

# MuseClass Terms of Service

THIS TERMS OF SERVICE AGREEMENT ("AGREEMENT") IS A LEGAL AND BINDING AGREEMENT BETWEEN YOU ("YOU," "YOUR" OR "YOURSELF") AND MUSECLASS USA LLC ("OUR," "US," "WE" OR "MUSECLASS"), WHICH GOVERNS YOUR USE OF THE MUSECLASS WEBSITE, APPS, APIs, AND WIDGETS, TOGETHER WITH ALL INFORMATION, CONTENT, PRODUCTS, MATERIALS AND SERVICES MADE AVAILABLE TO YOU THROUGH THE SAME BY US (COLLECTIVELY, "THE SERVICE"). PLEASE READ THIS AGREEMENT CAREFULLY PRIOR TO USING THE SERVICE. BY REGISTERING FOR, USING OR OTHERWISE ACCESSING THE SERVICE, YOU ARE CONSENTING TO BECOME A PARTY TO THIS AGREEMENT AND AGREEING TO BE BOUND BY AND COMPLY WITH THESE TERMS OF SERVICE AND OUR PRIVACY POLICY.

## Agreeing to our Terms

Thank you for your interest in MuseClass, which owns and operates the services offered on MuseClass.com ("MuseClass Website"), including the MuseClass platform ("MuseClass Platform"), and any associated mobile applications ("MuseClass Apps") or products and services that MuseClass may provide now or in the future (collectively, the "Service").

These Terms of Service contain general terms that apply to you as a user of the MuseClass Service ("User"), along with additional terms that may apply to you as a User registered as a teacher, school leader, aide, or other similar personnel ("School Personnel"), or a parent.

When using the Service, you will also be subject to the MuseClass Privacy Policy. These Terms of Service, Terms and future modifications (collectively, the "Agreement"), govern your use of the Service and is a legal contract between you and MuseClass. By registering for an account on, or otherwise accessing or using the MuseClass Service, you acknowledge that you have read and agree to be bound by this Agreement. If you are using the Service on behalf of an institution that has a separate written agreement with MuseClass, that agreement governs your use of the Service.

If you are under the age of 18, you represent that your legal guardian has reviewed and agreed to the Agreement. If you don't get your parent or guardian to read and agree to the Agreement, you don't have permission to use the Service.

If you are entering into this Agreement on behalf of a company or other legal entity (including if you are School Personnel entering on behalf of your school), you represent that you have the authority to bind such entity to these terms and conditions, in which case the terms "you", "your" or "User" shall refer to such entity. **If you do not have such authority, or if you do not agree with these terms and conditions, you must not accept this Agreement and may not use the Service.**

## **Service Fees**

By registering for the Service, you agree to pay the fees designated for the Service level you select and in accordance with this section. Additional charges may include purchases you make or service level changes you request. The first annual period shall be free. You will be able to continue using the Service after the first year by paying the subscription fees then in effect.

## **Using the Service**

*Permission to use MuseClass.* As long as you are complying with all of the terms and conditions of this Agreement, MuseClass gives you permission to access and use the Service solely to enable your use of the Service. The Service is available for your personal, noncommercial use and should only be used for educational purposes or lawful purposes that help bring school communities together or help parents and children build stronger relationships at home. You may download a single copy of the MuseClass App for personal, non-commercial use only.

The right to access and use the Service is revoked in jurisdictions where it may be prohibited, if any.

*Changes to the Service.* We are constantly changing and improving our Services. We may add or remove functionalities or features, and we may suspend or stop a Service altogether, including, for example, if you do not comply with this Agreement or if we are investigating suspected misconduct. You can stop using our Service at any time. We may also add or create new limits to our Service or restrict your access to all or a part of the Service at any time without notice or liability.

We believe that you (or your school as applicable) own your data and preserving your access to such data is important. If we discontinue a Service, where reasonably possible, we will give you reasonable advance notice and a chance to get information out of that Service.

*Restrictions* Except as expressly permitted under this Agreement, you agree that your permission to use the Service is conditioned upon you following all the restrictions set forth in the “MuseClass Technology” and “Acceptable Use and Conduct” sections.

## **MuseClass Technology**

The Service and the MuseClass Technology are intended solely for the personal, non-commercial use of our Users and may only be used in accordance with this Agreement. “MuseClass Technology” means all past, present and future content of the Service, including, all the software, hardware and technology used to provide the Service (including MuseClass proprietary code and third-party software), user interfaces, materials displayed or performed on the Service, such as text, graphics,

articles, photographs, images, illustrations and the design, structure, sequence and “look and feel” of the Services, and all other intellectual property, including all MuseClass Marks. “MuseClass Marks” means the trademarks, service marks, logos, or any other trade name, trademarks, service marks and other distinctive or proprietary brand features of MuseClass.

