CK-12 will pay to you the higher of: (a) the amount awarded by the arbitrator and (b) US\$10,000.
- 16.6 Fees.** If you commence arbitration in accordance with these Terms, CK-12 will reimburse you for your payment of the filing fee, unless your claim is for more than US\$10,000, in which case the payment of any fees will be decided by the AAA Rules. Any arbitration hearing will take place at a location to be agreed upon in Santa Clara County, California, but if the claim is for US\$10,000 or less, you may choose whether the arbitration will be conducted: (a) solely on the basis of documents submitted to the arbitrator; (b) through a non-appearance based telephone hearing; or (c) by an in-person hearing as established by the AAA Rules in the county (or parish) of your billing address. If the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules. In that case, you agree to reimburse CK-12 for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator’s ruling on the merits.
- 16.7 No Class Actions.** YOU AND CK-12 AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and CK-12 agree otherwise, the arbitrator may not consolidate more than one person’s claims, and may not otherwise preside over any form of a representative or class proceeding.

**16.8 Modifications to this Arbitration Provision.** If CK-12 makes any future change to this arbitration provision, other than a change to CK-12's address for Notice of Arbitration, you may reject the change by sending us written notice within 30 days of the change to CK-12's address for Notice of Arbitration, in which case your account with CK-12 will be immediately terminated and this arbitration provision, as in effect immediately prior to the changes you rejected will survive.

**16.9 Enforceability.** If Section 16.7 or the entirety of this Section 16 is found to be unenforceable, or if CK-12 receives an Opt-Out Notice from you, then the entirety of this Section 16 will be null and void and, in that case, the exclusive jurisdiction and venue described in Section 17.2 will govern any action arising out of or related to these Terms.

## **17. Miscellaneous**

**17.1 General Terms.** These Terms, together with the Privacy Policy, the DMCA Notice, the CK-12 Curriculum Materials License, and any other agreements expressly incorporated by reference into these Terms, are the entire and exclusive understanding and agreement between you and CK-12 regarding your use of the Platform. You may not assign or transfer these Terms or your rights under these Terms, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign these Terms at any time without notice or consent. The failure to require performance of any provision will not affect our right to require performance at any other time after that, nor will a waiver by us of any breach or default of these Terms, or any provision of these Terms, be a waiver of any subsequent breach or default or a waiver of the provision itself. Use of Section headers in these Terms is for convenience only and will not have any impact on the interpretation of any provision. Throughout these Terms the use of the word "including" means "including but not limited to." If any part of these Terms is held to be invalid or unenforceable, the unenforceable part will be given effect to the greatest extent possible, and the remaining parts will remain in full force and effect.

**17.2 Modification of these Terms.** We reserve the right to change these Terms on a going-forward basis at any time. Please check these Terms periodically for changes. If a change to these Terms materially modifies your rights or obligations, we may require that you accept the modified Terms in order to continue to use the Platform. Material modifications are effective upon your acceptance of the modified Terms. Immaterial modifications are effective upon publication. Except as expressly permitted in these Terms, these Terms may be amended only by a written agreement signed by authorized representatives of the parties to these Terms. Disputes arising under these Terms will be resolved in accordance with the version of these Terms that was in effect at the time the dispute arose.

**17.3 Governing Law.** These Terms are governed by the laws of the State of California without regard to conflict of law principles. You and CK-12 submit to the personal and exclusive jurisdiction of the state courts and federal courts located within Santa Clara County, California for resolution of any lawsuit or court proceeding permitted under these Terms. We operate the Platform from our offices in California, and we make no representation that Materials included in the Platform are appropriate or available for use in other locations.

**17.4 Privacy Policy.** Please read the [CK-12 Privacy Policy](#) (the "**Privacy Policy**") carefully for information relating to our collection, use, storage, and disclosure of your personal information. The CK-12 Privacy Policy is incorporated by this reference into, and made a part of, these Terms.

**17.5 Additional Terms.** Your use of the Platform is subject to all additional terms, policies, rules, or guidelines applicable to the Platform or certain features of the Platform that we may post on or link to from the Platform (the "**Additional Terms**"). All Additional Terms are incorporated by this reference into, and made a part of, these Terms.

