

Terms and Conditions – Materials (2018-2019)

Below are the terms and conditions for your use of SpringBoard®.

By acquiring College Board's SpringBoard® program, you ("Customer" or "You") accept the terms of this Agreement. Should Customer fail to comply with these requirements, the College Board will terminate online access without liability. If Customer subscribes to SpringBoard pursuant to a separate written contract or order form with the College Board ("CRS Agreement"), the terms of the separate written CRS Agreement between the College Board and Customer for SpringBoard supersede the terms contained herein to the extent they conflict with any terms in this Agreement.

SpringBoard® Program Overview. The College Board's SpringBoard Program, a proprietary program that helps prepare 6th through 12th grade students to succeed at college-level work, includes student and teacher editions, a website license to SpringBoard Digital and professional development and coaching services, that feature rigorous standards, instructional resources, and formative assessments in mathematics and/or English language arts through a web-supported, integrated program (the "SpringBoard Program"). For more details on the SpringBoard Program, see: <http://springboardprogram.collegeboard.org/>.

License Grant. The following licenses are referred to herein collectively as the "Licenses".

Site License. The College Board hereby grants to Customer a limited, non-exclusive, non-transferable, non-assignable, revocable license during the Term of this Agreement to access and use the SpringBoard website ("SpringBoard Digital") and to allow each of the participating schools (the "Schools") to use SpringBoard Digital in accordance with the terms and conditions governing use of and access to SpringBoard Digital for teachers and for students located at Customer's URL to access SpringBoard Digital ("Site Terms and Conditions"), and to use all content available on SpringBoard Digital in print or otherwise provided to Customer, and the privacy policy for SpringBoard Digital also located at Customer's URL ("Privacy Policy"). Access to SpringBoard Digital is for the sole purpose of improving teaching and learning of students in the grades designated by Customer in mathematics and/or English language arts within the Schools. Unless Customer is ordering SpringBoard "Digital Only", College Board shall provide Customer with one consumable student edition for each license granted for students and one teacher edition for each teacher. College Board shall provide Customer with these consumable editions annually at the start of each school year.

Schools' Compliance with License Terms. Customer shall be responsible for the Schools' compliance with the terms of all Licenses.

Access to SpringBoard. Customer will access SpringBoard Digital via the College Board's website. Customer understands and agrees that there is a risk of interruption to websites. Additionally, the website may be suspended from time to time for administrative purposes, as necessary, including but not limited to, system maintenance. The College Board may change the technical functionality of the website at any time upon notice (where reasonable) to Customer to the extent necessary to address technical and other business needs of the College Board.

Content Revision. The College Board reserves the right to update the content of the SpringBoard Digital and Products, services and deliverables. If significant revisions are made to any Product, furnished under this Agreement then the Customer shall receive the most recent version of the Product. This shall only apply to future years from the revision date of the Product's furnished under this Agreement.

Restrictions on Use. Customer shall not: (a) sell, rent, lease, loan, sublicense, disseminate, assign, reverse engineer, attempt to derive the source code of, transfer or otherwise provide access to third parties, make the website available for use by third parties or use the website for the benefit of any third party; (b) copy, reproduce, modify, adapt, translate or create any derivative works from the website; (c) remove, alter, obscure or tamper with any trademark, copyright or other proprietary markings or notices affixed to or contained within the website; or (d) encourage or

permit any user or other third party to engage in any of the foregoing. Customer shall be responsible for ensuring that all students and teachers comply with the terms of this Schedule. If Customer violates any of the provisions hereof, the College Board shall have the right to terminate your right to use of SpringBoard Digital, without waiver of any other remedy, whether legal or equitable.

Service Providers. The College Board maintains a relationship with and has agreements with certain vendors (“Service Provider(s)”) for access to some of the services and tools offered through SpringBoard Digital. Customer acknowledges and agrees that the information that is uploaded to SpringBoard Digital will be accessible to the applicable Service Provider for the sole purpose of providing those services to Customer. Please be aware that any information supplied to Service Provider is subject to their security and privacy policies. The College Board encourages Customer to read the policies of Service Provider, because their privacy practices may differ from the College Board’s practices.