MuseClass Technology is protected by copyright and other intellectual property laws. Using our Service does not give you ownership of any intellectual property rights in our Service or the MuseClass Technology. You agree that, as between you and MuseClass, all the intellectual property rights in the MuseClass Service and MuseClass Technology, which does not include User Content (as defined below), are owned by MuseClass or its licensors. These terms do not grant you the right to use any MuseClass Marks.

You will not, nor will you allow any third party (whether or not for your benefit) to:

- Run, license, rent, lease, loan, distribute, or sell access to the MuseClass Service or the MuseClass Technology.
- Build or support (and/or assist a third-party in building or supporting) products or services in competition with MuseClass, or access the MuseClass Service to build a product using similar ideas, features, functions, interface or graphics of the MuseClass Service.
- Use, store, copy, reproduce, modify, translate, publish, broadcast, transmit, distribute, perform, upload, create derivative works from, display, license, sell or otherwise exploit the MuseClass Technology for any purposes other than as expressly permitted under this Agreement.
- Decompile, reverse engineer, disassemble, or otherwise attempt to obtain the source code of any MuseClass Technology.
- Circumvent, disable or otherwise interfere with security related features or features that prevent or restrict use or copying of any User Content or MuseClass Technology or enforce limitations on use of the MuseClass Service or the User Content and MuseClass Technology.
- Remove, obscure, or alter any copyright, logo, trademark, or other legal notices displayed in or along with our Services or any MuseClass Premium Features or other custom products or merchandise, or otherwise use any of the MuseClass Technology in a manner that creates the impression that the MuseClass Technology belongs to you.

## **Your Information and Content**

### *User Content*

In the course of using the Service, you and other Users may provide or post certain content or information (including, but not limited to, photos, videos, drawings, journals, documents, music, messages sent between parents and teachers or between students and teachers, which may be used by MuseClass in connection with the Service and which may be visible to certain other Users (collectively “User Content”). Please visit

our Privacy Policy for additional information on the types of information different types of Users are able to provide. Additionally, some User Content may be deemed an Education Record (as defined below).

School Personnel may contribute educational content, create answers to assessments, create activities for students to complete, create derivative works (e.g. completion of assignments) and transmit this data and content to MuseClass (collectively “Activities”).

School Personnel and Users may submit feedback, comments or suggestions for improvements to the Services (in written, oral or any other form) (“Feedback”).

### *Ownership*

Consistent with applicable law, as between MuseClass and you, you (or your school as applicable) retain all ownership rights you have in any User Content. MuseClass does not claim any ownership rights in the User Content. Please note that, while you retain ownership of your User Content, any template or layout in which you arrange or organize such User Content through tools and features made available through any of our Service are not proprietary to you — rights to such templates or layouts will remain with us or our service providers.

### *License*

#### User Content

In order to allow MuseClass to provide the Service, you hereby grant to us a limited, non-exclusive, sublicensable (as necessary to perform the Service), worldwide, royalty-free, and transferable (only to a successor) right and license to:

1. use, host, copy, store, distribute, publicly perform and display, publish (in whole or in part), modify, and create derivative works (such as changes we make so that your content works better with our Service) such User Content as necessary to provide, improve and make the Service available to you and other Users in your Institution including through any future media in which the Service may be distributed;
2. use and disclose metrics and analytics regarding the User Content in an aggregate or other non-personally identifiable manner (including, for use in improving our service or in marketing and business development purposes);
3. use, modify, prepare derivative works, publish, distribute and sublicense Feedback without any compensation to you;
4. use any User Content (including any Student Data or Education Record) that has been de-identified for any product development, research or other lawful purpose subject to the DPA; and
5. use for other purposes permitted by the MuseClass Privacy Policy.

MuseClass will only share and use your personal information in accordance with MuseClass’s current Privacy Policy at <http://www.MuseClass.com/privacy>.

### *License Termination*

The license in 1(a) above will terminate when you or your Institution (as defined below) delete (i) any User Content with intellectual property rights (like photos or videos) (“IP content”), (ii) personally identifiable information (such as that in Student Data or an Education Record), or (iii) your account. Such termination may not apply if your User Content has been shared with others, and they have not deleted it.