- 17.6 Consent to Electronic Communications.** By using the Platform, you consent to receiving certain electronic communications from us as further described in our Privacy Policy. Please read our Privacy Policy to learn more about our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.
- 17.7 Contact Information.** The Platform is offered by CK-12 Foundation, located at 2300 Geng Road, Suite 150, Palo Alto, CA 94303. You may contact us by sending correspondence to that address or by emailing us at [legal@ck12.org](mailto:legal@ck12.org).
- 17.8 Notice to California Residents.** If you are a California resident, under California Civil Code Section 1789.3, you may contact the Complaint Assistance Unit of the Division of Consumer Platforms of the California Department of Consumer Affairs in writing at 1625 N. Market Blvd., Suite S-202, Sacramento, California 95834, or by telephone at +1-800-952-5210 in order to resolve a complaint regarding the Platform or to receive further information regarding use of the Platform.
- 17.9 No Support.** We are under no obligation to provide support for the Platform. In instances where we may offer support, the support will be subject to published policies.
- 17.10 International Use.** The Platform is intended for visitors located within the United States. We make no representation that the Platform is appropriate or available for use outside of the United States. Access to the Platform from countries or territories or by individuals where such access is illegal is prohibited.
- 18. Notice Regarding Apple.** This Section 18 only applies to the extent you are using our mobile application on an iOS device. You acknowledge that these Terms are between you and CK-12 only, not with Apple Inc. ("Apple"), and Apple is not responsible for the Service or the content thereof. Apple has no obligation to furnish any maintenance and support services with respect to the Service. If the Service fails to conform to any applicable warranty, you may notify Apple and Apple will refund any applicable purchase price for the mobile application to you; and, to the maximum extent permitted by applicable law, Apple has no other warranty obligation with respect to the Service. Apple is not responsible for addressing any claims by you or any third party relating to the Service or your possession and/or use of the Service, including: (a) product liability claims; (b) any claim that the Service fails to conform to any applicable legal or regulatory requirement; or (c) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement and discharge of any third party claim that the Service and/or your possession and use of the Service infringe a third party's intellectual property rights. You agree to comply with any applicable third party terms when using the Service. Apple and Apple's subsidiaries are third party beneficiaries of these Terms, and upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary of these Terms. You hereby represent and warrant that: (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

## ATTACHMENT B

### PARENTS' BILL OF RIGHTS FOR STUDENT DATA PRIVACY AND SECURITY

Parents (includes legal guardians or persons in parental relationships) and Eligible Students (student 18 years and older) can expect the following:

1. A student's personally identifiable information (PII) cannot be sold or released for any commercial purpose. PII, as defined by Education Law § 2-d and FERPA, includes direct identifiers such as a student's name or identification number, parent's name, or address; and indirect identifiers such as a student's date of birth, which when linked to or combined with other information can be used to distinguish or trace a student's identity. Please see FERPA's regulations at 34 CFR 99.3 for a more complete definition.
2. The right to inspect and review the complete contents of the student's education record stored or maintained by an educational agency. This right may not apply to parents of an Eligible Student.
3. State and federal laws such as Education Law § 2-d; the Commissioner of Education's Regulations at 8 NYCRR Part 121, the Family Educational Rights and Privacy Act ("FERPA") at 12 U.S.C. 1232g (34 CFR Part 99); Children's Online Privacy Protection Act ("COPPA") at 15 U.S.C. 6501-6502 (16 CFR Part 312); Protection of Pupil Rights Amendment ("PPRA") at 20 U.S.C. 1232h (34 CFR Part 98); the Individuals with Disabilities Education Act ("IDEA") at 20 U.S.C. 1400 et seq. (34 CFR Part 300); protect the confidentiality of a student's identifiable information.
4. Safeguards associated with industry standards and best practices including but not limited to encryption, firewalls and password protection must be in place when student PII is stored or transferred.
5. A complete list of all student data elements collected by NYSED is available at <http://www.nysed.gov/data-privacy-security/student-data-inventory> and by writing to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234.
6. The right to have complaints about possible breaches and unauthorized disclosures of PII addressed. Complaints should be directed to: [ljordan@jtcasd.org](mailto:ljordan@jtcasd.org). Complaints may also be submitted to NYSED at <http://www.nysed.gov/data-privacysecurity/report-improper-disclosure>, by mail to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234; by email to [privacy@nysed.gov](mailto:privacy@nysed.gov); or by telephone at 518-474- 0937.
7. To be notified in accordance with applicable laws and regulations if a breach or unauthorized release of PII occurs.
8. Educational agency workers that handle PII will receive training on applicable state and federal laws, policies, and safeguards associated with industry standards and best practices

that protect PII.

