

## **Codesters**

### **Terms of Use**

**Effective Date: 10/10/15**

**Last Updated Date: 10/10/15**

PLEASE READ THIS TERMS OF USE AGREEMENT (THE “**TERMS**”) CAREFULLY. BY ACCESSING OR USING THIS WEBSITE OR ANY OTHER WEBSITES OF CODESTERS, INC., ITS AFFILIATES OR AGENTS (“**CODESTERS**”) WITH LINKS TO THIS AGREEMENT (COLLECTIVELY, THE “**WEBSITE**”) IN ANY WAY, INCLUDING USING THE SERVICES AND RESOURCES AVAILABLE OR ENABLED VIA OUR WEBSITE (EACH A “**SERVICE**” AND COLLECTIVELY, THE “**SERVICES**”), CLICKING ON THE “I ACCEPT” BUTTON OR OTHER SIMILAR FORM OF PROVIDING AFFIRMATIVE CONSENT, COMPLETING THE REGISTRATION PROCESS, AND/OR MERELY BROWSING THE WEBSITE, 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). IF YOU ARE A PARENT OR LEGAL GUARDIAN OF AN INDIVIDUAL UNDER 18 (“**CHILD**”) USING THE SERVICE, YOU AGREE TO BE BOUND BY THIS AGREEMENT WITH RESPECT TO SUCH CHILD’S USE OF THE SERVICE. YOU MAY NOT ACCEPT THESE TERMS IF YOU ARE NOT AT LEAST 18 YEARS OLD. YOU MAY NOT USE THE SITE OR SERVICES WITHOUT PARENTAL CONSENT IF YOU ARE UNDER 13 YEARS OLD. **IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS, YOU MAY NOT ACCESS OR USE THIS WEBSITE OR THE SERVICES.**

**THESE TERMS INCLUDE A CLASS ACTION WAIVER AND A WAIVER OF JURY TRIALS, AND REQUIRE BINDING ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES.**

**THESE TERMS LIMIT THE REMEDIES THAT MAY BE AVAILABLE TO YOU IN THE EVENT OF A DISPUTE.**

PLEASE NOTE THAT THE TERMS ARE SUBJECT TO CHANGE BY CODESTERS IN ITS SOLE DISCRETION AT ANY TIME. When changes are made, Codesters will make a new copy of the Terms available at the Website. We will also update the “Last Updated” date at the top of the Terms. If we make any material changes, and you have registered with us to create an Account (as defined below) to use the Services, we will also send an e-mail to you at the last e-mail address you provided to us pursuant to the Terms. Any changes to the Terms will be effective immediately for new users of the Website and/or Services and will be effective thirty (30) days after posting of notice of such changes on the Website for existing users, provided that any material changes shall be effective for users who have an Account with us upon the earlier of thirty (30) days after posting of notice of such changes on the Website or thirty (30) days after dispatch of an e-mail notice of such changes to Registered Users (defined below). Codesters may require you to provide consent to the updated Terms in a specified manner before further use of the Website and/or the Services is permitted. If you do not agree to any change(s) after receiving a notice of such change(s), you shall stop using the Website and/or

the Services. Otherwise, your continued use of the Website and/or Services constitutes your acceptance of such change(s). PLEASE REGULARLY CHECK THE WEBSITE TO VIEW THE THEN-CURRENT TERMS.

1. **Use of the Services and the Codesters Properties.** The Website, the Services, and the information, images, or other content (“**Content**”) available on or in the Website and Services (collectively, the “**Codesters Properties**”) are protected by copyright laws throughout the world. Subject to the Terms, Codesters grants users a limited license to reproduce portions of the Codesters Properties for the sole purpose of using the Services for their own personal purposes. Unless otherwise specified by Codesters in a separate license, the right to use any the Codesters Properties is subject to the Terms.