Note, however, that any User Content that may be in an Education Record or Student Data may be kept after you delete your account for school legal compliance reasons (e.g. maintenance of “education records” under the Family Educational Rights and Privacy Act (FERPA)). When you delete IP Content, Student Data, Education Records, or personal information, it is deleted in a manner similar to emptying the recycle or trash bin on a computer. However, you understand that any removed User Content may persist in backup copies for a reasonable period of time (but will not be available to others).

#### *Your Responsibilities and MuseClass Rights*

You agree that you, or your Institution, are responsible for making sure that you have all rights in the User Content, including the rights necessary for you to grant us the foregoing licenses to the User Content. Institution or School Personnel, as applicable, represents, covenants and agrees on behalf of yourself and your student Users that the submitting User (including your students) has all required rights to submit, post, upload or otherwise, own, use or disseminate the User Content it submits or uploads without violating any third-party rights. You are responsible for ensuring your User Content complies with the “Acceptable Use and Conduct” section or conditions specific to a particular category of User (e.g., teacher, parent, or student). When you include User Content, you can create links to external websites. If you elect to create links to external websites, you must verify the quality and substance of each external link. You are solely responsible for any links you create to external websites. MuseClass is not liable or responsible for any links created by you, or for any damages, direct or indirect, arising therefrom.

All information posted or transmitted through the Service is the responsibility of the person that posted it, and we will not be liable for any errors or omissions in any content. MuseClass cannot guarantee the identity of any other Users with whom you may interact in the course of using the Service, or the authenticity of any data which users may provide about themselves. You acknowledge that all content accessed by you using the Service is at your own risk and you will be solely responsible for any damage or loss to any party resulting therefrom. You acknowledge that MuseClass and its designees (such as teachers) reserve the right, but shall have no obligation, to pre-screen, filter, edit, remove, refuse to accept, post, display, or transmit any User Content through or on the Service in whole or in part at any time for any reason or no reason with or without notice and without liability of any kind. Additionally, we do not guarantee that we will publish any of your User Content, and reserve the right to remove User Content from the Service at any time for any reason, such as if we receive a notice reports a User Content infringes someone’s intellectual property rights.

#### *Your Likeness*

While MuseClass does not permit User Content containing personal information of Users under the age of 13 to be public, if you as a parent or School Personnel, upload any User Content to any area of our Service in areas that may be viewed by others (containing your likeness or the likeness of others, you also agree to the following:

You consent to the use of your likeness, and you have obtained (as necessary) the written consent, release, and/or permission of every identifiable individual who appears in your User Content to use such individual's likeness, for purposes of using and otherwise exploiting the User Content in the manner contemplated by this Agreement, or, if any such identifiable individual is under the age of eighteen (18), you have obtained any necessary written consent, release and/or permission from such individual's parent or guardian (and you agree to provide to us a copy of any such consents, releases and/or permissions upon our request). If you do submit a submission that contains the likeness of an identifiable individual under the age of eighteen (18), we strongly encourage you not to include any identifying information (such as the individual's first and last name or address) with such User Content.

## **Privacy and Security**

Your privacy is extremely important to us, and we take great care to limit what we collect and how we use it, and to enable you to understand our policies. Please read our Privacy Policy which explains how we treat your personal information and protect your privacy when you use our Service and for more information on the administrative, technical and physical safeguards we maintain to protect against unauthorized use, disclosure of or access to personal information. Please see our Privacy Policy for a description of the procedures 1) by which a student, parent or legal guardian of a student may review, access or delete the personal information of a student; and 2) by which the Institution may access and delete Education Records.

By using our Service, you agree that MuseClass can use such data in accordance with our Privacy Policy. We won't reduce your rights under the Privacy Policy without your explicit consent.

## **Additional Terms by User Type**

a) **Students:** if you are a student accessing the Service at the invitation of a teacher or other school official or your parent, the following terms apply to you.

(i) **Invitation and Account Creation:** Only students who have been invited, or given access to the Service, by their teacher, school, district, or parent may use the Service. You may not access or use the Service unless you are invited or given access to the Service by a teacher, school, or district who is authorized to give you access to the Service (including creating your student account on your behalf to allow you to login via Google Classroom).

