



## Reclaim Hosting Institutional Agreement

This Reclaim Hosting Institutional Agreement (the "**Agreement**") is entered into by and between Reclaim Hosting, and the customer identified in the Ordering Document ("**Customer**"). This Agreement is effective as of the date the Agreement is countersigned (the "**Effective Date**"). If you are accepting on behalf of Customer, you represent and warrant that: (i) you have full legal authority to bind your employer, or the applicable entity, to these terms and conditions; (ii) you have read and understand this Agreement; and (iii) you agree, on behalf of the party that you represent, to this Agreement. If you do not have the legal authority to bind Customer, please do not sign this Agreement. This Agreement governs Customer's access to and use of the Services and will be effective as of the Effective Date.

### 1. **Services.**

**1.1 Facilities and Data Transfer.** All facilities used to store and process Customer Data will adhere to reasonable security standards no less protective than the security standards at facilities where Reclaim Hosting stores and processes its own information of a similar type. Reclaim Hosting has implemented best practices and procedures to ensure the security and confidentiality of Customer Data, protect against anticipated threats or hazards to the security or integrity of Customer Data, and protect against unauthorized access to or use of Customer Data. As part of providing the Services, Reclaim Hosting may transfer, store and process Customer Data in the United States or any other country in which Reclaim Hosting or its agents maintain facilities. By using the Services, Customer consents to this transfer, processing and storage of Customer Data.

### 1.2 **Modifications.**

a. **To the Services.** Reclaim Hosting may make commercially reasonable changes to the Services from time to time. If Reclaim Hosting makes a material change to the Services, Reclaim Hosting will inform Customer by either sending an email to the Notification Email Address or alerting Customer via the Admin Console.

b. **To Terms of Service.** Reclaim Hosting may make commercially reasonable changes to the Terms of Service from time to time. If Reclaim Hosting makes a material change to the Terms of Service, Reclaim Hosting will inform Customer by either sending an email to the Notification Email Address or alerting Customer via the Admin Console as well as making note of the modification and date at <http://reclaimhosting.com/institution/agreement/> or or such other URL as Reclaim Hosting may provide. If the change has a material adverse impact on Customer and Customer does not agree to the change, Customer must so notify Reclaim Hosting within thirty days after receiving notice of the change. If Customer notifies Reclaim Hosting as required, then Customer will remain governed by the terms in

effect immediately prior to the change until the end of the then-current Term. If the Services are renewed, they will be renewed under Reclaim Hosting's then current Terms of Service.

1.3 **Aliases.** Customer is responsible for monitoring, responding to, and otherwise processing emails sent to the "abuse" and "postmaster" aliases for Customer Domain Names but Reclaim Hosting may monitor emails sent to these aliases for Customer Domain Names to allow Reclaim Hosting to identify Services abuse.

1.4 **Ads.** Reclaim Hosting does not serve Ads in the Services or use Customer Data for Ads purposes.

1.5 **End User Accounts.** Customer may request End User Accounts by:(i) requesting them during the establishment of the Institutional Contract; or (ii) after the Services Commencement Date, contacting Reclaim Hosting support personnel. Customer can suspend or delete End User Accounts at any point in time through the Admin Console.

1.6 **Data Retention.** Reclaim Hosting will have no obligation to retain any Customer Data beyond the retention period specified by Customer within the Service Term (other than for any legal holds). If Customer does not renew Service at the end of Term, Reclaim Hosting will have no obligation to retain any archived Customer Data.

## **2. Customer Obligations.**

2.1 **Permitted Uses.** The Services are permitted for use only by (a) non-profit educational institutions and (b) other non-profit entities (as defined under the relevant state statutes).

2.2 **Compliance.** Customer will use the Services in accordance with Customer's Acceptable Use Policy. Reclaim Hosting may make new applications, features or functionality for the Services available from time to time, the use of which may be contingent upon Customer's agreement to additional terms. In addition, Reclaim Hosting will make other Non-Reclaim Hosting Applications (beyond the Services) available to Customer and its End Users in accordance with the Application's Terms and Conditions. If Customer does not desire to enable any of the Non-Reclaim Hosting Applications, Customer can enable or disable them at any time through the Admin Console.

