

## THIRD SPACE LEARNING

### TERMS OF SERVICE FOR USERS IN THE UNITED STATES

#### 1. Who we are

We are Virtual Class Ltd (d.b.a. Third Space Learning Inc), registered in Delaware under EIN 30-1336140 and with our registered office address at 68 Hanbury Street, London, E1 5JL (referred to as "we" and "us").

#### 2. The Services we provide

We provide a proprietary online education platform for use by schools and school districts to assist with student development and learning by providing access to personalized teaching by connecting students with specialist math tutors in secure online classrooms as well as free math resources that can be downloaded by teachers and parents (referred to as the "Services"). The Services are provided via our website, the URL of which is currently <https://thirdspacelearning.com/us/>.

THESE TERMS OF SERVICE ALONG WITH OUR PRIVACY POLICY SET FORTH THE LEGALLY BINDING TERMS AND CONDITIONS THAT GOVERN YOUR USE OF OUR SERVICES. These are only applicable to users in the United States. For terms applicable to users outside the United States, please view our terms [here](#).

In ordering or registering to receive the Services from us, you enter into an agreement with us on the basis of these terms (referred to as the "agreement"). This agreement to provide the Services is between us and you, and you are responsible for ensuring that the Services are used in accordance with this agreement. You may only use the Services on the basis of this agreement. By using the Services, you are accepting these terms (on behalf of yourself or any entity that you represent), and you represent and warrant that you have the right, authority, and capacity to enter into these terms (on behalf of yourself or the entity that you represent).

YOU MAY NOT USE THE SERVICES OR ACCEPT THE TERMS IF YOU ARE NOT AT LEAST 13 YEARS OLD UNLESS YOUR PARENT(S) OR GUARDIAN(S) HAVE PROVIDED THE NECESSARY CONSENT. IF YOU DO NOT AGREE WITH ALL OF THE PROVISIONS OF THESE TERMS, DO NOT USE THE SERVICES. IF YOU ARE A TEACHER OR OTHER SCHOOL/DISTRICT OFFICIAL, YOU MUST OBTAIN ALL NECESSARY PARENTAL CONSENTS BEFORE ALLOWING STUDENTS TO USE THE SERVICES.

THESE TERMS REQUIRE THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMIT THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE.

#### 3. What the Services include

The Services include:

- (a) the free resources available for download from our website;
- (b) the facility for schools or schools district personnel to book online tutoring sessions for students (each referred to as a "session");
- (c) the provision of sessions to students in accordance with bookings made by schools or school district personnel; and

(d) the provision of tools and reports that enable schools and school districts to analyze assessment and attainment data for students as well as groups of students to determine patterns and trends that may be evident.

New facilities may be added by us to the Services from time to time, in which case the Services will be treated as including those new facilities accordingly and you will be provided with access to them (subject to any additional terms applying to the use of the new facilities concerned).

#### **4. Who may use the Services**

The only people who may use the Services (each referred to as a "user") are:

- (a) individuals over 13 who access free resources ("Free Resource User");
- (b) school or district employees authorized to act on behalf of the school or school district ("School User");
- (c) teachers or other school employees who have been registered and authorized by a school or school district we contract with to use the Services but are not authorized to act on behalf of the school or school district as a whole ("Staff User"); and
- (d) students who have been registered and authorized by a school or school district we contract with ("Student User")

#### **5. Who may not use the Services**

Free resources are targeted at teachers and not intended for individuals under the age of 13. If we become aware that an individual under 13 is attempting to access our free resources, we will restrict their ability to download resources.

For tutoring, only people who are authorized by the school may use the Services. After a Staff User or Student User leaves a school, the School User must make sure to cancel any registration that they may have to use the Services, and they may no longer use the Services. We are not liable or responsible for any unauthorized access to a school's account by any Staff User or Student User because the school failed to cancel their registration.

#### **6. Arrangements for use of the Services**

In order for you to use the free resources Services:

- (a) You must enter your email address and job title.
- (b) You may be required to enter the state where you are located.

In order to use the tutoring Services on behalf of a school or school district:

- (a) You must place an order with us to purchase and agree to pay for a package in accordance with the terms of this agreement.
- (b) You must set up an account for each user you wish to access the Services. Each account must be connected to a single user, for whom you must provide the user's full legal name, a valid email address (which will be used as the user's username for the purpose of accessing the Services) and any other information specified as being mandatory by us in order to complete the sign-up process (you may choose whether or not to provide any information we request but which we do not specify as being mandatory).