(ii) **Information Provided to MuseClass:** We request minimal personal information to be provided from students to use the Service. If you are under 13 years of age, and you

want a student account on MuseClass, you will need to either (1) have the student account created at school by your teacher (only after the teacher represents to MuseClass that they have obtained any necessary parental consent or acted as the agent of the parent and consented on their behalf) which allows you to then login to your student account using Google Classroom, (2) receive a unique student or class code from your teacher to create your own account with a username (and/or email address) and password, or (3) have your parent create your student account after we have obtained parental consent from them. If you are creating your own account in addition to the unique student or class code from your teacher, we will either ask you for (1) a username (and/or email address) and password, as well as your parents email address so that we can provide notice or obtain consent for you to use the Service.

(iii) **Consent:** The Children's Online Privacy Protection Act ("COPPA") prohibits online service providers from knowingly collecting personal information from children under 13 years of age without verifiable parental consent or notice as applicable ("Consent"). Consent may be obtained either by 1) MuseClass if the parent is setting up a student account directly, or the student has received a unique student or class code from their teacher and is setting up their own account; or 2) a student's teacher, school, or district if the teacher, school or district is setting up the student's account and allowing the student to login (such as through the use Google Classroom) or otherwise allowing students to access MuseClass from school ("School Consent").

b) **School Personnel:** If you are a School Personnel accessing the Service on behalf of a school, school district, or other similar educational institution (the "Institution"), the following terms apply to you:

(i) **Permissions and Authority:** You agree that you are acting on behalf of (or have received all necessary permission from) your Institution to enter into this Agreement and to register and use the Service as part of your curriculum. Only School Personnel who are current employees of the Institution may use the Service on the Institution's behalf. The School Personnel is responsible for obtaining any necessary approvals from their school's authorities and administrators before using the Service. Upon termination of a School Personnel or other staff member's employment with the Institution, such individual must return and cease using all login details and student access he or she has in his or her possession.

(ii) **Students under 13:** You further understand and acknowledge that COPPA prohibits online service providers from knowingly collecting personal information from children under 13 years of age without Consent and you understand that we will not let children under the age of 13 use certain features of the Service unless:

1. MuseClass obtains Consent from the child's parent or legal guardian if 1) the parent is creating an account for the student on MuseClass or allowing the student to access and use the Services on the parent device; or 2) the student has created their own student account using the unique student or class code given to them by their teacher; or
2. You obtain School Consent in situations where you set up the child's student account on their behalf to enable them to then log in (such as through the use of Google Classroom) or otherwise allow the student to access certain features of

the Service in the classroom which may result in the collection of personal information from the child. MuseClass will not provide use of student accounts or access to the Service to children under the age of 13 if we are unable to obtain Consent or learn that you have not obtained School Consent. You agree that you will not knowingly create a child's student account on their behalf or allow the child to use the Service in the classroom until you have obtained School Consent.

(iii) **School Consent.** You acknowledge and agree that when School Consent must be utilized to allow children under 13 to use the Service, you and/or the Institution will be solely responsible (and hereby agree that MuseClass is not responsible) for 1) providing all required notices to parents under COPPA; 2) obtaining parental consent (or if allowed by your Institution's policy, acting as the agent of the parent and consenting on their behalf) under COPPA; and 3) providing a means for a parent to review any personal information contained in Student Data collected through the Service and refuse to permit its further use as required by COPPA. This includes without limitation, limiting access to the Service to those student Users from whom School Personnel has received valid Consent forms and complying with all parental requests regarding the collection, use and disclosure of such parent's child's information. School Personnel or the Institution are responsible for disseminating any required parental consent forms to the parents of potential student Users, for confirming receipt of valid consent forms for each child before granting the student access to the Service, and for retaining such consent forms on file. If a parent User does not consent or rescinds such School Consent, School Personnel or the Institution shall immediately notify MuseClass to discontinue that student's access to the Service and ensure that such student's information is no longer accessible through the Services. Under no circumstances will MuseClass be liable for the School Personnel's failure to consult their school's authorities and administrators or for failing to obtain School Consent when required.

(iv) **Google Login.** If you choose to allow your students to log in on the Service using their Google Classroom ("Google Login(s)"), you are responsible for educating your students on the proper use of their Google Login, including to help educate your students on better protecting their Google Login by turning on two-factor authentication. Note that MuseClass does not request or store passwords associated with any Google Logins.

## **FERPA**

MuseClass understands that it is important that our partner schools comply with the Family Education Rights and Privacy Act ("FERPA") and related regulations. Certain information that may be provided to MuseClass by School Personnel that is directly related to a student and maintained by an Institution, may be considered an education record ("Education Record") under FERPA. Additionally, certain information, provided to MuseClass by School Personnel about a student, such as student name and grade level, may be considered directory information under FERPA ("Directory Information") and thus not an Education Record. MuseClass is not in a position to provide legal

advice regarding whether the school's existing FERPA disclosures are sufficient. To the extent that School Personnel have questions regarding these issues, they should consult the school's own legal counsel for more information.