Customer Obligations. Customer shall provide certain information on the participating students in the Schools for the SpringBoard Program (“Registration Information”). Unless the College Board otherwise directs, the Registration Information shall include each student’s username, password, and first and last name. At no additional cost to Customer, Customer may use a third party to upload and manage the Registration Information for students participating in the SpringBoard Program. Such third parties include, without limitation, Zink Reading Labs, Turnitin, Desmos and Clever. Customer may also choose to manually update the Registration Information directly on the SpringBoard Site.

Customer shall comply with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and its implementing regulations, 34 C.F.R. pt. 99 (“FERPA”) in connection with the SpringBoard Program. Customer shall obtain any and all consents necessary for students to participate in the SpringBoard Program, and Customer shall include in its annual notification of rights under FERPA criteria that support the designation of the College Board and its employees as school officials with legitimate educational interests. Customer authorizes the College Board to use personally identifiable, non-directory information to conduct studies with the purpose of improving instruction for the SpringBoard Program in accordance with 34 C.F.R. 99.31(a)(6)(i).

Customer Representations. Customer has designated as “directory information” for purposes of FERPA, a student’s name, the most recent educational agency or institution attended, and the other items specifically identified as directory information in 34 C.F.R. 99.3. To the extent the Registration Information includes only such directory information, the College Board may redisclose the Registration Information in accordance with the Privacy Policy without the consent of the parent or student eighteen (18) years of age or older.

To the extent that the Registration Information or other personally identifiable information from education records of students disclosed by Customer to the College Board includes information other than directory information, for purposes of FERPA the College Board and its employees and independent contractors are “school officials” whom Customer has determined to have “legitimate educational interests”, and Customer may disclose such non-directory information to the College Board consistent with FERPA and other applicable law and policy.

Customer has a policy on acceptable use of computer equipment and services by teachers, other staff, and students that is at least as rigorous as the Site Terms and Conditions. The Site Terms and Conditions are consistent with and sufficient under Customer’s computer use and other relevant policies.

Customer has a policy on confidentiality of student records consistent with and sufficient under FERPA. The Privacy Policy is consistent with and sufficient under Customer’s FERPA and other relevant policies.

Customer represents and warrants that it is empowered under applicable state laws to enter into and perform this Agreement and it has caused this Agreement to be duly authorized, executed and delivered.

You represent and warrant that you have obtained any consent that You require from, for example, Your management, superintendent, district, Your school and any third parties to the extent consent is necessary to authorize You to enter into this Agreement.

General Disclaimer. THE COLLEGE BOARD HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

Limitation of Liability. TO THE EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE TOTAL LIABILITY, IN THE AGGREGATE, OF THE COLLEGE BOARD AND ITS' AFFILIATES FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE WORK PERFORMED BY THE COLLEGE BOARD PURSUANT TO THIS AGREEMENT FROM ANY CAUSE OR CAUSES, INCLUDED BUT NOT LIMITED TO THE NEGLIGENCE, PROFESSIONAL ERRORS OR OMISSIONS, STRICT LIABILITY OR BREACH OF CONTRACT OR WARRANTY EXPRESS OR IMPLIED OF THE COLLEGE BOARD OR ITS' AFFILIATES, SHALL NOT EXCEED THE ACTUAL AMOUNT PAID TO THE COLLEGE BOARD UNDER THIS AGREEMENT FOR THE SPECIFIC DELIVERABLE SUBJECT TO THE DAMAGES CLAIM.

IN NO EVENT WILL THE COLLEGE BOARD AND ITS AFFILIATES HAVE ANY LIABILITY TO PURCHASER IN CONNECTION WITH THIS AGREEMENT FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, REGARDLESS OF THE NATURE OF THE CLAIM OR THEORY OF LIABILITY. TO THE EXTENT ALLOWED BY LAW, PURCHASER WILL INDEMNIFY, DEFEND AND HOLD HARMLESS, THE COLLEGE BOARD AGAINST THIRD PARTY CLAIMS THAT ARISE AS A RESULT OF THE BREACH OF THIS AGREEMENT BY CUSTOMER

Ownership of Intellectual Property. Customer agrees and acknowledges that all intellectual property provided under or pertaining to this Agreement, including, but not limited to, any College Board publications, College Board website(s), CD-ROMS, videos, examinations and all items contained therein, including all copies thereof, all data and any parts thereof, all copyrights, trademarks, trade secrets, patents, and other similar proprietary rights are the sole and exclusive property of the College Board. Nothing in this Agreement should be interpreted to indicate that the College Board is passing its proprietary rights in and to the College Board Intellectual Property to the Customer.