- (c) You must ensure that the relevant students attend each session.
- (d) You must ensure that all sessions are supervised by a member of staff at the school or district.
- (e) You must ensure that you are authorized to enter into this agreement on behalf of your school/school district.

In order to use the tutoring Services as a teacher or student:

- (a) Your school must place an order with us to purchase a package and agree to pay for the package.
- (b) You will need to register for the Services before you can use it for the first time.
- (c) Your school must set up an account for you to access the Services.
- (d) Teachers must select appropriate learning outcomes for each session booked in order for tutors to conduct each session effectively. If learning outcomes are not selected by the teacher, the relevant tutor will choose a topic based on previously taught topics or popular topics.

In order to request marketing materials

- (a) You must provide your name, email, and state.

## **7. Limited Contact; Advertising**

Through your use of the Services, we may contact you via email or phone to send you information about the Services including, without limitation, about changes to this agreement or our Privacy Policy, new features, and other information helpful or appropriate to the use of the Services. Third Space Learning contacts will never request personal information such as social security numbers, credit card numbers, or other personal information. We will only contact our users to advertise to them if they have not opted-out of such communications. We will not contact students for advertising purposes.

## **8. Things you must ensure in relation to your use of the Services**

If applicable to how you access our Services, you must ensure that:

- (i) All tutoring Services are supervised by a member of staff at the school. This staff member should be present to support students in the event that the student needs any technical or other support.
- (ii) usernames and passwords are entered correctly to gain access to the Services;
- (iii) users do not share their username and passwords;
- (iv) information technology set up and guidance provided by us has been followed, completed and tested by the school prior to the relevant start date and thereafter throughout the provision of the Services;
- (v) information technology and online quick tip help functions are followed so that each session is successfully launched and completed;

- (vi) all local computers and headsets to be used for each session are operating properly including all operating systems, network connections and/or ISP connectivity;
- (vii) teachers' quick tips are followed to ensure a full and proper learning experience for students and tutors. This includes creating a complete profile as required for each student and, if the school or school district has opted for a teacher selection program, the prompt and timely selection of courses and learning outcomes to allow tutors to conduct sessions effectively; and
- (viii)
  - (a) all sessions are attended by the students for whom the relevant sessions have been arranged.
  - (b) Ensure that users maintain the security of their account login information, including their username and password ("credentials"). We are entitled to assume that any use of the Services involving use of any credentials allocated to any of your users is in use by the users concerned, and you will be liable to us accordingly. Anyone using the Services who inputs valid School User or Staff User credentials will be assumed by us to be authorized to book, reschedule and/or cancel sessions, whether or not they are actually authorized by you to do so.
  - (c) Notify us immediately if you have any reason to believe that the secrecy or security of any user's credentials has been compromised.
  - (d) Notify us as soon as possible if you wish to reschedule sessions (for example, because the sessions fall on a federal or state holiday, faculty professional development day or there is some other reason that you are unable to run sessions on that specific day). Sessions are booked, for a program (school term), in specific time slots on specific days, and we will use our reasonable endeavors to reschedule sessions with you at a time acceptable to both you and us.
  - (e) Ensure that you and the users under your control, if applicable, comply with the terms of this agreement and that users do not access or use the Services otherwise than in accordance with the terms of this agreement, including the Acceptable Use Policy.
  - (f) Ensure that you and users under your control, if applicable, use the Services in a reasonable and appropriate manner, and do not use the Services for any illegal or unlawful purpose as further explained below in the Acceptable Use Policy.