## **Modification to Agreement**

We may modify this Agreement to, for example, reflect changes to the law or changes to our Services. You should look at the Agreement regularly. We'll post notice of modifications to this Agreement on this page or elsewhere in the Services and/or as required by law. Changes will not apply retroactively and will only become effective when (a) you use the Service after you know about the change, or (b) thirty days after they are posted (whichever is sooner). However, changes addressing new functions for a Service or changes made for legal reasons will be effective immediately. Your continued use of the Services, following notice of the changes to the Agreement, constitutes your acceptance of our amended terms and policies. If you do not agree to the modified Agreement, you should discontinue your use of the Service.

MuseClass will not change how personally identifiable information contained in Education Records or Student Data are used or shared under these Terms of Service without advance notice, including prominent notice to affected Users. If a change with respect to how personally identifiable information contained in Education Records or Student Data is used or shared under these Terms of Service has a material adverse impact on the students, School Personnel or Institution and the School Personnel or Institution does not agree to the change, the School Personnel or Institution must notify MuseClass within thirty days of receiving the notice of change as described under the caption "Contact Information" below. If School Personnel or Institution notifies MuseClass as required, then the School Personnel or Institution will remain governed by the Terms of Service in effect immediately prior to the change until the end of the then current Term. If the Service is renewed, they will be renewed under MuseClass's then current Terms of Service.

## **Your Representations and Warranty**

You warrant, represent and agree that you will not provide any User Content or otherwise use the Service in a manner that (i) infringes, violates or misappropriates another's intellectual property rights, rights of publicity or privacy, or other rights; (ii) violates any international, federal, state or local law, statute, ordinance or regulation or which would render MuseClass in violation of any applicable laws or regulations, including without limitation, COPPA, state student privacy laws, and FERPA (the "Laws"); (iii) is harmful, fraudulent, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, or otherwise objectionable; or (iv) jeopardizes the security of your account or the Service in any way, such as allowing someone else access to your account or password or submitting User Content that contains viruses. Additionally, you represent, warrant and agree that you (i) possess all rights necessary to provide your User Content and grant MuseClass the rights in this Agreement (ii) you will comply with

the Laws in connection with your use of the Service; and (iii) you are solely responsible for providing notices and obtaining consents required by applicable Laws for students to use the Services or to provide User Content, including compliance with the applicable provisions of COPPA when obtaining School Consent.

## **Acceptable Use and Conduct**

We do our best to keep MuseClass safe, but we cannot guarantee it. We need your help to keep MuseClass safe, which includes the following commitments by you when using our Service:

1. You will only use the Service as permitted by law, including applicable export or re-export control laws and regulations.
2. You will not post unauthorized commercial communications (such as spam, promotional emails, or advertisements) on or through the Service.
3. You will not collect users' content or information, or otherwise access the Service, using automated means (such as harvesting bots, robots, spiders, or scrapers) without our prior permission.
4. You will not engage in unlawful multi-level marketing, such as a pyramid scheme, on the Service.
5. You will not upload viruses or other malicious code, files or programs.
6. You will not collect, solicit or otherwise obtain login information or access an account belonging to someone else.
7. You will not use the Service to violate a person's right to privacy or publicity or otherwise collect, use or disclose data, including personal information, about other users without their consent or for unlawful purposes or in violation of any Law.
8. You will not bully, intimidate, or harass any User or use the Service in any manner that is threatening, abusive, violent, or harmful to any person or entity, or invasive of another's privacy.
9. You will not post or approve any User Content or use the Service in a manner that infringes, violates or misappropriates any third-party's intellectual property rights or other proprietary rights, privacy rights or contractual rights.
10. You will not use the Service in any way to upload, post, transmit, email or otherwise distribute content that: is hate speech, discriminating, defamatory, threatening, pornographic or obscene; incites violence; contains nudity or graphic or gratuitous violence; or is otherwise objectionable as reasonably determined by MuseClass.
11. You will not use the Service to do anything unlawful, deceptive, misleading, illegal, unethical, malicious, or discriminatory.
12. You will not do anything that could disable, overburden, or impair the proper working or appearance of the Service or prevent other Users from using the

Service, such as a denial of service attack or interference with page rendering or other Service functionality.

