

Great Minds PBC Digital Services Terms of Service

- 1) Applicability.
 - a) These terms and conditions of sale (inclusive of Schedule 1 attached hereto, these “Digital Terms”) govern the use and consumption of those services which Great Minds PBC (“Seller”), makes available or delivers digitally or electronically (“Digital Services”) to its customers (each a “Customer”).
 - b) Additional terms regarding the payment and delivery of the Digital Services are as set forth in the terms and conditions at <https://greatminds.org/customer-quote-terms> (the “General Terms”), or as may otherwise be agree between Seller and Customer in a separate writing executed by both Seller and Customer (such applicable terms hereinafter, the “Agreement”). In the event of an ambiguity or conflict between these Digital Terms and the Agreement, the Agreement shall control.
 - c) These Digital Terms prevail over any of Customer’s general terms and conditions of purchase regardless whether or when Customer has submitted its purchase order or such terms. Fulfillment of Customer’s order does not constitute acceptance of any of Customer’s terms and conditions and does not serve to modify or amend these Digital Terms.
 - d) Customer accepts these Digital Terms and their predominance over any terms on a Customer purchase order by Customer’s continued use of and access to the Digital Services.
- 2) Additional Digital Terms. The Additional Digital Terms and Conditions set forth on Schedule 1 attached hereto are incorporated by reference as if fully set forth herein.
- 3) Amendment and Modification. These Digital Terms may be unilaterally amended by Seller on five (5) prior business days written notice to Customer (including notice via email that these Digital Terms have been amended and that revised terms have been posted online).
- 4) Pricing; Termination of Access to and Discontinuation of Digital Services.
 - a) Pricing and payment terms shall be as set forth in the Agreement.
 - b) Customer acknowledges and agrees that Seller may terminate Customer’s access to the Digital Services upon expiration or termination of the Agreement, Customer’s failure to make payment as required under an Agreement or as otherwise required under a validly issued invoice submitted by Seller, breach of these Digital Terms, or breach of the other terms of the Agreement.
 - c) Customer acknowledges and agrees that Seller may, in its sole and absolute discretion, discontinue any Digital Services (or any version or edition thereof) at any time with or without notice, and without liability to Customer.
- 5) Limited Warranty.

SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE DIGITAL SERVICES, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.
- 6) Limitation of Liability.
 - a) IN NO EVENT SHALL SELLER BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
 - b) IN NO EVENT SHALL SELLER’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO DIGITAL SERVICES EXCEED THE LESSER OF ANY LIMITATION SET FORTH IN AN AGREEMENT OR \$100,000.

- 7) Use of Third-Party Rostering Application. Seller may use its licensed Dropbox application or permit the Customer to use its licensed DropBox application to complete the rostering process for any Digital Service. In such case, the Customer will indemnify, defend and hold harmless Seller from and against any claims relating to or arising from the Customer's use of Dropbox.

Digital Services Additional Terms and Conditions – Schedule 1

1. Definitions

- a) “Aggregated Statistics” means data and information related to Customer's use of the Digital Services that is used by Seller in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Digital Services, and which in any event shall never include Sensitive Data.
- b) “Authorized User” means Customer's employees, students, consultants, contractors, and agents (i) who are authorized by Customer to access and use the Digital Services and (ii) for whom access to the Digital Services have been purchased by the Customer.
- c) “Customer Data” means, other than Aggregated Statistics, information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Customer or an Authorized User through the Digital Services.
- d) “Documentation” means Seller's user manuals, handbooks, and guides relating to the Digital Services provided by Seller to Customer either electronically or in hard copy form and end user documentation relating to the Digital Services, if any, available at <https://www.greatminds.org>.
- e) “Seller Digital Services IP” means all intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith, derivative works and all other rights in and to all documents, work product, and other materials that are delivered to Customer as part of the Digital Services by or on behalf of Seller in the course of delivering Digital Services, the Digital Services, the Documentation, and any and all intellectual property provided to Customer or any Authorized User in connection with the foregoing. For the avoidance of doubt, Seller Digital Services IP includes Aggregated Statistics and any information, data, or other content derived from Seller's monitoring of Customer's access to or use of the Digital Services, but does not include Customer Data.
- f) “Sensitive Data” means Authorized Users names, email addresses, passwords, personally identifiable (or other similar) information protected by law in that Customer’s home jurisdiction or by applicable federal law, and any additional data that Customer identifies to Seller as sensitive in writing and which Seller then agrees in writing to regard as Sensitive Data.