9. Educational agency contracts with vendors that receive PII will address statutory and regulatory data privacy and security requirements.

**ATTACHMENT C**  
**PARENTS' BILL OF RIGHTS FOR**  
**STUDENT DATA PRIVACY AND SECURITY**  
**THIRD PARTY CONTRACTOR SUPPLEMENT**

In accordance with its obligations under the Parents' Bill Rights and Data Privacy and Security Agreement, the Contractor verifies the following supplemental information to the Parents' Bill of Rights regarding data privacy and security:

(1) The student data or teacher or principal data (collectively, "PII Data") received by the Contractor will be used exclusively for the following purpose(s):

Contractor and its agents, employees and subcontractors, if any, shall use PII Data solely for the purpose of providing services as set forth in the CK-12 Terms of Use, "Attachment A," and this Agreement. Contractor and its agents, employees and subcontractors will not use PII Data for any other purposes. Any Data received by Contractor or any of its agents, employees, subcontractors or assignees shall not be sold or released for any commercial purposes, nor shall it be sold or used for marketing purposes.

(2) The Contractor will ensure the confidentiality of PII Data that is shared with subcontractors or other persons or entities as follows:

In the event that Contractor subcontracts with an outside entity or individual in order to fulfill its obligations to the District, Contractor ensures that it will only share PII Data with such subcontractors as described as "Third Party Service Providers" in "Attachment D" section (v) who maintain such data privacy and security consistent with those required of Contractor pursuant to the Agreement. Contractor will maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of PII Data in its custody consistent with the data protection and security requirements of state and federal law and regulations by adhering to the provisions in the "THIRD-PARTY CONTRACTOR'S DATA SECURITY AND PRIVACY PLAN," "Attachment D."

(3) This Agreement is effective upon execution by both parties and shall continue until terminated by either party by giving at least 30 days written notice. Within thirty (30) calendar days after the termination of the Agreement, all PII Data will be de-identified and/or deleted from Contractor's computer systems, based on written request from the District. Contractor will provide written confirmation of such disposition to the District, upon written request.

(4) A parent, student, teacher or principal can challenge the accuracy of PII Data received by the Contractor as follows:

In the event that a parent or eligible student wishes to challenge the accuracy of PII Data concerning that student that is maintained by Contractor or its subcontractors, such challenge may be processed through the procedures provided by the applicable educational agency or institution for amendment of education records under the Family Educational Rights and Privacy Act (FERPA). In the event that Contractor is notified of the outcome of any such



errors made by Contractor, it will promptly correct any inaccurate data it or its subcontractors or assignees maintain. The District or the applicable New York education agency/institution will use FERPA's data correction procedures, as applicable, to update any data that is not a result of an error made by Contractor or its subcontractors.

(5) The following is how PII Data will be stored and what security protections will be taken by the Contractor:

All Data in Contractor's possession will be securely stored. Contractor represents that the following security protections, including encryption where applicable, will be in place to ensure that PII Data is protected.

- Password protections
- Administrative procedures
- Encryption while PII is in motion and at rest
- Firewalls

**ATTACHMENT D**  
**THIRD-PARTY CONTRACTOR'S**  
**DATA SECURITY AND PRIVACY PLAN**

In accordance with its obligations under the Parents' Bill Rights and Data Privacy and Security Agreement, the Contractor represents and warrants that its data security and privacy plan described below or attached hereto contains the following minimum required provisions:

- (i) Contractor will implement State and federal data security and privacy contract requirements for the duration of its contract by:

Adhering to the NIST Cybersecurity Framework. Our NIST "Current Profile" is available upon request.

- (ii) Contractor will use the following administrative, operational and technical safeguards to protect personally identifiable information:

Refer to Section 11 of the CK-12 Privacy Policy, "Attachment E."

- (iii) Contractor has complied with requirements of §121.3(c) of the Commissioner's Regulations by providing and complying with the supplemental contractor information as follows:

§121.3(c)(1)

- Refer to Section 5 in the CK-12 Privacy Policy, "Attachment E."