*Acceptable Use Policy:*

The following terms constitute our "Acceptable Use Policy":

- (a) You agree not to use the Services to collect, upload, transmit, display, or distribute any user content (any and all information and content that a user submits to, or uses with, the Services (e.g., content in the user's profile or postings)) (i) that violates 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) that is unlawful, harassing, abusive, tortious, threatening, harmful, invasive of another's privacy, vulgar, defamatory, false, intentionally misleading, trade libelous, pornographic, obscene, patently offensive, promotes racism, bigotry, hatred, or physical harm of any kind against any group or individual or is otherwise objectionable; (iii) that is harmful to minors in any way; or (iv) that is in violation of any law, regulation, or obligations or restrictions imposed by any third party.
- (b) In addition, you agree not to: (i) upload, transmit, or distribute to or through the Services any computer viruses, worms, or any software intended to damage or alter a computer system or data; (ii) send through the Services unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form

of duplicative or unsolicited messages, whether commercial or otherwise; (iii) use the Services to harvest, collect, gather or assemble information or data regarding other users, including e-mail addresses, without their consent; (iv) interfere with, disrupt, or create an undue burden on servers or networks connected to the Services, or violate the regulations, policies or procedures of such networks; (v) attempt to gain unauthorized access to our Services (or to other computer systems or networks connected to or used together with the Services), whether through password mining or any other means; (vi) harass or interfere with any other user's use and enjoyment of the Services; or (vi) use software or automated agents or scripts to produce multiple accounts on the Services, or to generate automated searches, requests, or queries to (or to strip, scrape, or mine data from) our Services (provided, however, that we conditionally grant to the operators of public search engines revocable permission to use spiders to copy materials from the Services for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials, subject to the parameters set forth in our robots.txt file).

*Enforcement:*

We reserve the right (but have no obligation) to review any user content, and to investigate and/or take appropriate action against you in our sole discretion if you violate the Acceptable Use Policy or any other provision of these Terms or otherwise create liability for us or any other person. Such action may include removing or modifying your user content, terminating your account, and/or reporting you to law enforcement authorities.

*Use by Children Under 13:*

The Children's Online Privacy Protection Act ("COPPA") requires that all online service providers, including Third Space Learning, obtain parental consent before knowingly collecting personally identifiable information from children under the age of 13. If you are a School User or Staff User, you must obtain all necessary parental consents before allowing students to use the services.

- (a) **For free resources:** We do not knowingly collect or solicit any personally identifiable information from children under the age of 13. People under the age of 13 are prohibited from accessing free resources. If we learn that we have collected personal information from a person under the age of 13 that does not comply with COPPA, we will delete that information as soon as reasonably practicable. If you believe that a child under the age of 13 has provided personally identifiable information to us without the necessary consent, please contact us as soon as possible at [hello@thirdspacelearning.com](mailto:hello@thirdspacelearning.com).
- (b) **For tutoring:** Children under the age of 13 are prohibited from using the Services or creating an account unless they are doing so with parental consent or with the consent of a teacher, school, or district who is providing such consent in compliance with COPPA. If we learn that we have collected personal information from a person under the age of 13 that does not comply with COPPA, we will delete that information in a reasonably prudent amount of time. If you believe that a child under the age of 13 has provided personally identifiable information to us, please contact us at [hello@thirdspacelearning.com](mailto:hello@thirdspacelearning.com).

## 9. Third Parties

*Third-Party Links:*

The Services may contain links to third-party websites and services (collectively, "Third-Party Links"). Such links are not intended for advertising or marketing purposes. Such Third-Party Links

are not under the control of Third Space Learning, and we are not responsible for any Third-Party Links. We provide access to these Third-Party Links only as a convenience to you, and do not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Links. You use all Third-Party Links at your own risk, and should apply a suitable level of caution and discretion in doing so. When you click on any of the Third-Party Links, the applicable third party's terms and policies apply, including the third party's privacy and data gathering practices. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction in connection with such Third-Party Links.

Some of our Services may be provided through a third-party platform operated by Littera. When you click the link to login to use our Services, Littera's terms and policies apply. Littera's terms and policies are available here: <https://www.litteraeducation.com/terms-of-service/> & <https://www.litteraeducation.com/privacy-policy/>

*Other Users:*

Each Service user is solely responsible for any and all of its own user content. Because we do not control user content, you acknowledge and agree that we are not responsible for any user content, whether provided by you or by others. We make no guarantees regarding the accuracy, currency, suitability, or quality of any user content. Your interactions with other Service users are solely between you and such users. You agree that we will not be responsible for any loss or damage incurred as the result of any such interactions, and Third Space Learning is not responsible for any harm that may result from such interactions, including exposure to offensive content or harm resulting from in-person meetings. If there is a dispute between you and any Service user, we are under no obligation to become involved.