2. Access and Use

- a) Provision of Access. Subject to and conditioned on Customer's payment of amounts as set forth in the Agreement and compliance with all other terms and conditions thereof, and Seller’s right to discontinue the Digital Services or otherwise terminate or suspend Customer’s access to or use thereof, Seller hereby grants Customer a non-exclusive, non-transferable right to access and use the Digital Services during the Term of the Agreement, solely for use by Authorized Users in accordance with the terms and conditions herein. Such use is limited to Customer's internal use. Seller shall provide to Customer the necessary passwords and network links or connections to allow Customer to access the Digital Services. The total number of Authorized Users will not exceed the number expressly agreed to in writing by the parties.
- b) Documentation License. Subject to the terms and conditions contained in the Agreement, Seller hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use the Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Digital Services.
- c) Use Restrictions. Customer shall not use the Digital Services for any purposes beyond the scope of the access granted herein nor for any purposes other than the non-commercial education of K-12 students. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of the Digital Services or

Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Digital Services or Documentation; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Digital Services, in whole or in part; (iv) remove any proprietary notices from the Digital Services or Documentation; or (v) use the Digital Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.

- d) Reservation of Rights. Seller reserves all rights not expressly granted to Customer in the Agreement or expressly granted herein with respect to the Digital Services. Except for the limited rights and licenses expressly granted under the Agreement or herein with respect to the Digital Services, nothing in the Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the Seller Digital Services IP or any other intellectual property rights (irrespective of their nature) of Seller.
 - e) Suspension. Seller may temporarily suspend Customer's and any Authorized User's access to any portion or all of the Digital Services if:
 - (i) Seller reasonably determines that (A) there is a threat or attack on any of the Seller Digital Services IP; (B) Customer's or any Authorized User's use of the Seller Digital Services IP disrupts or poses a security risk to the Seller Digital Services IP or to any other customer or vendor of Seller; (C) Customer, or any Authorized User, is using the Seller Digital Services IP for fraudulent or illegal activities; (D) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) Seller's provision of the Digital Services to Customer or any Authorized User is prohibited by applicable law; or (ii) any vendor of Seller has suspended or terminated Seller's access to or use of any third-party services or products required to enable Customer to access the Digital Services; (any such suspension described in subclause (i) or (ii), a "Service Suspension"). Seller shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Digital Services following any Service Suspension. Seller shall use commercially reasonable efforts to resume providing access to the Digital Services as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Seller will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized User may incur as a result of a Service Suspension.
 - f) Aggregated Statistics. Seller may monitor Customer's use of the Digital Services and collect and compile Aggregated Statistics. As between Seller and Customer, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by Seller. Customer acknowledges that Seller may compile Aggregated Statistics based on Customer Data input into the Digital Services. Customer agrees that Seller may (i) make Aggregated Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law; provided that such Aggregated Statistics do not identify Customer or Customer's Confidential Information, or otherwise include Sensitive Data.
3. Customer Responsibilities. Customer is responsible and liable for all uses of the Digital Services and Documentation resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in violation of the Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a

breach of the Agreement if taken by Customer will be deemed a breach of the Agreement by Customer. Customer shall use reasonable efforts to make all Authorized Users aware of the Agreement's provisions as applicable to such Authorized User's use of the Digital Services, and shall cause Authorized Users to comply with such provisions.

4. Service Levels and Support.
 - a) Service Levels. Subject to the terms and conditions of the Agreement, Seller shall use commercially reasonable efforts to make the Digital Services available to Customer and Authorized Users.
 - b) Support. Neither the Agreement nor anything herein shall entitle Customer to any support for the Digital Services.
5. Auditing Rights and Required Records. Customer agrees to maintain complete and accurate records in accordance with generally accepted accounting principles during the Term and for a period of three (3) years after the termination or expiration of its use or access to the Digital Services with respect to matters necessary for accurately determining amounts due to Seller under an Agreement. Seller may, at its own expense, on reasonable prior notice, periodically inspect and audit Customer's records with respect to matters covered by the Agreement, provided that if such inspection and audit reveals that Customer has underpaid Seller with respect to any amounts due and payable to Seller, Customer shall promptly pay the amounts necessary to rectify such underpayment, together with interest at 1.5% per month (or the maximum amount allowed by law if less), calculated daily and compounded monthly. Customer shall pay for the costs of the audit if the audit determines that Customer's underpayment equals or exceeds 20% for any quarter. Such inspection and auditing rights will extend throughout Customer's use of and access to the Digital Services and for a period of three (3) years after the Customer's cessation of use of or access to the same.
6. Confidential Information. From time to time either party may disclose or make available to the other party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media/in written or electronic form or media, whether or not marked, designated, or otherwise identified as "confidential" (collectively, "Confidential Information"). Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain; (b) known to the receiving party at the time of disclosure; (c) rightfully obtained by the receiving party on a non-confidential basis from a third party; or (d) independently developed by the receiving party. The receiving party shall not disclose the disclosing party's Confidential Information to any person or entity, except to the receiving party's employees who have a need to know the Confidential Information for the receiving party to exercise its rights or perform its obligations hereunder. Notwithstanding the foregoing, each party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the party making the disclosure pursuant to the order or applicable law shall first have given written notice to the other party and made a reasonable effort to obtain a protective order; or (ii) to establish a party's rights under the Agreement, including to make required court filings. Upon receipt of written request from the disclosing party, the receiving party shall promptly return to the disclosing party all copies, whether in written, electronic, or other form or media, of the disclosing party's Confidential Information, or destroy all such copies and certify in writing to the disclosing party that such Confidential Information has been destroyed; it being acknowledged and agreed that Seller shall have no obligation to remove or destroy Confidential Information from or used in Aggregated Statistics. Each party's obligations of non-disclosure with regard to Confidential Information will expire five (5) years from the date of such party's last use of the Digital Services; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of the Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