§121.3(c)(2)

- Refer to Section 6 in the CK-12 Privacy Policy, "Attachment E."

§121.3(c)(3)

- For contract duration, refer to item 3 in the Supplement to the Parents' Bill of Rights, "Attachment C," above.

- For disposition or transfer of data, refer to item 3 in the Supplement to the Parents' Bill of Rights, "Attachment C," above, and to Sections 8 and 13 in the CK-12 Privacy Policy, "Attachment E."

§121.3(c)(4)

- Refer to item 4 in the Parents' Bill of Rights above.

§121.3(c)(5)

- The CK-12 site runs on the Amazon Web Services (AWS) cloud.

- Refer to Section 13 in the CK-12 Privacy Policy, "Attachment E," for more information on security.

§121.3(c)(6)

- Refer to Section 13 in the CK-12 Privacy Policy, "Attachment E."

- (iv) Contractor's employees and any assignees with access to student data, or teacher or principal data have received or will receive training on relevant confidentiality laws, before receiving access to such data, as follows:

Employees with access to PII receive training on handling this data.

- (v) Contractor works with third party service providers for cloud-based hosting, communicating with users for product support and information, troubleshooting issues, and analytics.

For more information on any of the third parties used by Contractor, please email: [support@ck12.org](mailto:support@ck12.org)

- (vi) Contractor will implement an action plan for handling any breach or unauthorized disclosure of personally identifiable information and will promptly notify the school district of any breach or unauthorized disclosure as follows:

CK-12 has an established incident response plan, which can be provided upon request.

- (vii) Data will be returned, transitioned to a successor contractor, deleted, de-identified, or destroyed when the contract ends or is terminated as follows:

- For disposition or transfer of data, refer to item 3 in the Supplement to the Parents' Bill of Rights, "Attachment C," above, and to Section 6 in the CK-12 Privacy Policy, "Attachment E."

## ATTACHMENT E

### CK-12 PRIVACY POLICY (October 22, 2020)



We are CK-12 Foundation, a U.S. non-profit organization dedicated to free educational content. This Privacy Policy describes how we use and share the personal information we collect about you when you use our Platform, which includes our website (ck12.org) and related products and services (including our mobile applications). This Privacy Policy also contains information about the rights and choices you have regarding your personal information.

PLEASE READ OUR ENTIRE PRIVACY POLICY CAREFULLY BEFORE USING OUR PLATFORM.

### 1. NOTICE TO SCHOOLS

The section provides information to school districts that have entered into agreements with CK-12 Foundation (a “**Contracting School**”) regarding the use of our Platform by students of their school districts.

Under our agreement with a Contracting School, we may receive and have access to personal information about its students. Our use of personal information about students at a Contracting School is subject to the terms of our agreement with that Contracting School. In the event of a conflict with this Privacy Policy, the terms of our agreement with a Contracting School will control to the extent the conflict is directly related to the information privacy of its students.

We assist Contracting Schools in responding to requests from parents and students regarding students’ information privacy. For students of a Contracting School and their parents, we may refer you to that Contracting School if you have questions about our information privacy practices.

When students of a Contracting School create accounts on our Platform using their school-designated email addresses, we will treat such accounts as “student records” and will comply with the requirements of our agreement with the Contracting School regarding the privacy of such accounts.

Students of a Contracting School may also create personal accounts on our Platform using their personal email addresses. Under our agreement with a Contracting School, students’ personal accounts will not be deemed part of their “student records.”

### 2. CHILDREN’S PRIVACY

In this Privacy Policy, we refer to the following user as a “**child**”:

- A user located within the United States who is known by us to be under the age of 13; and
- A user located in a country outside of the United States who is known by us to be under the age threshold established by the applicable children’s data privacy law of that country.

Children's privacy is important to us, and we do not require a child to disclose more information than necessary to participate in the Platform. Younger visitors should always check with their parents or guardians before entering information online. We encourage families to discuss their household guidelines regarding the online sharing of personal information. If we have obtained information about a child under an agreement with a Contracting School, we do not ordinarily need to obtain the parent or guardian's consent because the Contracting School has provided consent on behalf of the parent or guardian.

Within the United States, we do not knowingly permit children under 13 to register on our Platform without parental consent.

Outside of the United States, we take steps (as required by applicable local law) to obtain parental consent before allowing children to register on our Platform.