**10. Availability of the Services**

We will use our reasonable endeavors:

- (a) to make the tutoring Services available during school hours throughout each relevant school term of the package you have purchased; and
- (b) to ensure that an appropriate tutor is available to conduct each scheduled session arranged in advance by you in accordance with this agreement;

provided that in the event that through no fault of your own you are unable to start or complete a session that you have booked because either we have not made the Services or the relevant tutor available at or throughout substantially all of the relevant time booked for the session, we will make available a replacement session at no additional charge at a time to be agreed with you. Subject to that, we do not guarantee that the Services or any given session will be available continuously or at any given time or that its use will be entirely uninterrupted or error-free.

*Accessibility:*

Third Space Learning is committed to ensuring that the Services remain accessible to all individuals, regardless of disability. We will take reasonable steps to ensure that the Services meet customary standards for accessibility and comply with the requirements of the Americans with Disabilities Act ("ADA"), as applicable. If you have any suggestions about improvements we can make to enhance the accessibility of the Services, please contact us at [hello@thirdspacelearning.com](mailto:hello@thirdspacelearning.com).

*No Support or Maintenance:*

You acknowledge and agree that we will have no obligation to provide you with any support or maintenance in connection with the Services. However, and without any obligation whatsoever, we will try to use commercially reasonable methods designed to ensure that the Services are free of material errors. If you have support or maintenance questions, you can contact us at [hello@thirdspacelearning.com](mailto:hello@thirdspacelearning.com).

## 11. Fees

### *For Schools/School Districts*

Fees for tutoring Services are payable by the school or school district with respect to each package ordered by the school. Unless expressly agreed otherwise, all fees will be calculated and paid in U.S. dollars, and all fees are subject to the applicable sales taxes which shall be paid by the school. The fees for each package, excluding sales tax, are set out in the order confirmation for the school.

We will invoice the school or school district for the package booked as follows:

- (a) the fees for the first package purchased no earlier than 30 days before the start date of the package; and
- (b) the fees for each subsequent package no earlier than 30 days before the start date of the subsequent package;

save that we will, if requested by you, invoice in advance for more than one package.

Where we have agreed in writing to a request from the school or school district for an upsell during the term of the package, the upsell will be invoiced either with the invoice for that school term if notified and agreed sufficiently in advance or when we have agreed to the upsell if after the commencement of the school term.

Invoices must, unless otherwise agreed in writing by us be paid in full 14 days after the date of the invoice.

Should a purchase order number be required on the invoice, the purchase order number for the package is to be emailed to [finance@thirdspacelearning.com](mailto:finance@thirdspacelearning.com) no later than 7 days after receipt of the order confirmation.

We may increase our fees at any time but this will not affect the fees charged for any package contracted for on an order confirmation dated before the date on which any notice of increase given to the school or school district comes into effect as fees for each package once booked remain fixed for the duration of the package concerned. All fees are non-refundable except to the extent that we expressly and specifically agree otherwise.

### *Free Trial for Schools/School Districts*

If a school or school district is offered and signs up for a free trial period to our Services, we will make the Services available to the school or school district on such a basis (that is, non-paid for access) until the earlier of either:

- (a) the expiration of the free trial period for which the school or school district has subscribed; or
- (b) the commencement date of any paid for Services requested by the school or school district.

The school or school district's access to the Services will be suspended/terminated immediately on expiration of the free trial period for which it has subscribed. Where the school or school district wishes to continue using the Services, it must contact Third Space Learning prior to the expiration of the free trial period to guarantee uninterrupted and continuous access to, and use of, the Services.

#### *For End Users*

Currently, there are no fees payable directly by end users of our Services (Free Resource Users, Staff Users, and Student Users). If we decide to change our fees policy, we will provide thirty (30) days' notice to all end users.

## **12. Warranties**

We warrant that:

- (a) the Services will operate in all material respects as described on our website by means of which the Services is accessed;
- (b) we will provide the Services with reasonable care and skill and by means of appropriate qualified personnel;
- (c) each tutor employed by us in the provision of the Services will have been vetted by us (or on our behalf) in accordance with our standard vetting procedure, with a view to ensure that each such tutor is appropriately qualified to provide tutoring and is of good character.