1.1. **Certain Restrictions.** The rights granted to users in the Terms are subject to the following restrictions, users shall not (and shall not permit any student or third party to): (a) license, sell, rent, lease, transfer, assign, reproduce, distribute, host or otherwise commercially exploit the Codesters Properties or any portion of the Codesters Properties, including the Website; (b) frame or utilize framing techniques to enclose any trademark, logo, or other the Codesters Properties (including images, text, page layout or form) of Codesters; (c) use any metatags or other “hidden text” using Codesters’ name or trademarks; (d) modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of the Codesters Properties except to the extent the foregoing restrictions are expressly prohibited by applicable law; (e) use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to “scrape” or download data from any web pages contained in the Website (except that we grant the operators of public search engines revocable permission to use spiders to copy materials from the Website 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); (f) access the Codesters Properties in order to build a similar or competitive website, application or service; (g) except as expressly stated herein, no part of the Codesters Properties may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means; and (h) remove or destroy any copyright notices or other proprietary markings contained on or in the Codesters Properties. Any future release, update or other addition to the Codesters Properties shall be subject to the Terms. Codesters, its suppliers and service providers reserve all rights not granted in the Terms. Any unauthorized use of the Codesters Properties terminates the licenses granted by Codesters pursuant to the Terms.

2. **Registration.**

2.1. **Registering your Account.** Certain features of the Codesters Properties are only available to Registered Users. For purposes of the Terms, a “**Registered User**” is a user who has registered an account on the Website (“**Account**”) or has a valid account on the social networking service (“**SNS**”) that the Website registration process supports (each such account, a “**Third-Party Account**”). Registered Users may have access to different functions of the Services. For instance, student users may have access to different functions than teachers or school administrators.

2.2. **Access through a SNS.** If you access the Services through a SNS as part of the functionality of the Website and/or the Services, you may link your Account with

Third-Party Accounts, by allowing Codesters to access your Third-Party Account, as is permitted under the applicable terms and conditions that govern your use of each Third-Party Account. You represent that you are entitled to disclose your Third-Party Account login information to Codesters and/or grant Codesters access to your Third-Party Account without breach by you of any of the terms and conditions that govern your use of the applicable Third-Party Account and without obligating Codesters to pay any fees or making Codesters subject to any usage limitations imposed by such third-party service providers. PLEASE NOTE THAT YOUR RELATIONSHIP WITH THE SNS ASSOCIATED WITH YOUR THIRD-PARTY ACCOUNT IS GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH SNS, AND CODESTERS DISCLAIMS ANY LIABILITY FOR PERSONALLY IDENTIFIABLE INFORMATION THAT MAY BE PROVIDED TO IT BY SUCH SNS IN VIOLATION OF THE PRIVACY SETTINGS THAT YOU HAVE SET IN SUCH THIRD-PARTY ACCOUNTS.

2.3. **Registration Data.** In registering for the Services, you agree to (1) provide true, accurate, current and complete information about yourself (and if you are a parent, your Child) as prompted by the Services' registration form (the "**Registration Data**"); and (2) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. You represent that you are not a person barred from using Codesters Properties under the laws of the United States, your place of residence or any other applicable jurisdiction. You may not share (or permit others to share) the Account or password with anyone, and you agree to (1) notify Codesters immediately of any unauthorized use of your password or any other breach of security; and (2) exit from the Account at the end of each session. If you provide any information that is untrue, inaccurate, not current or incomplete, or Codesters has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Codesters has the right to suspend or terminate your Account and refuse any and all current or future use of Codesters Properties (or any portion thereof). You agree not to create an Account using a false identity or information. You agree that you shall not have more than one Account per platform at any given time. Codesters reserves the right to remove or reclaim any usernames at any time and for any reason, including but not limited to, claims by a third-party that a username violates the third-party's rights. You agree not to create an Account or use Codesters Properties if you have been previously removed by Codesters, or if you have been previously banned from any of Codesters Properties.