13. You will not access (or attempt to gain unauthorized access) to the Service or to MuseClass's computer systems by any means other than as permitted in this Agreement or engage in any activity that disrupts, diminishes the quality of, interferes with the performance of, or impairs the functionality of, the Service.
14. You will not use automated means, including spiders, robots, crawlers, data mining tools, or the like to download data from the Service, including any Users' content or information, or otherwise access the Service, - except for Internet search engines (e.g., Google) and non-commercial public archives (e.g. archive.org) that comply with our robots.txt file, or "well-behaved" web services/ RSS/Atom clients. We reserve the right to define what we mean by "well-behaved."
15. You will not employ misleading email or IP addresses, or forged headers or otherwise manipulated identifiers in order to disguise the origin on any content transmitted to or through the Service.
16. You will not use the Service in any commercially unreasonable manner or in any manner that would disparage MuseClass.
17. You will not impersonate a MuseClass employee, or any other person, or falsely state or otherwise misrepresent your affiliation with any person or entity.
18. You will not use the Service in any manner that is harmful to minors. Without limiting the foregoing, you will not transmit or post any content anywhere on the Service, including any User Content, that violate child pornography laws or that otherwise violates any child sexual exploitation laws. MuseClass absolutely does not tolerate this and will report any suspected instances of child pornography, including reporting any of your user registration information, to law enforcement, including the National Center for Missing and Exploited Children.
19. You will not copy, modify, or distribute any text, graphics, or other material or content available through the Service without our prior written permission, or if such content is a User Content, the prior written consent of such User.
20. You will not facilitate or encourage any violations of this Agreement or our policies, including, without, limitation, to facilitate the unlawful distribution of copyrighted content.

Any violation of the above may be grounds for termination of your right to access or use the Service.

## **WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY**

YOU EXPRESSLY AGREE THAT USE OF AND ACCESS TO THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND AN "AS

AVAILABLE" BASIS. WE DO NOT MAKE, AND HEREBY DISCLAIM, ANY REPRESENTATIONS OR WARRANTIES REGARDING THE SERVICE, THE MUSECLASS SITE AND THE PRODUCTS AND SERVICES OFFERED THROUGH THE SERVICE OR ANY PORTION THEREOF, EXPRESS, IMPLIED OR STATUTORY, INCLUDING (WITHOUT LIMITATION) IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT OF THIRD PARTY RIGHTS. OR ANY WARRANTIES ARISING BY COURSE OF DEALING OR CUSTOM OF TRADE. WE MAKE NO REPRESENTATION OR WARRANTY THAT ANY MATERIAL, CONTENT, PRODUCTS OR SERVICES DISPLAYED ON OR OFFERED THROUGH THE SERVICE ARE ACCURATE, COMPLETE, APPROPRIATE, RELIABLE, OR TIMELY. WE ALSO MAKE NO REPRESENTATIONS OR WARRANTIES THAT THE SERVICE WILL MEET YOUR REQUIREMENTS AND/OR YOUR ACCESS TO AND USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, FREE OF VIRUSES, MALICIOUS CODE, OR OTHER HARMFUL COMPONENTS, OR OTHERWISE SECURE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES. ACCORDINGLY, SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, MUSECLASS SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR ANY LOSS OF PROFITS OR REVENUES, WHETHER INCURRED DIRECTLY OR INDIRECTLY, OR ANY LOSS OF DATA, USE, GOODWILL, OR OTHER INTANGIBLE LOSSES, RESULTING FROM (A) YOUR ACCESS TO OR USE OF OR INABILITY TO ACCESS OR USE THE SERVICE; (B) ANY CONDUCT OR CONTENT OF ANY THIRD PARTY ON THE SERVICE, INCLUDING WITHOUT LIMITATION, ANY DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF OTHER USERS OR THIRD PARTIES; OR (C) UNAUTHORIZED ACCESS, USE OR ALTERATION OF YOUR TRANSMISSIONS OR CONTENT. IN NO EVENT SHALL MUSECLASS'S AGGREGATE LIABILITY FOR ALL CLAIMS RELATING TO THE SERVICE EXCEED ONE HUNDRED U.S. DOLLARS (U.S. \$100.00).

CERTAIN JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF YOU RESIDE IN SUCH A JURISDICTION, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS. IN SUCH CASES, MUSECLASS'S LIABILITY WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW.