Confidentiality. All information exchanged hereunder to which either party shall have access in connection with this Agreement, including the terms of this Agreement, is confidential ("Confidential Information"), and except as otherwise expressly provided in this Agreement, neither party will authorize or permit the other party's Confidential Information to be conveyed or in any manner communicated to or made available to any third party or to be physically duplicated or reproduced or used by or for the benefit of any third party, in whole or in part; provided, however, that Confidential Information shall exclude any data or information that: (a) is publicly disclosed or expressly approved for public disclosure by the act of an authorized agent of either party; (b) becomes publicly known without breach of any confidentiality obligation; or (c) is required to be disclosed pursuant to any applicable law or regulation, government authority or duly authorized subpoena or court order, provided that the disclosing party in such event shall provide the other party with notice of such requirement as soon as practicable after such

Data Protection. The College Board shall take actions to ensure the security and confidentiality of Confidential Information. The College Board assures Customer that the College Board employs security controls designed to secure and protect personally identifiable information in a manner consistent with industry standards. The College Board shall maintain the Registration Information (defined in Section 3.1) that may be obtained pursuant to this Agreement in a secure computer environment and not copy, reproduce or transmit such data except as necessary to fulfill the purpose of the original request.

The College Board has security measures in place designed to help protect against loss, misuse and alteration of the data under the College Board's control. College Board shall develop, implement, maintain and use reasonably appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all stored, managed, retained,

Security Measures. To ensure the security and confidentiality of confidential records the College Board shall designate an employee responsible for the training and compliance of all College Board employees, agents, and assigns on compliance with security and confidentiality provisions detailed in this Agreement. The College Board warrants that the confidentiality requirements and security measures identified in the Agreement will be extended by contract to any and all subcontractors used by College Board, if any, to execute the terms of the Agreement. The College Board will use appropriate and reliable storage media, regularly backup student records and retain such backup copies for the duration of the Agreement and as defined by the College Board. The Customer acknowledges that College Board utilizes cloud hosting service providers throughout its infrastructure. The College Board warrants that all student records will be stored in the United States where technically feasible and reasonable as determined solely by College Board. Customer acknowledges that in some cases the College Board may not be able to restrict the location of data due to limitations within the cloud hosting service provider capabilities.

Notice. In the event of an unauthorized disclosure of student records the Customer and College Board agree to notify the other party, fully investigate the incident and fully cooperate with any investigation of the incident, implement remedial measures and respond in a timely manner. Such notification shall be promptly performed as information becomes available but not greater than 30 calendar days immediately upon becoming aware of: (1) a confirmed compromise of student records, or of (2) circumstances that could have reasonably resulted in an unauthorized access to or disclosure of student records. Both Customer and College Board acknowledge that in the event of an unauthorized disclosure computer forensics teams may require many days, weeks or even months to fully ascertain the details surrounding the disclosure which may delay prompt notification within the 30 calendar day requirement.

Where information is available, Customer shall notify the parent or adult student of: (1) the nature of the unauthorized use or disclosure (e.g., security breach, nonconsensual re-disclosure, etc.); (2) the specific student records that were used or disclosed without authorization where possible; (3) what College Board and Customer have done or will do to mitigate any effects of the unauthorized use or disclosure; and (4) what corrective action College Board and Customer have taken or will take to prevent future occurrences. Except as otherwise required by law, College Board will not provide notice of the incident directly to the parent or adult student whose student records were involved, regulatory agencies, or other entities, without prior written permission from Customer.

Use of Cookies.