### 3. **Responsibility for Content.**

3.1. **Types of Content.** You acknowledge that all Content, including the Codesters Properties, is the sole responsibility of the party from whom such Content originated. This means that you, and not Codesters, are entirely responsible for all Content that you (and if you are a parent, your Child) uploads, posts, e-mails, transmits or otherwise makes available ("**Make Available**") through the Codesters Properties ("**Your Content**"), and that other users of the Codesters Properties, and not Codesters, are similarly responsible for all Content they Make Available through the Codesters Properties ("**User Content**").

3.2. **No Obligation with Respect to User Content; Investigations.** You acknowledge that Codesters has no obligation to pre-screen, monitor, or review Content (including, but not limited to, User Content), although Codesters reserves the right in its sole discretion to pre-screen, monitor, review, refuse or remove any Content for any reason, including but not limited to, compliance with applicable law, violation of these

Terms, or any Content that Codesters finds objectionable in its sole discretion. By entering into the Terms, you hereby provide your irrevocable consent to such monitoring. In the event that Codesters pre-screens, monitors, reviews, refuses or removes any Content, you acknowledge that Codesters will do so for Codesters' benefit, not yours. If Codesters becomes aware of any possible violations of any provision of the Terms or any applicable law, Codesters reserves the right to investigate such violations, and Codesters may, at its sole discretion, immediately terminate the applicable offender's license to use the Codesters Properties, or change, alter or remove any Content, in whole or in part, without prior notice. You are solely responsible for your interactions with other users of the Services and any other parties with whom you interact through the Services; provided, however, that Codesters reserves the right, but has no obligation, to intercede in such disputes. You agree that Codesters will not be responsible for any liabilities incurred as the result of such interaction. You use all User Content and interact with other users at your own risk.

#### 4. **Ownership.**

4.1. **Codesters Properties.** Except with respect to Your Content and User Content, you agree that Codesters and its suppliers own all rights, title and interest in the Codesters Properties.

4.2. **Trademarks.** Codesters' stylized name and other related graphics, logos, service marks and trade names used on or in connection with the Codesters Properties are the trademarks of Codesters and may not be used without permission in connection with any third-party products or services. Other trademarks, service marks and trade names that may appear on or in the Codesters Properties are the property of their respective owners.

4.3. **Other Content.** Except with respect to Your Content, you agree that you have no right or title in or to any Content that appears on or in the Codesters Properties.

4.4. **Your Content.** Codesters does not claim ownership of Your Content. However, when you (or if you are a parent, your Child) as a user posts or publishes Your Content on or in the Codesters Properties, you represent that you own and/or have a royalty-free, perpetual, irrevocable, worldwide, non-exclusive right (including any moral rights) and license to use, license, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, derive revenue or other remuneration from, and communicate to the public, perform and display Your Content (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or later developed, for the full term of any worldwide intellectual property right that may exist in Your Content.

4.5. **License to Your Content.** You grant Codesters a fully paid, royalty-free, perpetual, irrevocable, worldwide, royalty-free, non-exclusive and fully sublicensable right (including any moral rights) and license to use, license, distribute, reproduce, modify, adapt, publicly perform, and publicly display, Your Content (in whole or in part) for the purposes of operating and providing the Codesters Properties to you and to our other users. Please remember that other users may search for, see, use, modify and reproduce any of Your Content that you submit to any "public" area of the Codesters Properties. You warrant that the holder of any worldwide intellectual property right, including moral rights, in Your Content, has completely and effectively waived all such

rights and validly and irrevocably granted to you the right to grant the license stated above. You agree that you, not Codesters, are responsible for all of Your Content that you Make Available on or in the Codesters Properties.

4.6. **Username.** Notwithstanding anything contained herein to the contrary, by submitting Your Content to any forums, comments or any other area on or in the Codesters Properties, you hereby expressly permit Codesters to use your (or if you are a parent, your Child's) username to identify the contributor of Your Content in any publication in any form, media or technology now known or later developed in connection with Your Content.