If you are a parent or guardian of a child, you have the option to:

- Review the personal information we maintain about your child;
- Direct us to delete the personal information we maintain about your child; and
- Request that we stop collecting or using the child's personal information.

Certain personal information about your child may be posted publicly, as described in more detail below. If you would like to make a request about your child's personal information, or if you have any questions about how we protect children's privacy, please email [support@ck12.org](mailto:support@ck12.org). Exercising certain rights, such as deleting personal information, may result in your child not being able to use the Platform.

### **3. CHANGES TO OUR PRIVACY POLICY**

We may modify our Privacy Policy to reflect updates to our practices or changes in the law. We will take steps to notify you of such changes by announcing them on our Platform.

### **4. PERSONAL INFORMATION WE MAY COLLECT ABOUT YOU**

Depending on how you use the Platform, we may collect personal information about you. For example:

- If you are a student or teacher, we may collect your name, telephone number, email address, mailing address, birth date, profile photo, and account login information (i.e., username and password). We may also collect information linked to your use of the Platform, such as server log file data and session information (which is explained in more detail below). If you do not provide certain types of personal information to us, you may not be able to register or use some areas and features on the Platform (such as the FlexBook Platform™).
- If you are the parent or guardian of a child user, we may collect your name, contact information, and other personal information we need to verify your consent.
- If you use the Platform without a log in, we may still collect information about the device

and browser that you used to access the Platform, such as the device's IP address, browser type, operating system, ISP domain name, your referring/exit page, date/time stamp, and clickstream data.

- If you connect your social media account to our Platform (such as by signing up with your Facebook account), we may automatically receive your social media account username, email address, gender, and profile photo (as available, depending on your social media settings).
- If you donate to us, we may collect from PayPal (our service provider) your name, contact information, and donation amount. PayPal does not share your payment card or billing information with us.
- If you apply for a job with CK-12 or for our Certified Educator Program, we will collect your name, contact information, professional information, and other information contained within your application.

When you use the Platform, we may also collect information about your visit that does not individually identify you. For example, we may gather demographic and/or other aggregate data about our users as a group. Also, we may use anonymous online survey and feedback forms to gather opinions, comments, and suggestions about our Platform.

## 5. HOW WE USE YOUR PERSONAL INFORMATION

We may use your personal information for the following purposes:

- Register you: If you register with us, we will use your personal information for all purposes related to your membership and your use of our Platform. This may include, for example, providing administrative, maintenance and support services to your account, responding to your questions and requests, and verifying your age.
- Create your profile: When registering, you may (optional) provide additional information about you, such as your occupation, professional experience, education, institution/school affiliations, interests, and a profile photo. We use this information pursuant to our legitimate interests in providing you a personalized experience.
- Communicate with you: We may use your personal information to send you both marketing and administrative communications about the CK-12 Platform. These communications can include newsletters and updates about new lessons, modules, and discussion boards, this Privacy Policy or our Terms of Use, notices of security incidents, and other announcements. Certain of these communications will be pursuant to our legitimate interests to keep you informed, while other communications may be pursuant to your consent (if we are required by law to obtain your consent).
- Receive your Feedback: We may use online survey and feedback forms to gather opinions, comments, and suggestions about our Platform. If your personal information is included on these forms, we will collect and use it pursuant to our legitimate interests to communicate with you regarding your feedback and make changes to our services accordingly. If we post your feedback on our Platform or in our communications, and your feedback includes your personal information, we will first obtain your permission.
- Accept your donation: If you donate to CK-12, we will use the information we receive from PayPal (our service provider) to contact you about your donation.

- Process your application: If you apply for a job with CK-12 or for our Certified Educator Program, we use your personal information pursuant to your request and our legitimate interests to evaluate your application and send you follow up information.
- Operate and improve the Platform: We use your personal information to further our interests in operating our Platform, analyze usage trends, troubleshoot problems, maintain security, personalize your experience, and improve the Platform.
- Obtain parental or guardian consent: If you are the parent or guardian of a child (under 13 or under 16 years old, depending on where your child is located), we may process limited personal information about you so we can fulfill our legal obligation of obtaining your consent for the child to access our Platform. We may use your contact details to communicate with you about the child's account or use of Platform.

We may also use your personal information for any other purpose for which we have your consent.