2.3 **Customer Administration of the Services.** Customer may specify one or more Administrators through the Admin Console who will have the rights to access Admin Account(s) and to administer the End User Accounts. Customer is responsible for: (a) maintaining the confidentiality of the password and Admin Account(s); (b) designating those individuals who are authorized to access the Admin Account(s); and (c) ensuring that all activities that occur in connection with the Admin Account(s) comply with the Agreement. Customer agrees that Reclaim Hosting's responsibilities do not extend to the internal management or administration of the Services for Customer and that Reclaim Hosting is merely a data-processor.

2.4 **End User Consent.** Customer's Administrators may have the ability to access, monitor, use, or disclose data available to End Users within the End User Accounts. Customer will obtain and maintain all required consents from End Users to allow: (i) Customer's access, monitoring, use and disclosure of this data and Reclaim Hosting

providing Customer with the ability to do so and (ii) Reclaim Hosting to provide the Services.

**2.5 Unauthorized Use.** Customer will use commercially reasonable efforts to prevent unauthorized use of the Services and to terminate any unauthorized use. Customer will promptly notify Reclaim Hosting of any unauthorized use of, or access to, the Services of which it becomes aware.

**2.6 Restrictions on Use.** Unless Reclaim Hosting specifically agrees in writing, Customer will not, and will use commercially reasonable efforts to make sure a third party does not: (a) sell, resell, lease, or the functional equivalent, the Services to a third party (unless expressly authorized in this Agreement); (b) attempt to reverse engineer the Services or any component; (c) use the Services for High Risk Activities; or (d) use the Services to store or transfer any Customer Data that is controlled for export under Export Control Laws. Customer is solely responsible for any applicable compliance with HIPAA.

**2.7 Third Party Requests.** Customer is responsible for responding to Third Party Requests. Reclaim Hosting will, to the extent allowed by law and by the terms of the Third Party Request: (a) promptly notify Customer of its receipt of a Third Party Request; (b) comply with Customer's reasonable requests regarding its efforts to oppose a Third Party Request; and (c) provide Customer with the information or tools required for Customer to respond to the Third Party Request. Customer will first seek to obtain the information required to respond to the Third Party Request on its own, and will contact Reclaim Hosting only if it cannot reasonably obtain such information.

**3. Payment.** If any of the Services are purchased for a Fee, the terms in this Section 3 apply to those Services.

**3.1 Payment.** All Fees are due thirty days from the invoice date. All payments due are in U.S. dollars unless otherwise indicated in an Order Form.

**3.2 Delinquent Payments.** Delinquent payments may bear interest at the rate of one-and-one-half percent per month (or the highest rate permitted by law, if less) from the payment due date until paid in full. Customer will be responsible for all reasonable expenses (including attorneys' fees) incurred by Reclaim Hosting in collecting such delinquent amounts, except where such delinquent amounts are due to Reclaim Hosting's billing inaccuracies.

**3.3 Purchase Orders.**

a. **Required.** If Customer wants a Purchase Order number on its invoice, Customer will inform Reclaim Hosting and issue a Purchase Order to Reclaim Hosting. If Customer requires a Purchase Order, and fails to provide the Purchase Order to Reclaim Hosting, then Reclaim Hosting will not be obligated to provide the Services until the Purchase Order has been received by Reclaim Hosting. Any terms and conditions on a Purchase Order do not apply to this Agreement and are null and void.

b. **Not Required.** If Customer does not require a Purchase Order number to be included on the invoice, Customer will provide Reclaim Hosting a waiver of the Purchase Order requirement, which may be an email to this effect. If Customer

waives the Purchase Order requirement, then: (a) Reclaim Hosting will invoice Customer without a Purchase Order; and (b) Customer agrees to pay invoices without a Purchase Order.

**3.4 Taxes.** Customer is responsible for any Taxes, and Customer will pay Reclaim Hosting for the Services without any reduction for Taxes. If Reclaim Hosting is obligated to collect or pay Taxes, the Taxes will be invoiced to Customer, unless Customer provides Reclaim Hosting with a valid tax exemption certificate authorized by the appropriate taxing authority. If Customer is required by law to withhold any Taxes from its payments to Reclaim Hosting, Customer must provide Reclaim Hosting with an official tax receipt or other appropriate documentation to support such payments.