4.7. **Your Account.** Notwithstanding anything to the contrary herein, you acknowledge and agree that users shall not have any ownership or other property interest in their respective Accounts, and you further acknowledge and agree that all rights in and to any Accounts are and shall forever be owned by and inure to the benefit of Codesters.

4.8. **Feedback.** You agree that submission of any ideas, suggestions, documents, and/or proposals by you (and if you are a parent, your Child) to Codesters ("**Feedback**") is at your own risk and that Codesters has no obligations (including without limitation obligations of confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to Codesters a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the foregoing rights, in connection with the operation and maintenance of the Codesters Properties.

5. **User Conduct.** As a condition of use, you agree not to use (or permit any student or third party to use) the Codesters Properties for any purpose that is prohibited by the Terms or by applicable law. You shall not (and shall not permit any student or third-party) either (a) to take any action or (b) Make Available any Content on or through the Codesters Properties that: (i) infringes any patent, trademark, trade secret, copyright, right of publicity or other right of any person or entity; (ii) is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, obscene, offensive, or profane; (iii) constitutes unauthorized or unsolicited advertising, junk or bulk e-mail; (iv) involves commercial activities and/or sales without Codesters' prior written consent, such as contests, sweepstakes, barter, advertising, or pyramid schemes; (v) impersonates any person or entity, including any employee or representative of Codesters; or (vi) interferes with or attempts to interfere with the proper functioning of the Codesters Properties or uses the Codesters Properties in any way not expressly permitted by the Terms.

## 6. **Parent Obligations.**

The following section applies to you if you are a parent of a Child using the Codesters Properties:

6.1. **Service Access Supervision.** Subject to these Terms, you may permit each Child for which you have received a class identification key from the Child's teacher

("Course Key") to access and use the Services. You are solely responsible for any use of the Codesters Properties by your Child, including but not limited to, all activities that occur under your Child's Account. You are solely responsible for ensuring your Child complies with these Terms.

6.2. **Interaction Supervision.** You are solely responsible for your Child's interactions with other users of the Services and any other parties with whom your Child interacts through the Services. You agree that Codesters will not be responsible for any liabilities incurred as the result of such interaction. You understand and agree that your Child's use of all User Content and interactions with others are at your Child's own risk.

6.3. **Parent COPPA Compliance.** You hereby represent and warrant that you have provided consent to your Child's school if your Child is under 13 in order to permit Codesters to collect information from such students in compliance with the Children's Online Privacy Protection Act ("COPPA").

## 7. Faculty User Obligations.

The following section applies to you if you are a school teacher, administrator, or other employee or independent contractor of a school or school district (each, a "Faculty User"):

7.1. **FERPA.** Certain information provided by Faculty Users to Codesters in connection with the Services may be considered an education record ("Education Record") under the Family Educational Rights and Privacy Act ("FERPA"). FERPA protects the privacy of Education Records (namely, information directly related to students that is maintained by a school or school district), and limits when a school or school district may disclose a student's Education Records. Generally, under FERPA, a school or school district may not disclose personally identifiable information from a student's Education Records to a third party without the written consent of the student and/or the student's parent. Faculty Users are solely responsible for compliance with FERPA. Without limiting the generality of the foregoing, with respect to any student information that constitutes an Education Record under FERPA and is disclosed by a Faculty User to Codesters, the Faculty User hereby represents and warrants it has either complied with applicable statutory exemptions under FERPA or it has obtained the appropriate consent from the parents of the student if the student is under 18 years of age, or from the student if the student is 18 years of age and older, as required under FERPA to make such disclosure to Codesters and to grant Codesters the rights set forth in Section 6.3.

7.2. **School COPPA Compliance.** You hereby represent and warrant that you have or will provide notice to and obtain consent of parents of students under 13 years old allowing Codesters to collect information from such students in compliance with COPPA.