7. Intellectual Property Ownership; Feedback.

- a) Seller Digital Services IP. Customer acknowledges that, as between Customer and Seller, Seller owns all right, title, and interest, including all intellectual property rights, in and to the Seller Digital Services IP.
- b) Customer Data. Seller acknowledges that, as between Seller and Customer, Customer owns all right, title, and interest, including all intellectual property rights, in and to the Customer Data. Customer hereby grants to Seller a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for Seller to provide the Digital Services to Customer, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer Data incorporated within the Aggregated Statistics.
- c) Feedback. If Customer or any of its employees, students, or contractors sends or transmits any communications or materials to Seller by mail, email, telephone, or otherwise, suggesting or recommending changes to the Seller Digital Services IP, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("Feedback"), Seller is free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback. Customer hereby assigns to Seller on Customer's behalf, and on behalf of its employees, students, contractors and/or agents, all right, title, and interest in, and Seller is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although Seller is not required to use any Feedback.

8. Indemnification.

a) Seller Indemnification.

- (i) Seller shall indemnify, defend, and hold harmless Customer from and against any and all losses, damages, liabilities, costs (including reasonable attorneys' fees) ("Losses") incurred by Customer resulting from any third-party claim, suit, action, or proceeding ("Third-Party Claim") that the Digital Services, or any use of the Digital Services in accordance with the Agreement, infringes or misappropriates such third party's US intellectual property rights, provided that Customer promptly notifies Seller in writing of the claim, cooperates with Seller, and allows Seller sole authority to control the defense and settlement of such claim.
- (ii) If such a claim is made or appears possible, Customer agrees to permit Seller, at Seller's sole discretion, to (A) modify or replace the Digital Services, or component or part thereof, to make it non- infringing, or (B) obtain the right for Customer to continue use. If Seller determines that neither alternative is reasonably available, Seller may terminate the Agreement, in its entirety or with respect to the affected component or part, effective immediately on written notice to Customer.
- (iii) This Section 8(a) will not apply to the extent that the alleged infringement arises from: (A) use of the Digital Services in combination with data, software, hardware, equipment, or technology not provided by Seller or authorized by Seller in writing; (B) modifications to the Digital Services not made by Seller; or (C) Customer Data.

- b) Customer Indemnification. Customer shall indemnify, hold harmless, and, at Seller's option, defend Seller from and against any Losses resulting from any Third-Party Claim that the Customer Data, or any use of the Customer Data in accordance with the Agreement, infringes or misappropriates such third party's intellectual property rights and any Third-Party Claims based on Customer's or any Authorized User's (i) negligence or willful misconduct; (ii) use of the Digital Services in a manner not authorized by the Agreement; (iii) use of the Digital Services in combination with data, software, hardware, equipment, or technology not provided by Seller or authorized by Seller in writing; or (iv)

modifications to the Digital Services not made by Seller, provided that Customer may not settle any Third-Party Claim against Seller unless Seller consents to such settlement, and further provided that Seller will have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.

- c) Sole Remedy. THIS SECTION 8 SETS FORTH CUSTOMER'S SOLE REMEDIES AND PROVIDER'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE DIGITAL SERVICES INFRINGE, MISAPPROPRIATE, OR OTHERWISE VIOLATE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. IN NO EVENT WILL PROVIDER'S LIABILITY EXCEED THE LIMITATION ON LIABILITY SET FORTH IN THESE DIGITAL TERMS.
9. Effect of Expiration or Termination of Agreement. Upon expiration or earlier termination of the Agreement or otherwise in accordance with the Digital Terms, Customer shall immediately discontinue use of the Seller Digital Services IP and, without limiting Customer's obligations under this Section 9, Customer shall delete, destroy, or return all copies of the Seller Digital Services IP and certify in writing to the Seller that the Seller Digital Services IP has been deleted or destroyed. No expiration or termination will affect Customer's obligation to pay amounts due under the Agreement that may have become due before such expiration or termination or entitle Customer to any refund.

REVISED February 3, 2022