**3.5 Invoice Disputes.** Any invoice disputes must be submitted prior to the invoice due date. If the parties determine that certain billing inaccuracies are attributable to Reclaim Hosting, Reclaim Hosting will issue a corrected invoice specifying the modifications from the affected invoice. If the disputed invoice has not yet been paid, Reclaim Hosting will apply these corrections to the disputed invoice and Customer will be responsible for paying the resulting net balance due on that invoice.

**4. Invoicing; Rates.** If any of the Services are purchased for a Fee, the terms in this Section 4 apply to those Services. On or after the Billing Start Date, Reclaim Hosting will invoice Customer the following Fees for each applicable Service: in advance for the Monthly Charge, Annual Charge or Initial Term Charge (as applicable), all of which will be set forth in the Order Form.

**5. Technical Support Services.**

**5.1 By Customer.** Customer will, at its own expense, respond to questions and complaints from End Users or third parties relating to Customer's or End Users' use of the Services. Customer will use commercially reasonable efforts to resolve support issues before escalating them to Reclaim Hosting.

**5.2 By Reclaim Hosting.** If Customer cannot resolve a support issue consistent with the above, then Customer may escalate the issue to Reclaim Hosting in accordance with the TSS Guidelines. Reclaim Hosting will provide TSS to Customer in accordance with the TSS Guidelines.

**6. Suspension.**

**6.1 Of End User Accounts by Reclaim Hosting.** If Reclaim Hosting becomes aware of an End User's violation of the Agreement, then Reclaim Hosting may specifically request that Customer Suspend the applicable End User Account. If Customer fails to comply with Reclaim Hosting's request to Suspend an End User Account, then Reclaim Hosting may do so. The duration of any Suspension by Reclaim Hosting will be until the applicable End User has cured the breach, which caused the Suspension.

**6.2 Emergency Security Issues.** Notwithstanding the foregoing, if there is an Emergency Security Issue, then Reclaim Hosting may automatically Suspend the offending use. Suspension will be to the minimum extent and of the minimum duration required to prevent or terminate the Emergency Security Issue. If Reclaim Hosting Suspends an End User Account for any reason without prior notice to Customer, at

Customer's request, Reclaim Hosting will provide Customer the reason for the Suspension as soon as is reasonably possible.

## **7. Confidential Information.**

**7.1 Obligations.** Each party will: (a) protect the other party's Confidential Information with the same standard of care it uses to protect its own Confidential Information; and (b) not disclose the Confidential Information, except to Affiliates, employees and agents who need to know it and who have agreed in writing to keep it confidential. Each party (and any Affiliates, employees and agents to whom it has disclosed Confidential Information) may use Confidential Information only to exercise rights and fulfill its obligations under this Agreement, while using reasonable care to protect it. Each party is responsible for any actions of its Affiliates, employees and agents in violation of this Section.

**7.2 Exceptions.** Confidential Information does not include information that: (a) the recipient of the Confidential Information already knew; (b) becomes public through no fault of the recipient; (c) was independently developed by the recipient; or (d) was rightfully given to the recipient by another party.

**7.3 Required Disclosure.** Each party may disclose the other party's Confidential Information when required by law but only after it, if legally permissible: (a) uses commercially reasonable efforts to notify the other party; and (b) gives the other party the chance to challenge the disclosure.

**7.4 FERPA.** The parties acknowledge that (a) End User Data may include personally identifiable information from education records that are subject to FERPA ("FERPA Records"); and (b) to the extent that End User Data includes FERPA Records, Reclaim Hosting will be considered a "School Official" (as that term is used in FERPA and its implementing regulations) and will comply with FERPA.

## **8. Intellectual Property Rights.**

**8.1 Intellectual Property Rights.** Except as expressly set forth herein, this Agreement does not grant either party any rights, implied or otherwise, to the other's content or any of the other's intellectual property. As between the parties, Customer owns all Intellectual Property Rights in Customer Data, and Reclaim Hosting owns all Intellectual Property Rights in the Services.

**9. Publicity.** Customer agrees that Reclaim Hosting may include Customer's name or Brand Features in a list of Reclaim Hosting customers, online or in promotional materials. Customer also agrees that Reclaim Hosting may verbally reference Customer as a customer of the Reclaim Hosting products or services that are the subject of this Agreement.