#### **DISCLAIMER:**

THE SITE AND THE SERVICES ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS, AND THIRD SPACE LEARNING (AND CORPORATE PARENTS, SUBSIDIARIES, AND OUR SUPPLIERS) EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. WE (AND OUR CORPORATE PARENTS, SUBSIDIARIES, AND OUR SUPPLIERS) MAKE NO WARRANTY THAT THE SITE WILL MEET YOUR REQUIREMENTS, WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS, OR WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SERVICES, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF FIRST USE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU

## **13. Non-exclusive license**

Subject to these Terms, Third Space Learning grants you a non-transferable, non-exclusive, revocable, limited license to use and access the Services solely for your own personal, noncommercial use (except as provided herein). No other use is permitted.

## **14. Intellectual property rights**



The intellectual property rights in the Services (including any content provided by us by means of the Services) belong to us or our licensors. You may not, without our prior written consent, distribute to any third party or otherwise communicate to the public any content used, accessed and/or obtained via the Services.

## 15. Third party intellectual property rights

### *Copyright Policy:*

Third Space Learning respects the intellectual property of others and asks that users of our Services do the same. In connection with our Services, we have adopted and implemented a policy respecting copyright law that provides for the removal of any infringing materials and for the termination, in appropriate circumstances, of users of our Services who are repeat infringers of intellectual property rights, including copyrights. If you believe that one of our users is, through the use of our Services, unlawfully infringing the copyright(s) in a work, and wish to have the allegedly infringing material removed, the following information in the form of a written notification (pursuant to 17 U.S.C. § 512(c)) must be provided to our designated Copyright Agent:

1. your physical or electronic signature;
2. identification of the copyrighted work(s) that you claim to have been infringed;
3. identification of the material on our services that you claim is infringing and that you request us to remove;
4. sufficient information to permit us to locate such material;
5. your address, telephone number, and e-mail address;
6. a statement that you have a good faith belief that use of the objectionable material is not authorized by the copyright owner, its agent, or under the law; and
7. a statement that the information in the notification is accurate, and under penalty of perjury, that you are either the owner of the copyright that has allegedly been infringed or that you are authorized to act on behalf of the copyright owner.

Please note that, pursuant to 17 U.S.C. § 512(f), any misrepresentation of material fact (falsities) in a written notification automatically subjects the complaining party to liability for any damages, costs and attorney's fees incurred by us in connection with the written notification and allegation of copyright infringement.

The designated Copyright Agent for Third Space Learning is:

Designated Agent: Rob Langman  
Address of Agent: Third Space Learning, 68 Hanbury Street, London, E1 5JL  
Telephone: 929-298-4593  
Email: [rob.langman@thirdspacelearning.com](mailto:rob.langman@thirdspacelearning.com)

### *Indemnification:*

We will indemnify you against any claim that the use of the Services by you in accordance with this agreement infringes the intellectual property rights of a third party provided that:

- (a) You notify us promptly of any such claim.
- (b) You do not make any admissions in relation to the claim.
- (c) You give us control of dealing with the claim on your behalf.
- (d) You provide us with all assistance reasonably requested by us in dealing with the claim.

This indemnity shall not apply to any claim to the extent that it results from:

- (e) Any use of the Services by you other than in accordance with the terms of this agreement.
- (f) Any change to the Services not made by us.
- (g) The combination of the Services with any third-party product and/or Services unless and to the extent that the product or Services concerned is also provided by us.

## **16. Data protection**

Third Space Learning is subject to certain laws and regulations. Please visit our [Data Protection & Privacy Policy](#) for more information on how we collect, use, and safeguard data. Third Space Learning seeks to comply with all applicable federal and state student privacy laws and regulations including the Family Educational Rights and Privacy Act (“FERPA”).

## **17. Confidentiality**

We will keep confidential any confidential information which you provide to us in connection with the Services and you will do the same in relation to any confidential information which we provide to you. Confidential information will include all information marked as being confidential and any other information which ought reasonably to be assumed to be confidential. The obligations as to confidentiality set out above will not apply to any information to the extent that it is:

- (a) Available to the public other than because of any breach of this agreement or other obligation of confidentiality.
- (b) When it is supplied, already known to whomever it is disclosed to in circumstances in which they are not prevented from disclosing it to others.
- (c) Independently obtained by whomever it is disclosed to in circumstances in which they are not prevented from disclosing it to others.
- (d) Required to be disclosed by law or by any court or tribunal with proper authority to order its disclosure.