7.3. **License from Faculty User.** You hereby grant to Codesters a nonexclusive license to view, download, reproduce, modify, create derivative works of, distribute, and display Education Records solely for the purposes of (a) providing the Services and (b) with respect to Anonymized Education Records only, improving the Services, product development, research or other purposes. For purposes of these terms, the term "Anonymized Education Records" refers to Education Records that have had all personally identifiable information, such as student name, date of birth, school information, and demographic information removed.

8. **Third-Party Services.**

8.1. **Third-Party Websites & Ads.** The Codesters Properties may contain links to third-party websites and advertisements for third parties (“**Third-Party Websites & Ads**”). When you click on a link to a third-party website or ad, we will not warn you that you have left the Codesters Properties and are subject to the terms and conditions (including privacy policies) of another website or destination. Such Third-Party Websites & Ads are not under the control of Codesters. Codesters is not responsible for any Third-Party Websites & Ads. Codesters provides these Third-Party Websites & Ads only as a convenience and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Websites & Ads, or their products or services. You use all links in Third-Party Websites & Ads at your own risk. When you leave our Website, our Terms and policies no longer govern. You should review applicable terms and policies, including privacy and data gathering practices, of any Third-Party Websites & Applications, and should make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any third-party.

9. **Indemnification.** You agree to indemnify and hold Codesters, its parents, subsidiaries, affiliates, officers, employees, agents, partners and licensors (collectively the “**Codesters Parties**”) harmless from any losses, costs, liabilities and expenses (including reasonable attorneys’ fees) relating to or arising out of: (a) Your Content; (b) your (and if you are a parent, your Child’s) use of, or inability to use, the Codesters Properties; (c) your (and if you are a parent, your Child’s) violation of the Terms; (d) your (and if you are a parent, your Child’s) violation of any rights of another party, including any user; or (e) your (and if you are a parent, your Child’s) violation of any applicable laws, rules or regulations. Codesters reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with Codesters in asserting any available defenses. You agree that the provisions in this section will survive any termination of your Account, the Terms, or your access to the Codesters Properties.

10. **Disclaimer of Warranties.** YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE (AND IF YOU ARE A PARENT, YOUR CHILD’S USE) OF THE CODESTERS PROPERTIES IS AT YOUR SOLE RISK, AND THE CODESTERS PROPERTIES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITH ALL FAULTS. THE CODESTERS PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. CODESTERS PARTIES MAKE NO WARRANTY, REPRESENTATION OR CONDITION THAT: (1) THE CODESTERS PROPERTIES WILL MEET ANY REQUIREMENTS; (2) USE OF THE CODESTERS PROPERTIES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; OR (3) ANY ERRORS IN THE CODESTERS PROPERTIES WILL BE CORRECTED. YOU ACKNOWLEDGE AND AGREE THAT CODESTERS PARTIES ARE NOT LIABLE, AND YOU AGREE NOT TO SEEK TO HOLD CODESTERS PARTIES LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING OPERATORS OF EXTERNAL SITES, AND THAT THE RISK OF INJURY FROM SUCH THIRD PARTIES RESTS ENTIRELY WITH YOU. YOU ARE SOLELY RESPONSIBLE FOR ALL OF YOUR (AND IF YOU ARE A PARENT, YOUR CHILD’S) COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE

CODESTERS PROPERTIES. YOU UNDERSTAND THAT CODESTERS DOES NOT MAKE ANY ATTEMPT TO VERIFY THE STATEMENTS OF USERS OF THE CODESTERS PROPERTIES.

CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE FOREGOING DISCLAIMERS, EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