## **10. Representations, Warranties and Disclaimers.**

**10.1 Representations and Warranties.** Each party represents that it has full power and authority to enter into the Agreement. Each party warrants that it will comply with all laws and regulations applicable to its provision, or use, of the Services, as applicable (including applicable security breach notification law). Reclaim Hosting warrants that it will provide the Services in accordance with the applicable SLA. Customer acknowledges and agrees that it is solely responsible for compliance with the Children's Online Privacy

Protection Act of 1998, including, but not limited to, obtaining parental consent concerning collection of students' personal information used in connection with the provisioning and use of the Services by the Customer and End Users.

**10.2 Disclaimers.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, NEITHER PARTY MAKES ANY OTHER WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE AND NONINFRINGEMENT. RECLAIM HOSTING MAKES NO REPRESENTATIONS ABOUT ANY CONTENT OR INFORMATION MADE ACCESSIBLE BY OR THROUGH THE SERVICES. CUSTOMER ACKNOWLEDGES THAT THE SERVICES ARE NOT A TELEPHONY SERVICE AND THAT THE SERVICES ARE NOT CAPABLE OF PLACING OR RECEIVING ANY CALLS, INCLUDING EMERGENCY SERVICES CALLS, OVER PUBLICLY SWITCHED TELEPHONE NETWORKS.

## **11. Term; Fees.**

**11.1 Agreement Term.** This Agreement will remain in effect for the Term.

**11.2 Services Term and Purchases During Services Term.** Reclaim Hosting will provide the Services to Customer during the Services Term. Unless the parties agree otherwise in writing, End User Accounts added during any Services Term will terminate on the last day of that Services Term.

**11.3 Auto Renewal.** If wishes to renew Services for an additional Term, then it must notify Reclaim Hosting in writing at least 30 days prior to the end of the then current Services Term. This notice of renewal will be effective upon the conclusion of the then current Services Term.

**11.4 Services Use.** Customer has no obligation to use the Services and may cease using the Services at any time for any reason (or no reason).

**11.6 Revising Rates.** For Services which Customer has purchased for a Fee, Reclaim Hosting may revise its rates for the following Services Term by providing Customer written notice (which may be by email) at least thirty days prior to the start of the following Services Term.

## **12. Termination.**

**12.1 Termination for Breach.** Either party may suspend performance or terminate this Agreement if: (i) the other party is in material breach of the Agreement and fails to cure that breach within thirty days after receipt of written notice; (ii) the other party ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within ninety days; or (iii) the other party is in material breach of this Agreement more than two times notwithstanding any cure of such breaches.

**12.2 Other Termination.** Customer may terminate this Agreement for any reason (or no reason) with thirty days prior written notice to Reclaim Hosting, provided, however, that Customer will remain obligated to pay any Fees for Services which Customer has purchased applicable to the remainder of the then-current Services Term for those Services.

**12.3 Effects of Termination.** If this Agreement terminates, then: (i) the rights granted by one party to the other will cease immediately (except as set forth in this Section); (ii) Reclaim Hosting will provide Customer access to, and the ability to export, the Customer Data for a commercially reasonable period of time at Reclaim Hosting's then-current rates, if applicable, for the Services; (iii) after a commercially reasonable period of time, Reclaim Hosting will delete Customer Data by removing pointers to it on Reclaim Hosting's active servers and overwriting it over time; and (iv) upon request each party will promptly use commercially reasonable efforts to return or destroy all other Confidential Information of the other party.

**13. Indemnification.**

**13.1 By Reclaim Hosting.** Reclaim Hosting will indemnify, defend, and hold harmless Customer from and against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of a third party claim that Reclaim Hosting's technology used to provide the Services infringe or misappropriate any patent, copyright, trade secret or trademark of such third party. Notwithstanding the foregoing, in no event shall Reclaim Hosting have any obligations or liability under this Section arising from: (i) use of the Services in a modified form or in combination with materials not furnished by Reclaim Hosting, and (ii) any content, information or data provided by Customer, End Users or other third parties.

**13.2 Possible Infringement.**

(a) **Repair, Replace, or Modify.** If Reclaim Hosting reasonably believes the Services infringe a third party's Intellectual Property Rights, then Reclaim Hosting will: (a) obtain the right for Customer, at Reclaim Hosting's expense, to continue using the Services; (b) provide a non-infringing functionally equivalent replacement; or (c) modify the Services so that they no longer infringe.