A cookie is a small text file placed on your computer's hard drive when you visit a website. The cookie gives you a unique, random ID, and this ID enables our website(s) to readily recognize each user on a subsequent visit to the site(s). For example, a cookie may indicate the preferences you selected on a prior visit. This facilitates more efficient browsing on subsequent visits, by using your preferences to customize the content and/or layout of our site(s). The College Board may use cookies in this fashion. Visitors are free to set their Web browsers to prevent the acceptance of cookies. However, subscribers of SpringBoard Digital must enable cookies to access certain areas. Be aware that the College Board website cookies do not contain personally identifiable information. Some Service Providers use cookies on College Board site(s). The College Board has no access to or control over these cookies. This privacy statement covers the use of cookies by the College Board website(s) only and does not cover the use of cookies by any third-party providers.

Proprietary Rights.

The College Board and its Service Providers have expended substantial time, effort, and funds to create the website(s) and SpringBoard Digital. Customer acknowledges and agrees that the College Board or College Board affiliates exclusively own the copyright to (or have been granted licenses by third parties to use) all rights, title, and interest in SpringBoard Digital and the information, data, databases, images, sound recordings, audio and visual clips, and other content (collectively, "Content") provided by the website(s). Certain materials specifically designated as belonging to another party are not owned by the College Board. No copyrighted material or other Content may be performed, distributed, downloaded, uploaded, modified, reused, reproduced, reposted, retransmitted, disseminated, sold, published, broadcast or circulated or otherwise used in any way whatsoever except as expressly stated either in such materials or in this Schedule without express written permission of the College Board or permission of the copyright owner. Any modification of the Content, or any portion thereof, or use of the Content for any other purpose constitutes an infringement of the College Board's copyrights and other proprietary rights. Use of the Content on any other website (including, without limitation, internal websites and social media sites) or other networked computer environment is prohibited without prior written permission from the College Board. **Customer agrees not to reproduce, duplicate, copy, sell, resell, or exploit for any commercial purposes any portion of the SpringBoard Program, use of the SpringBoard Program, or access to the SpringBoard Program.**

Customer agrees and acknowledges that Workshops and Products, including, but not limited to, training notes, and materials and booklets provided to participants, including all copies thereof, are the sole and exclusive property of the College Board. Copying, disseminating or posting any SpringBoard Program material on Customer's internal or any external website, including social media sites, or creating and sharing derivative works of the materials is a breach of Customer's agreement with the College Board and the College Board's intellectual property rights. Customer may solely use the Products described herein for the professional development and coaching services provided by the College Board in connection with Workshop participants' knowledge and use of the SpringBoard Program.

Except for the license expressly granted herein, Customer shall have no rights to or other interests in SpringBoard Digital, materials or Content. The College Board reserves all rights not explicitly granted to Customer under this Schedule.

Customer agrees that it shall not post any SpringBoard Program material on Customer's internal or any external website, and shall advise all SpringBoard Program teachers and students that posting any such material, including answers to any questions on SpringBoard Digital or in SpringBoard student or teacher editions is a violation of the College Board's copyright. Customer agrees that it shall not offer for resale, and shall advise its teachers and administrators not to offer

Force Majeure. Either party may be excused from performance of an obligation under this Agreement in the event that performance of that obligation by such party is prevented by an act of God, act of war, terrorism, riot, fire, explosion, flood or other circumstance that is beyond the control of, and could not reasonably be avoided by, such party.

Payment. This Agreement supersedes any conflicting terms and conditions contained in Customer's purchase order. Customer shall pay all shipping charges including any additional fees for expedited shipping requested by Customer. Customer may return or exchange, at Customer's expense, consumable editions which are in new condition and have not yet been used up to thirty (30) days after receipt. College Board will issue refunds within thirty (30) days upon receipt of the returned editions for accounts that have been paid.

Customer agrees to pay any applicable sales, use, value added or other taxes or import duties (other than the College Board's corporate income taxes) based on, or due as a result of, any fees paid to the College Board under this

Schedule, unless Customer is exempt from such taxes as the result of Customer's corporate or government status. Customer shall furnish the College Board with a valid tax exemption certificate.