11. **Limitation of Liability.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU UNDERSTAND AND AGREE THAT IN NO EVENT SHALL ANY CODESTERS PARTIES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE CODESTERS PROPERTIES OR ANY DAMAGES RESULTING FROM LOSS OF USE, DATA, OR PROFITS, WHETHER OR NOT CODESTERS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY DAMAGES FOR PERSONAL OR BODILY INJURY OR EMOTIONAL DISTRESS ARISING OUT OF OR IN CONNECTION WITH THE TERMS, OR FROM ANY COMMUNICATIONS WITH OTHER USERS OF THE CODESTERS PROPERTIES, ON ANY THEORY OF LIABILITY, RESULTING FROM: (1) THE USE OR INABILITY TO USE THE CODESTERS PROPERTIES; (2) STATEMENTS OR CONDUCT OF ANY THIRD-PARTY ON CODESTERS PROPERTIES; OR (3) ANY OTHER MATTER RELATED TO THE CODESTERS PROPERTIES, WHETHER BASED ON WARRANTY, COPYRIGHT, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OUR AGGREGATE CUMULATIVE LIABILITY TO YOU (AND IF YOU ARE A PARENT, YOUR CHILD) ARISING OUT OF OR RELATED TO THE CODESTERS PROPERTIES SHALL IN NO EVENT EXCEED ONE HUNDRED DOLLARS (\$100). YOU AND CODESTERS AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE TERMS, THE CODESTERS PROPERTIES OR ANY CONTENT POSTED ON THE CODESTERS PROPERTIES MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN CODESTERS AND YOU. THE LAWS OF SOME STATES DO NOT ALLOW FOR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE FOREGOING DISCLAIMERS, EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU AND YOU MIGHT HAVE OTHER RIGHTS.
  
12. **Procedure for Making Claims of Copyright Infringement.** It is Codesters' policy to terminate membership privileges of any user who repeatedly infringes copyright upon prompt notification to Codesters by the copyright owner or the copyright owner's legal agent. Without limiting the foregoing, if you believe that your work has been copied and posted on the Codesters Properties in a way that constitutes copyright infringement, please provide our Copyright Agent with the following information: (1) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (2) a description of the copyrighted work that you claim has been infringed; (3) a description of the location on the Codesters Properties of the material that you claim is infringing; (4) your address, telephone number and e-mail address; (5) a written statement by you that you have a good faith belief that the disputed use is not authorized



by the copyright owner, its agent or the law; (6) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. Contact information for Codesters' Copyright Agent for notice of claims of copyright infringement is as follows: Codesters, Inc., 900 Broadway #903, New York, NY 10003, Attn: Chief Executive Officer.

### **13. Term and Termination.**

**13.1. Term.** The Terms commence on the date when you accept them (as described in the preamble above) and remain in full force and effect while you (or if you are parent, your Child) use the Codesters Properties, unless terminated earlier in accordance with the Terms.

**13.2. Termination.** If any user has materially breached any provision of the Terms, if we are required to do so by law (e.g., where the provision of any of the Codesters Properties is, or becomes, unlawful), or if we choose to discontinue the Codesters Properties (in part or in whole), we have the right to, immediately and without notice, suspend or terminate such user's Account and any Codesters Properties provided to such user. If we become aware of any possible violations of the Terms, we reserve the right to investigate such violations. In the event that we determine, in our sole discretion, that a user has breached any portion of the Terms, or have otherwise demonstrated inappropriate conduct, we reserve the right to (i) warn the user via e-mail (to any e-mail address provided to us by the user) that such user has violated the Terms; (ii) cancel the user's Account; (iii) notify and/or send any Content the user has provided to us to and/or fully cooperate with the proper law enforcement authorities for further action; and/or (iv) pursue any other action which we deem to be appropriate. If, as a result of the investigation, we believe that criminal activity has occurred, we reserve the right to refer the matter to, and to cooperate with, any and all applicable legal authorities. We are entitled, except to the extent prohibited by applicable law, to disclose any information or materials on or in the Codesters Properties in our possession in connection with any user's use of the Codesters Properties, to (i) comply with applicable laws, legal process or governmental request; (ii) enforce the Terms; (iii) respond to your requests for customer service; or (iv) protect the rights, property or personal safety of Codesters, its users or the public, and to comply with the requests of all enforcement or other government officials, as we in our sole discretion believe to be necessary or appropriate. We reserve the right, in our sole discretion, to immediately take any or all of the actions set forth herein without any notice or warning. You agree that all terminations shall be made in our sole discretion and that we shall not be liable to you or any third-party for enforcing this provision.

