



Digital Student Engagement – ZeeMee Terms and Conditions

1. **ZeeMee Services.** Subject to these terms and conditions, ZeeMee will provide and make available ZeeMee Community Pro (“**Services**”) through software-as-a-service (“**SaaS**”) services as well as supported mobile applications (“**Apps**”). Client agrees that its use of the Services is subject to these Terms and Conditions as well as ZeeMee’s posted Terms of Use at www.zeemee.com/terms_of_use and incorporated herein by reference. In the event of a conflict, these Terms and Conditions will govern and control.

Client will upload, or otherwise provide to ZeeMee in an agreed electronic format, information (“**Student Information**”) on individuals in Client’s funnel that are at a stage of prospective, inquiry, applicant, accepted, and/or enrolled student (“**Student**”) and other information as necessary and reasonably requested for ZeeMee to perform the Services. ZeeMee may use the Student Information to promote, market to, and offer the Students access to Services specifically configured by ZeeMee for Client’s Students. If Students opt to use such Services, they must first enter into a separate contractual terms of service (“**TOS**”) with ZeeMee that may provide for authorization by Students of additional lawful uses of Student Information and other information they provide to or that is collected by ZeeMee as disclosed in ZeeMee’s privacy policy.

Client agrees that it will only make lawful use of the Services, and in the case of messages or other communications made through use of the Services that includes, but is not limited to, compliance with the CAN SPAM Act of 2003, the Telephone Consumer Protection Act, and the Do-Not-Call Implementation Act (or any similar or analogous anti-spam, data protection, or privacy legislation in any other jurisdiction).

2. **ZeeMee Responsibilities.** ZeeMee will provide online Services available seven days per week, 24 hours per day (excluding scheduled maintenance downtime) with availability of 99%, measured monthly. From time to time, ZeeMee may schedule downtime for the Services to perform maintenance. ZeeMee will notify Client in advance of any scheduled maintenance downtime.

ZeeMee will implement security measures that are no less rigorous than industry standards to protect Student Information and Client’s confidential data, and will comply with applicable data protection and privacy laws, including without limitation the Family Educational Rights and Privacy Act (“**FERPA**”), 20 U.S.C. § 1232g. Clients with Student Information that is subject to the EU General Data Protection Regulation 2016/679 (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016) (“**GDPR**”) additionally agree to the terms of the Data Processing Addendum posted at www.zeemee.com/dpa as a condition of providing EU Student Information to ZeeMee for processing.

ZeeMee will provide reasonable telephone and online maintenance and support services to Client’s authorized personnel during ZeeMee’s normal business hours.

3. **Termination.** This Agreement is effective as of the Start Date through the End Date (“**Term**”) as specified on the Cover Page. Thereafter, the Agreement will automatically renew on one-year terms, unless either party provides written notice of non-renewal at least sixty (60) days prior to the end of the then-current initial or renewal term, at the same rates and annual Fees unless

the Parties mutually agree on new Fees. Either party may terminate this Agreement upon thirty (30) days prior written notice for the other party's material breach if such breach remains uncured at the end of the notice period. Upon any termination or expiration of this Agreement, Client shall have no further right to access the Services, Client shall remain liable for unpaid and accrued charges due, and Sections 3, 4, 6-9 of this Agreement shall survive. Should this Agreement early terminate for any reason, ZeeMee may, at its option, continue to provide portions of Services to the Students for a wind-down period (not to exceed 60 days) during which Client shall not be required to provide any additional Student Information to ZeeMee, and ZeeMee shall not be required to provide Client access to any features within the Services.

4. **Confidentiality.** ZeeMee agrees not to use or disclose Student Information or private communications made through the Services except with its employees, agents, partners and contractors for the purposes of this Agreement and as authorized in writing by Client or by Students (or their legal guardian as applicable) or as required by law.
5. **Publicity.** College grants ZeeMee a limited, non-exclusive, royalty-free, right to use College's names, marks, and logos on online pages maintained by ZeeMee under this Agreement for College, and for publicity and marketing, and also to identify College as a ZeeMee customer; provided that ZeeMee will comply with any trademark guidelines and directions as provided by College.
6. **Limitation of Liability.** SUBJECT TO SECTION 7 ("WARRANTY DISCLAIMER") AND EXCLUDING SECTION 8 ("CLIENT RESPONSIBILITY FOR STUDENT INFORMATION"), IN NO EVENT WILL EITHER PARTY (OR ITS LICENSORS OR SUPPLIERS) BE LIABLE IN CONNECTION WITH THIS AGREEMENT OR ANY CLAIMS (INCLUDING NEGLIGENCE) ARISING UNDER OR RELATING TO THIS AGREEMENT, FOR (I) ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, (II) ANY AMOUNT, IN THE AGGREGATE, IN EXCESS OF THE AMOUNTS PAID AND/OR PAYABLE FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD PRECEDING THE APPLICABLE CLAIM (OR, IF GREATER, ONE THOUSAND DOLLARS (\$1,000)), AND (III) IN THE CASE OF ZEEMEE, THE DELAY OR INABILITY OF CLIENT TO USE THE COMMUNITY OR ANY OTHER SERVICES PROVIDED IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT ERROR OR OMISSION IN THE SERVICES, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS OR LOST SALES.
7. **Warranty; Disclaimer.** Each party represents to the other it has all rights necessary to enter into this Agreement and to perform its obligations hereunder and it will use commercially reasonable efforts to perform such obligations in a professional manner consistent with industry standards. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 7, THE SERVICES, COMMUNITY, AND ANY OTHER DELIVERABLES PROVIDED IN CONNECTION WITH THIS AGREEMENT ARE PROVIDED BY ZEEMEE "AS-IS," WITHOUT ANY WARRANTIES OF ANY KIND, AND ZEEMEE HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, RELATING TO THE SUBJECT MATTER HEREUNDER, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING ZEEMEE DOES NOT WARRANT THAT THE SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED. CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY IS TO TERMINATE THE AGREEMENT AFTER ALLOWING A CURE PERIOD IN ACCORDANCE WITH SECTION 3 AND RECEIVE A PRO-RATA REFUND FROM ZEEMEE OF ANY UNUSED SUBSCRIPTION FEES FOR THE REMAINDER OF THE TERM IN WHICH WARRANTY BREACH OCCURRED.
8. **Client Responsibility for Student Information.** Client represents and warrants at all times that it has (i) the authorization to provide the Student Information to ZeeMee for use as

provided under this Agreement, including without limitation, authorization as may be required pursuant to FERPA, and regulations thereunder, (ii) sufficient authorization to permit ZeeMee to send emails, SMS/MMS texts and other communications to Students for the purposes Agreement, and further Client agrees to defend and hold ZeeMee and its directors, officers, employees and agents harmless to the full extent permitted by law from any and all third-party claims alleging a breach by Client of any duties not to disclose Student Information to ZeeMee for use as authorized under this Agreement.

9. **Miscellaneous.** If any provision of this Agreement is deemed unlawful, void or unenforceable by a court of competent jurisdiction, that provision shall be deemed severable from this Agreement. This Agreement is governed by the laws of the State of California, without regard to the conflicts of laws provisions thereof. ZeeMee has the right to assign its rights and obligations under this Agreement without the consent of Client. A party's delay or failure to exercise any right or remedy will not result in a waiver of that or any other right or remedy.