## **Registration and Security**

As a condition to using Service, you will be required to register with MuseClass and select a password and username or provide additional contact information ("MuseClass User ID"). Alternatively, (1) an Institution or School Personnel or (2) a parent, may create accounts and logins for students or their child ("Student Login(s)"). When you register or create a Student Login, you must provide MuseClass with accurate,

complete, and updated MuseClass User ID and Student Login information. You may not select or use as a MuseClass User ID or Student Login, a name of another person with the intent to impersonate that person. You will not provide any false information or create an account for anyone other than yourself without permission. MuseClass reserves the right to refuse registration or to cancel a MuseClass ID or Student Login in its discretion.

You shall be responsible for maintaining the confidentiality of your login credentials, MuseClass ID, Student Login, or password (“Account Credentials”) and will not share with anyone or let anyone else access your Account Credentials or account. You may not transfer your Account Credentials or account to anyone without express prior written consent of MuseClass. MuseClass will not be liable for any direct or indirect loss that you may incur as a result of someone else using your Account Credentials, either with or without your knowledge or for a failure to comply with this Section. However, you may be held liable for losses incurred by MuseClass or another party due to someone else using your Account Credentials.

You expressly agree to (a) immediately notify MuseClass of any unauthorized use of your account or any other breach of security of your Account Credentials, account or a child's personal information, and (b) ensure that you properly logout from your account at the end of each session.

You represent, warrant and covenant that (1) all Account Credential information you submit is truthful and accurate, and (2) if you are setting up a Student Login that you have obtained any and all necessary rights, permissions, or consents to access, setup, monitor, use or disclose any data from such accounts of other Users.

## **Indemnity**

You agree to defend, indemnify and hold us harmless against any losses, expenses, costs or damages (including our reasonable attorneys' fees, expert fees' and other reasonable costs of litigation or proceedings) arising from, incurred as a result of, or in any manner related to any claim or action based upon (a) your breach of, or failure to comply with, the terms and conditions of this Agreement, (b) your use of the Service, and/or (c) the use of the Service by any other person using your MuseClass User ID. We may, in our discretion, participate in the defense of any such claim or action and any negotiations for its settlement or compromise. No settlement which may adversely affect our rights or obligations shall be made without our prior written approval. We reserve the right, at our own expense and on notice to you, to assume exclusive defense and control of any such claim or action and then your corresponding indemnification obligation will end.

## **Copyright Protection**

We respect the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright

infringement, or your intellectual property rights have been otherwise violated, please provide our Copyright Agent the following information:

- (i) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- (ii) a description of the copyrighted work or other intellectual property that you claim has been infringed;
- (iii) a description of where the material that you claim is infringing is located on the site;
- (iv) your address, telephone number, and email address;
- (v) a 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;
- (vi) a statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

Our Agent for Notice of claims of copyright or other intellectual property infringement can be reached as follows:

By mail:

Copyright Agent  
MuseClass  
268 Bush Street, #3044  
San Francisco, CA 94104

By phone: (415) 599-4620, Ext. 2

By fax: (415) 449-3650

By email: [copyright@museclass.com](mailto:copyright@museclass.com)

MuseClass may remove any allegedly infringing content without any liability to you. MuseClass will promptly terminate without notice any User's access to the Service where the User is a "repeat infringer" of copyrights. MuseClass, however, reserves the right to identify and terminate Users under any circumstances it deems appropriate, including after only a single instance of allegedly infringing behavior by that User.

## **Third Party Content and Websites**

Content from other Users and third parties, including, information about third-party products and services, may be made available to you through the Service ("Third-Party Content"). Additionally, the Service may contain links to third-party websites that are not owned or controlled by MuseClass, and includes features that allow you to interact and

communicate with third parties (“Third-Party Websites”). The inclusion of Third-Party Content and links to Third-Party Websites on the Service does not imply our affiliation or endorsement of such Third-Party Content or Third-Party Websites. Because we do not control Third-Party Content or Third-Party Websites, you agree that we are not responsible for any such Third-Party Content or Third-Party Websites, including the accuracy, integrity, quality, legality, usefulness, safety or intellectual property rights of or relating to such Third-Party Content or Third-Party Websites (including privacy policies or opinions expressed on the Third-Party Websites), it is the sole responsibility of the person from which such Third-Party Content or Third-Party Websites originated, and MuseClass has no obligation to monitor such Third-Party Content or Third-Party Websites. When you access Third-Party Websites or interact or communicate with third parties through the Service, you do so at your own risk and are solely responsible for determining whether or not such Third-Party Content and Third-Party Websites are appropriate or acceptable to you. Your interactions with Third-Party Content and Third-Party Websites, organizations and/or individuals found on or through the Service are solely between you and such organizations and/or individuals and are subject to their respective terms and conditions and privacy policies. You understand that by using the Service you may be exposed to Third-Party Content or Third-Party Websites that are offensive, indecent or objectionable, and that you use the Service at your own risk.