We may disclose your confidential information to any sub-contractors of ours who need to have access to it in order to carry out any obligations that are sub-contracted to them, but in that case we will ensure that the relevant sub-contractor enters into confidentiality obligations with us on substantially the same terms as in this agreement.

## **18. Term and termination**

The agreement under which we provide the Services will come into effect (a) for free resources, when you provide your information to download a resource or (b) for tutoring, the earlier of you registering to receive the Services or receiving the order confirmation and will remain in full force and effect while you use the Services. We may suspend or terminate your rights to use the Services (including your account) at any time for any reason at our sole discretion, including for any use of the Services in violation of this agreement. Upon termination of your rights under this agreement, your account and right to access and use the Services will terminate immediately. You understand that any termination of your account may involve deletion of your user content associated with your account from our live databases. When your account has been terminated, you are not entitled to a restoration of your account or any of your user content. Third Space Learning will not have any liability whatsoever to you for any termination of your rights under this agreement, including for termination of your account or deletion of your user content.

*Additional Termination Options for Schools/School Districts:*

Access for a school/school district and its associated users will be automatically canceled upon completion of the last session the school or school district has purchased unless another package has been purchased. Notwithstanding this, the agreement may be terminated as follows:

- (a) Either the School User or we may terminate this agreement immediately by notice to the other:
  - (i) if the other has committed a material breach of this agreement and (in the case of a breach capable of remedy) has failed to remedy the breach within 30 days of being requested to do so by the party not in breach; or
  - (ii) if the other is subject to an insolvency event.

School Users are responsible for ensuring data of Staff Users and Student Users are deleted when either type of user is no longer associated with the school or school district. If the contract with a school or school district is terminated, user accounts associated with that school will be terminated.

*Deletion of Sensitive Information Upon Termination:*

Upon termination of your account, you may request that we delete any sensitive information from our live databases and we agree to take commercially reasonable steps to honor such request in a reasonable amount of time not to exceed ninety (90) days. You understand and agree that we may continue to have sensitive information in archive files or similar databases. You further agree that we have no obligation to delete aggregated or de-identified information. We may retain and use aggregated and de-identified information for any purpose that is consistent with applicable federal and state laws and regulations.

**19. Liability**

*Release:*

You hereby release and forever discharge Third Space Learning (and its corporate parents, subsidiaries, officers, employees, agents, successors, and assigns) from, and hereby waive and relinquish, each and every past, present and future dispute, claim, controversy, demand, right, obligation, liability, action and cause of action of every kind and nature (including personal injuries, death, and property damage), that has arisen or arises directly or indirectly out of, or that relates directly or indirectly to, the Services (including any interactions with, or act or omission of, other Service users or any Third-Party Links & Ads). IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, WHICH STATES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

*Indemnification:*

You agree to indemnify and hold Third Space Learning (and its corporate parents, subsidiaries, officers, employees, and agents) harmless, including costs and attorneys' fees, from any claim or demand made by any third party due to or arising out of (a) your use of the Services, (b) your violation of this agreement, (c) your violation of applicable laws or regulations or (d) your user content. We reserve the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate with our defense of these claims. You agree not to settle any matter without the prior written consent of Third Space

Learning. We will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

*Limitation on Liability:*

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL THIRD SPACE LEARNING (OR OUR CORPORATE PARENTS, SUBSIDIARIES, OR SUPPLIERS) BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOST DATA, COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS, OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THESE TERMS OR YOUR USE OF, OR INABILITY TO USE, THE SERVICES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ACCESS TO, AND USE OF, THE SERVICES IS AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE OR COMPUTER SYSTEM, OR LOSS OF DATA RESULTING THEREFROM.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO THE GREATER OF THE AMOUNT PAID BY YOU DURING THE TWELVE MONTHS PRIOR TO THE DATE ON WHICH THE CLAIM AROSE OR FIFTY US DOLLARS (U.S. \$50). THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT. YOU AGREE THAT OUR SUPPLIERS WILL HAVE NO LIABILITY OF ANY KIND ARISING FROM OR RELATING TO THIS AGREEMENT.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

**20. Miscellaneous terms**

In relation to this agreement:

- We may sub-contract the performance of any of our obligations, but we will remain responsible to you under this agreement for performance of the obligations concerned in accordance with the terms of this agreement.
- You may not assign your rights under this agreement without our prior consent (not to be unreasonably withheld).
- Neither you nor we will be liable for any breach of this agreement (other than in relation to obligations as to payment) arising due to circumstances beyond the reasonable control of the party concerned.
- Copyright/Trademark Information: Copyright © 2023 Third Space Learning. All rights reserved. All trademarks, logos and service marks (“Marks”) displayed on the Site are our property or the property of other third parties. You are not permitted to use these Marks without our prior written consent or the consent of such third party which may own the Marks.