**13.3. Termination of Services by You.** If you want to terminate the Services provided by Codesters, you may do so by (a) notifying Codesters at any time and (b) closing your (and if you are a parent, your Child's) Account. Your notice should be sent, in writing, to Codesters' address set forth below.

**13.4. Effect of Termination.** Termination of an Account includes deletion of the password and all related information, files and Content associated with or inside the Account (or any part thereof). Upon termination of any Service, the effected user's right to use such Service will automatically terminate immediately. You understand that any termination of Services may involve deletion of Your Content associated therewith from

our live databases. Codesters will not have any liability whatsoever for any suspension or termination, including for deletion of Your Content. All provisions of the Terms which by their nature should survive, shall survive termination of Services, including without limitation, ownership provisions, warranty disclaimers, and limitation of liability.

13.5. **No Subsequent Registration.** If a user's Account is suspended or terminated by Codesters due to such user's violation of any portion of the Terms or for otherwise inappropriate conduct, then such user may not attempt to re-register with or access the Codesters Properties through use of a different member name or otherwise. In the event that any user violates the immediately preceding sentence, Codesters reserves the right, in its sole discretion, to immediately take any or all of the actions set forth herein without any notice or warning.

14. **International Users.** This Website can be accessed from countries around the world and may contain references to the Codesters Properties and Content that are not available in your country. These references do not imply that Codesters intends to announce such the Codesters Properties or Content in your country. The Codesters Properties are controlled and offered by Codesters from its facilities in the United States of America. Codesters makes no representations that the Codesters Properties are appropriate or available for use in other locations. Those who access or use the Codesters Properties from other jurisdictions do so at their own volition and are responsible for compliance with local law.

15. **Arbitration.**

a) **Applicability of Arbitration Agreement.** All claims and disputes (excluding claims for emergency injunctive relief as set forth below) in connection with the Terms or the use of any product or service provided by Codesters that cannot be resolved informally or in small claims court shall be resolved exclusively by binding arbitration on an individual basis under the terms of this arbitration provision ("**Arbitration Agreement**"). Unless otherwise agreed to, all arbitration proceedings shall be held in English. This Arbitration Agreement applies to you and Codesters, 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) **30-Day Right to Opt Out.** Notwithstanding the foregoing, you have the right to opt out of the provisions of this Arbitration Agreement by mailing written notice of your decision to opt out to the following address: Codesters, Inc., 900 Broadway #903, New York, NY 10003, Attn: Chief Executive Officer. To be effective, your opt-out notice must be postmarked within 30 days of your first use of any of Codesters' Website. If you timely send this notice, then the Arbitration Agreement will not apply to either party and you must litigate pursuant to subparagraph (o) below. If you do not timely send this notice, then you agree to be bound by this Arbitration Agreement

c) **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 Codesters should be sent to: Codesters, Inc., 900 Broadway #903, New York, NY 10003, Attn: Chief Executive Officer. After the Notice is received, you and Codesters may attempt to resolve the claim or dispute informally. If

you and Codesters 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.

**d) 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 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 Codesters made to you prior to the initiation of arbitration, Codesters will pay you the greater of the award or US \$2,500.

**e) 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.

**f) Time Limits.** If you or Codesters 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.

**g) Authority of Arbitrator.** If arbitration is initiated, the arbitrator will decide the rights and liabilities, if any, of you and Codesters, 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 Codesters.

**h) 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 Codesters in any state or federal court in a suit to vacate or enforce an arbitration award or otherwise, YOU AND CODESTERS WAIVE ALL RIGHTS TO A JURY TRIAL, instead electing that the dispute be resolved by a judge.

**i) 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. In the event that this subparagraph is deemed invalid or unenforceable neither you nor we are entitled to arbitration and instead claims and disputes shall be resolved in a court located in Kings County, New York.