## **6. WHEN WE SHARE YOUR PERSONAL INFORMATION**

We share your personal information outside of CK-12 with your consent, at your direction, or in the following circumstances:

- Service providers: We may share your personal information with our service providers who provide support, maintenance, or other services to us. We take steps to prohibit our service providers from using your personal information for purposes outside of providing services to us.
- When Required by Law: We may share your personal information if doing so is required by law or, in our good faith belief, is reasonably necessary to (i) comply with legal process, (ii) enforce this Privacy Policy and/or Terms of Use, (iii) respond to claims that user content violates the rights of third parties; (iv) respond to an emergency, or protect the rights, property or safety of CK-12, our users, and/or the public.
- Corporate Transaction: If CK-12 is acquired by or merged with or into another entity, or if all or substantially all of our assets are transferred to another entity, your personal information may be transferred to such entity as part of the transaction. If that entity has not committed to comply with this Privacy Policy, then we will give you the option to opt out of the transfer of your personal information to the successor entity.

## **7. PUBLIC DISPLAY OF YOUR PERSONAL INFORMATION**

In certain circumstances, some of your personal information may be visible to other users of the Platform or the general public. For example:

- Your first name (or first initial), last initial, and in certain cases your profile photo will be visible to other users of our Platform and the general public.
- Any comments you make or post in public forums and discussion boards is automatically linked to your username and profile and may be visible to others.
- If you share your CK-12 stories with us, we may publish your story with your permission.

To protect the privacy of children (see the definition above), certain functionality associated with a child's account will be disabled to ensure that the child's profile information (including profile photo) will not be visible to others on our Platform.

## 8. USER CHOICES AND OPT-OUT

We offer you choices and opportunities to opt out of certain uses of your personal information. In addition, you have certain rights with regard to the personal information we collect about you.

- Cancel your membership and remove your account. You may request to cancel your membership and have your account removed from our Platform. Please make all cancellation requests via email to [support@ck12.org](mailto:support@ck12.org) or via facsimile at (650) 494-1313.
- Opt out of marketing. You may opt out of receiving marketing emails from us by using the "opt out" or "unsubscribe" link provided in the emails you received. Even if you opt out of marketing, we may still send you administrative or transactional messages.
- Access and correct your personal information. If you are registered with us, you may log into your account to access and correct your account information. However, certain personal information (such as your name and email address) cannot be deleted without cancelling your membership and removing your account. If you are not registered with us or if you have questions about accessing and correcting your personal information, you may email [support@ck12.org](mailto:support@ck12.org).

## 9. COOKIES

Our Platform uses cookies to personalize learning and facilitate your use of our content. Cookies are small data files that websites and online services send to and store on your computer or mobile device through your web browser. Cookies enable websites and online services to recognize your browser and record certain information about your visits. While the cookies we use may change from time to time as we improve and update our Platform, they generally fall into the below categories of use:

- Authentication: We use cookies to verify your account and determine when you are logged in so we can make it easier for you to access the Platform and show you the appropriate content and features. For example, we use cookies to keep you logged in as you navigate between our webpages. Cookies also help us remember your browser so you do not have to keep logging in.
- Features and Services: We use cookies to enable the functionality that helps us provide the Platform. For example, cookies help us store preferences, know when you've seen or interacted with Platform's content, and provide you with customized content and experiences. Cookies allow us to make suggestions to you and others, and to customize content on third-party sites that integrate our social plugins.
- Performance: We use cookies to provide you with the best experience possible. For example, cookies help us route traffic between servers and understand how quickly the Platform loads for different people. Cookies also help us tailor the look and feel of our site to your device and screen size.



- **Analytics and Research:** We use cookies to understand how people use the Platform. For example, we use Google Analytics to collect and analyze information about our users' demographics and interests in order to measure and improve the Platform. For more information about Google Analytics and how to opt out, please visit <https://tools.google.com/dlpage/gaoptout/>.

Most web browsers are initially set to accept cookies, but you can change your browser settings to notify you when you are sent a cookie, giving you the ability to accept or reject it, or you can choose to routinely and manually delete cookies stored on your computer or mobile device. If you choose to disable or reject cookies, portions of the Platform may not be accessible to you or may not function properly. For more information on how to manage cookies, visit <https://www.aboutcookies.org/>.