**21. Update**

The terms and conditions for our Services may also be found on our website and are available for all prospective and existing users to view at any time.

This agreement is subject to occasional revision, and if we make any substantial changes, we may notify you by sending you an e-mail to the last e-mail address you provided to us (if any), and/or by prominently posting notice of the changes on our site. You are responsible for providing us with your most current e-mail address. In the event that the last e-mail address that you have provided us is not valid, or for any reason is not capable of delivering to you the notice described above, our dispatch of the e-mail containing such notice will nonetheless constitute effective notice of the changes described in the notice. Any changes to this agreement will be effective upon the earlier of thirty (30) calendar days following our dispatch of an e-mail notice to you (if applicable) or thirty (30) calendar days following our posting of notice of the changes on our site. These changes will be effective immediately for new users of our Services. Continued use of our Services following notice of such changes shall indicate your acknowledgement of such changes and agreement to be bound by the terms and conditions of such changes.

These terms were last updated on 31<sup>st</sup> August 2023.

## **22. Law**

### *Entire Terms:*

This agreement constitutes the entire agreement between you and us regarding the use of the Services. Our failure to exercise or enforce any right or provision of these Terms shall not operate as a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. The word "including" means "including without limitation". Neither party is an employee, agent or partner of the other.

### *Choice of Law:*

This agreement will be governed by the laws of the United States and the state of Delaware.

### *DISPUTE RESOLUTION; MANDATORY ARBITRATION:*

Please read this Arbitration Agreement carefully. It is part of your contract with Third Space Learning and affects your rights. It contains procedures for MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.

(a) **Applicability of Arbitration Agreement.** All claims and disputes (excluding claims for injunctive or other equitable relief as set forth below) in connection with the Terms or the use of any product or service provided by Third Space Learning that cannot be resolved informally or in small claims court shall be resolved by binding arbitration on an individual basis under the terms of this Arbitration Agreement. Unless otherwise agreed to, all arbitration proceedings shall be held in English. This Arbitration Agreement applies to you and us, and to any subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services or goods provided under the Terms.

(b) **Notice Requirement and Informal Dispute Resolution.** Before either party may seek arbitration, the party must first send to the other party a written Notice of Dispute ("Notice") describing the nature and basis of the claim or dispute, and the requested relief. A Notice to Third Space Learning should be sent to: [address]. After the Notice is received, you and Third Space Learning may attempt to resolve the claim or dispute informally. If you and Third Space Learning do not resolve the claim or dispute within thirty (30) days after the Notice is received, either party may begin an arbitration proceeding. The amount of any settlement offer made by any party may not be disclosed to the arbitrator until after the arbitrator has determined the amount of the award, if any, to which either party is entitled.

(c) **Arbitration Rules.** Arbitration shall be initiated through the American Arbitration Association (“AAA”), an established alternative dispute resolution provider (“ADR Provider”) that offers arbitration as set forth in this section. If AAA is not available to arbitrate, the parties shall agree to select an alternative ADR Provider. The rules of the ADR Provider shall govern all aspects of the arbitration, including but not limited to the method of initiating and/or demanding arbitration, except to the extent such rules are in conflict with the Terms. The AAA Consumer Arbitration Rules (“Arbitration Rules”) governing the arbitration are available online at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879. The arbitration shall be conducted by a single, neutral arbitrator. Any claims or disputes where the total amount of the award sought is less than Ten Thousand U.S. Dollars (US \$10,000.00) may be resolved through binding non-appearance-based arbitration, at the option of the party seeking relief. For claims or disputes where the total amount of the award sought is Ten Thousand U.S. Dollars (US \$10,000.00) or more, the right to a hearing will be determined by the Arbitration Rules. Any hearing will be held in a location within 100 miles of your residence, unless you reside outside of the United States, and unless the parties agree otherwise. If you reside outside of the U.S., the arbitrator shall give the parties reasonable notice of the date, time and place of any oral hearings. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. If the arbitrator grants you an award that is greater than the last settlement offer that we made to you prior to the initiation of arbitration, Third Space Learning will pay you the greater of the award or \$2,500.00. Each party shall bear its own costs (including attorney’s fees) and disbursements arising out of the arbitration and shall pay an equal share of the fees and costs of the ADR Provider.