## **User Interactions and Release**

**User Disputes.** MuseClass is not responsible for the actions, content, information or data of other third parties, including other Users. You are solely responsible for your interactions with other users of the Services, and any other parties with whom you interact through the Service. You should make whatever investigation you feel necessary or appropriate before proceeding with any online or offline interaction with any other person. We reserves the right, but have no obligation, to become involved in any way with these disputes.

**Release.** If you have a dispute with one or more Users, you release us (and our officers, directors, agents, subsidiaries, successors, joint ventures and employees) from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with such disputes, including damages for loss of profits, goodwill, use, privacy or data. If you are a California resident, you waive California Civil Code §1542, which says: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party." And, if you are not a California resident, you waive any applicable state statutes of a similar effect.

## **Term and Termination**

This Agreement shall remain in full force and effect while you use the Service unless your account is terminated as provided in this Agreement (“Term”). Certain Users (e.g., parents and School Personnel) may terminate their use of the Service or your account at any time by contacting us at [support@museclass.com](mailto:support@museclass.com) provided, however, that an Institution may require satisfaction of certain requirements before School Personnel can terminate their account. As a parent, if you created your child’s account (or your child is not using the Service at school), you can also terminate your child’s account the same way, although we will need to verify your identity (such as requiring that you send the request to us from the same email address you used to provide your consent to activate the student account originally). Parents of students whose accounts were created (or directed to be used by) your child’s teacher in school will first need to contact your child’s school to request termination.

You acknowledge that, if you knowingly, intentionally or negligently violate this Agreement, MuseClass may suspend your license to the Services, in whole or in part, until the violation has stopped or terminate your license and use of the Services. In the event that you fail to correct the violation after reasonable notice from MuseClass, MuseClass may terminate your license and use of the Services and this Agreement. You agree and if such termination or suspension occurs, MuseClass shall bear no responsibility or liability for any damages or claims resulting from or in connection with such actions, including the loss of information associated with your account.

The following does not apply in the unforeseen circumstances in which MuseClass ceases operations or files for bankruptcy at which point MuseClass may terminate or suspend all User accounts and licenses with or without notice to you, and with no liability to you. We believe that you (or your school as applicable) own your data and preserving access to such data is important. If we discontinue the Service (such as if we went out of business), where reasonably possible, we will give you advance notice and a chance to get information out of the Service.

## **Miscellaneous**

The failure of either party to exercise, in any respect, any right provided for herein shall not be deemed a waiver of any further rights hereunder. MuseClass shall not be liable for any failure to perform its obligations hereunder where such failure results from any cause beyond MuseClass's reasonable control. If any provision of this Agreement is found to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by you except with MuseClass's prior written consent. MuseClass may transfer, assign or delegate this Agreement and its rights and obligations without restriction. This Agreement is governed by and construed in accordance with the laws of the State of California without regard to the conflict of laws provisions thereof. To the extent any dispute arising from or relating to the subject matter of this Agreement is permitted to be brought in a court of law, such claim shall be subject to the exclusive jurisdiction of the state and federal courts located in San Francisco, California, and for

all purposes of this Agreement, you and MuseClass consent to the exclusive jurisdiction and venue of such courts. Unless and solely to the extent that you or your Institution have a separate written agreement with MuseClass that governs your use of the Service (in which case such agreement will control), we both agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that the Agreement may not be modified, except as otherwise provided herein. This Agreement and any subsequent versions of this Agreement posted to the Website will be deemed a writing signed by both parties. No agency, partnership, joint venture, or employment is created as a result of this Agreement and you do not have any authority of any kind to bind MuseClass in any respect whatsoever.

A printed version of this Agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this Agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

## **Customer Support**

If you need assistance with your account, you may reach Customer Support at any time here [support@museclass.com](mailto:support@museclass.com). Please note that these are the only methods to contact MuseClass for Customer Support; there is no Customer Support by telephone or fax. The Disclaimers of Warranties and Limitations of Liability set forth in these Terms of Service expressly apply to the use of Customer Support. We may utilize the services of third parties in providing you Customer Support.

## **Contact Information**

Last updated \_\_\_\_\_