To manage Adobe Local Shared Objects (also known as LSOs or Flash cookies), please visit [https://www.macromedia.com/support/documentation/en/flashplayer/help/settings\\_manager07.html](https://www.macromedia.com/support/documentation/en/flashplayer/help/settings_manager07.html).

We may also use web beacons (also known as clear GIFs or pixel tags) – which are small bits of code embedded in web pages or in emails – to deliver or communicate with cookies, to count users who have visited a web page, and to understand usage patterns. We may include web beacons in emails to help us recognize activities such as when an email was opened, how many times an email was forwarded, which links in the email were clicked on, etc. Web beacons cannot be declined when delivered via a regular web page. However, web beacons can be refused when delivered via email. If you do not wish to receive web beacons via email, you will need to disable HTML images or refuse HTML emails via your email software.

## **10. LINKS TO THIRD PARTY WEBSITES**

The Platform may contain links to certain third-party websites, including the websites of third-party service providers who can help Members print and compile their FlexBook™ textbooks. CK-12 does not own, control or operate such linked sites, and is not responsible for the privacy policies or practices of such linked sites. Privacy policies and practices for such linked sites may differ from our Privacy Policy and practices. You access and use such linked sites entirely and solely at your own risk. We urge you to read the privacy policies of such linked sites before disclosing your personal information on such sites.

## **11. NOTICES TO EEA INDIVIDUALS**

CK-12 Foundation is the data controller with respect to the personal information collected through the CK-12 Platform. If you are located in the EU and you are unhappy with our resolution of your privacy-related inquiry or request, you have the right to lodge a complaint with your Supervisory Authority.

If you are located in the European Economic Area (“EEA”), you may have additional rights with respect to the personal information we maintain about you. Please email [support@ck12.org](mailto:support@ck12.org) to request that we:

- Delete your Personal Information: You can ask us to erase or delete all or some of your personal information (e.g., if it is no longer necessary to provide the CK-12 Platform to you).
- Change or Correct your Personal Information: You can also ask us to change, update or fix your personal information in certain cases, particularly if it's inaccurate. As a member, you may log into your account at any time to modify, update and correct your account information.
- Object to, or Limit or Restrict, Use of your Personal Information: You can ask us to stop using all or some of your personal information (e.g., if we have no legal right to keep using it) or to limit our use of it (e.g., if your personal information is inaccurate or unlawfully held). You also have the right to withdraw your consent at any time.
- Right to Access and/or Take Your Personal Information: You can ask us for a copy of your personal information and can ask for a copy of personal information to be provided in machine readable form.

## 12. DATA TRANSFERS TO THE UNITED STATES

The Platform is operated from and hosted on servers in the United States. If you are outside of the United States and access the CK-12 Platform or submit your personal information to us, please be advised that U.S. law may not offer the same privacy protections as the law of your jurisdiction. If you visit our Services or contact us from outside of the United States, please be advised that (i) any information you provide to us or that we automatically collect will be transferred to the United States; and (ii) that by using our Services or submitting information, you explicitly authorize its transfer to and subsequent processing in the United States in accordance with this Privacy Policy.

## 13. SECURITY AND DATA RETENTION

We understand the importance of protecting the security and integrity of personal information. We maintain a security program that is reasonably designed to protect the security, privacy, confidentiality, and integrity of personal information against risks – such as unauthorized access or use, or unintended or inappropriate disclosure – through the use of administrative, technological, and physical safeguards appropriate to the sensitivity of the information. For example, we encrypt the transmission of your information using secure socket layer (SSL) or similar technologies. We also have in place internal policies and procedures that govern our use and disclosure of your personal information.

Despite the steps we take to protect your personal information, we do not warrant or guarantee the security of any information you transmit to, from or on the Platform. Therefore, we urge you to keep your account login information in a safe place and not to divulge it to anyone. Also, remember to sign off your account and close your browser window when you have finished your visit. This is to ensure that others cannot access your account, especially if you are sharing a computer with someone else or are using a computer in a public place such as a library or an Internet cafe.

We will maintain your personal information for as long as you have an account or as necessary to deliver the Platform to you or to your School. We may anonymize your personal information after you have deactivated or deleted your account so that we can use this anonymized information for our

internal business purposes.

#### **14. CONTACT US**

If you have any questions regarding our Privacy Policy, please contact us at:

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