(d) **Additional Rules for Non-Appearance Based Arbitration.** If non-appearance based arbitration is elected, the arbitration shall be conducted by telephone, online and/or based solely on written submissions; the specific manner shall be chosen by the party initiating the arbitration. The arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise agreed by the parties.

(e) **Time Limits.** If you or Third Space Learning pursue arbitration, the arbitration action must be initiated and/or demanded within the statute of limitations (i.e., the legal deadline for filing a claim) and within any deadline imposed under the AAA Rules for the pertinent claim.

(f) **Authority of Arbitrator.** If arbitration is initiated, the arbitrator will decide the rights and liabilities, if any, of you and Third Space Learning, and the dispute will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages, and to grant any non-monetary remedy or relief available to an individual under applicable law, the AAA Rules, and the Terms. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and Third Space Learning.

(g) **Waiver of Jury Trial.** THE PARTIES HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY, instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement. Arbitration procedures are typically more limited, more efficient and less costly than rules applicable in a court and are subject to very limited review by a court. In the event any litigation should arise between you and Third Space Learning in any state or federal court in a suit to vacate or enforce an arbitration award or otherwise, YOU AND THIRD SPACE LEARNING WAIVE ALL RIGHTS TO A JURY TRIAL, instead electing that the dispute be resolved by a judge.

(h) **Waiver of Class or Consolidated Actions.** ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, AND CLAIMS OF MORE THAN ONE

CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER.

(i) Confidentiality. All aspects of the arbitration proceeding, including but not limited to the award of the arbitrator and compliance therewith, shall be strictly confidential. The parties agree to maintain confidentiality unless otherwise required by law. This paragraph shall not prevent a party from submitting to a court of law any information necessary to enforce this Agreement, to enforce an arbitration award, or to seek injunctive or equitable relief.

(j) Severability. If any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable by a court of competent jurisdiction, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Agreement shall continue in full force and effect.

(k) Right to Waive. Any or all of the rights and limitations set forth in this Arbitration Agreement may be waived by the party against whom the claim is asserted. Such waiver shall not waive or affect any other portion of this Arbitration Agreement.

(l) Survival of Agreement. This Arbitration Agreement will survive the termination of your relationship with Third Space Learning.

(m) Small Claims Court. Notwithstanding the foregoing, either you or Third Space Learning may bring an individual action in small claims court.

(n) Emergency Equitable Relief. Notwithstanding the foregoing, either party may seek emergency equitable relief before a state or federal court in order to maintain the status quo pending arbitration. A request for interim measures shall not be deemed a waiver of any other rights or obligations under this Arbitration Agreement.

(o) Claims Not Subject to Arbitration. Notwithstanding the foregoing, claims of defamation, violation of the Computer Fraud and Abuse Act, and infringement or misappropriation of the other party's patent, copyright, trademark or trade secrets shall not be subject to this Arbitration Agreement.

(p) Courts. In any circumstances where the foregoing Arbitration Agreement permits the parties to litigate in court, the parties hereby agree to submit to the personal jurisdiction of the courts located within the state of Delaware for such purpose.

*Severability:*

If any of the terms in this agreement are held to be unenforceable, invalid or illegal for any reason, the enforceability, validity and legality of the remaining terms of this agreement shall in no way be affected or impaired thereby and will continue in full force.

The failure of either us or you to exercise in any respect any right provided for herein shall not be deemed a waiver of any right hereunder.

**23. Contact Information:**

Postal address: Third Space Learning Inc, 3 Germay Dr, Unit 4 #2810, Wilmington 19804  
Email: [secretary@thirdspacelearning.com](mailto:secretary@thirdspacelearning.com)  
Phone: 929-298-4593