**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 Terms 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 user relationship with Codesters.

**m) Small Claims Court.** Notwithstanding the foregoing, either you or Codesters may bring an individual action in small claims court.

**n) Emergency Injunctive Relief.** Notwithstanding the foregoing, either party may seek emergency injunctive 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) Courts.** In any circumstances where the foregoing Arbitration Agreement permits the parties to litigate in court, and for claims involving users who have delivered an effective opt-out notice pursuant to subparagraph (b) above, the parties hereby agree to submit to the personal jurisdiction of the courts located within Kings County, New York, for such purpose.

**p) Modification.** Notwithstanding any provision in these Terms to the contrary, we agree that if Codesters makes any future material change to this Arbitration Agreement, it will not apply to any individual claim(s) that you had already provided notice of to Codesters.

## **16. General Provisions.**

16.1. **Electronic Communications.** The communications between you and Codesters use electronic means, whether you visit the Codesters Properties or send Codesters e-mails, or whether Codesters posts notices on the Codesters Properties or communicates with you via e-mail. For contractual purposes, you (1) consent to receive communications from Codesters in an electronic form; and (2) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Codesters provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect your statutory rights.

16.2. **Release.** You hereby release Codesters Parties and their successors from claims, demands, any and all losses, damages, rights, and actions of any kind, including personal injuries, death, and property damage, that is either directly or indirectly related to or arises from any interactions with or conduct of other Website users or third-party websites of any kind arising in connection with or as a result of the Terms or use of the Codesters Properties. If you are a California resident, you hereby waive California Civil Code Section 1542, 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.

16.3. **Assignment.** The Terms, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated, or otherwise transferred by you without Codesters' prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

16.4. **Force Majeure.** Codesters shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor or materials.

16.5. **Compliance.** If you believe that Codesters has not adhered to the Terms, please contact Codesters by emailing us at [info@codesters.com](mailto:info@codesters.com). We will do our best to address your concerns. If you feel that your complaint has been addressed incompletely, we invite you to let us know for further investigation.

16.6. **Notice.** Where Codesters requires provision of an e-mail address, unless Codesters has provided you with an e-mail address solely for use within the Codesters Properties, you are responsible for providing Codesters with the most current e-mail address. In the event that the last e-mail address provided to Codesters is not valid, or for any reason is not capable of delivering any notices required/permitted by the Terms, Codesters' dispatch of the e-mail containing such notice will nonetheless constitute effective notice. You may give notice to Codesters at the following address: Codesters, Inc., 900 Broadway #903, New York, NY 10003, Attn: Chief Executive Officer. Such notice shall be deemed given when received by Codesters by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address.

16.7. **Waiver.** Any waiver or failure to enforce any provision of the Terms on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

16.8. **Severability.** If any provision of the Terms is, for any reason, held to be invalid or unenforceable, the other provisions of the Terms will remain enforceable, and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

16.9. **Export Control.** The Codesters Properties may not be used, exported, imported, or transferred except as authorized by U.S. law, the laws of the jurisdiction in which the Codesters Properties are obtained, and any other applicable laws. In particular, but without limitation, the Codesters Properties may not be exported or re-exported (a) into any United States embargoed countries; or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using the Codesters Properties, you represent and warrant that (i) you (and if you are a parent, your Child) are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country and (ii) you (and if you are a parent, your Child) are not listed on any U.S. Government list of prohibited or restricted parties. The Codesters Properties also may not be used for any purpose prohibited by U.S. law, including the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons. You acknowledge and agree that products, services or technology provided by Codesters are subject to the export control laws and regulations of the United States. You (and if you are a parent, your Child) shall comply with these laws and regulations and shall not, without prior U.S. government authorization, export, re-export, or transfer Codesters products, services or technology, either directly or indirectly, to any country in violation of such laws and regulations.

16.10. **Consumer Complaints.** In accordance with California Civil Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210.

16.11. **Entire Agreement.** The Terms are the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.

End of Terms