(b) **Suspension or Termination.** If Reclaim Hosting does not believe the foregoing options are commercially reasonable, then Reclaim Hosting may suspend or terminate Customer's use of the impacted Services. If Reclaim Hosting terminates the impacted Services, then Reclaim Hosting will provide a pro-rata refund of the unearned Fees (if applicable) actually paid by Customer applicable to the period following termination of such Services.

**13.3 General.** Customer will promptly notify Reclaim Hosting of the claim and cooperate with Reclaim Hosting in defending the claim. Reclaim Hosting has full control and authority over the defense, except that: (a) any settlement requiring Customer to admit liability or to pay any money will require Customer's prior written consent, such consent not to be unreasonably withheld or delayed; and (b) Customer may join in the defense with its own counsel at its own expense. THE INDEMNITY ABOVE IS CUSTOMER'S ONLY REMEDY UNDER THIS AGREEMENT FOR VIOLATION BY RECLAIM HOSTING OF A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS.

**14. Limitation of Liability.**

**14.1 Limitation on Indirect Liability.** NEITHER PARTY WILL BE LIABLE UNDER THIS AGREEMENT FOR LOST REVENUES OR INDIRECT, SPECIAL, INCIDENTAL,

CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN THAT SUCH DAMAGES WERE POSSIBLE AND EVEN IF DIRECT DAMAGES DO NOT SATISFY A REMEDY.

**14.2 Limitation on Amount of Liability.** NEITHER PARTY MAY BE HELD LIABLE UNDER THIS AGREEMENT FOR MORE THAN THE GREATER OF: (I) ONE THOUSAND DOLLARS OR (II) THE AMOUNT PAID BY CUSTOMER TO Reclaim Hosting UNDER THIS AGREEMENT DURING THE TWELVE MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

**14.3 Exceptions to Limitations.** These limitations of liability apply to the fullest extent permitted by applicable law, but do not apply to breaches of confidentiality obligations, violations of a party's Intellectual Property Rights by the other party, or indemnification obligations.

## **15. Miscellaneous.**

**15.1 Notices.** Unless specified otherwise herein: (a) all notices must be in writing and addressed to the attention of the other party's legal department and primary point of contact; and (b) notice will be deemed given: (i) when verified by written receipt if sent by personal courier, overnight courier, or when received if sent by mail without verification of receipt; or (ii) when verified by automated receipt or electronic logs if sent by facsimile or email.

**15.2 Assignment.** Neither party may assign or transfer any part of this Agreement without the written consent of the other party, except to an Affiliate, but only if: (a) the assignee agrees in writing to be bound by the terms of this Agreement; and (b) the assigning party remains liable for obligations incurred under the Agreement prior to the assignment. Any other attempt to transfer or assign is void.

**15.3 Change of Control.** Upon a change of control (for example, through a stock purchase or sale, merger, or other form of corporate transaction): (a) the party experiencing the change of control will provide written notice to the other party within thirty days after the change of control; and (b) the other party may immediately terminate this Agreement any time between the change of control and thirty days after it receives the written notice in subsection (a).

**15.4 Force Majeure.** Neither party will be liable for inadequate performance to the extent caused by a condition (for example, natural disaster, act of war or terrorism, riot, labor condition, governmental action, and Internet disturbance) that was beyond the party's reasonable control.

**15.5 No Waiver.** Failure to enforce any provision of this Agreement will not constitute a waiver.

**15.6 Severability.** If any provision of this Agreement is found unenforceable, the balance of the Agreement will remain in full force and effect.

**15.7 No Agency.** The parties are independent contractors, and this Agreement does not create an agency, partnership or joint venture.

**15.8 No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.



15.9 **Equitable Relief.** Nothing in this Agreement will limit either party's ability to seek equitable relief.

15.10 **Governing Law.**

a. **For City, County and State Government Entities.** If Customer is a city, county, or state government entity, then the parties agree to remain silent regarding governing law and venue.

b. **For All other Entities.** If Customer is any entity not set forth in Section 15.10(a) then the following applies: This Agreement is governed by Virginia law, excluding that state's choice of law rules. FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PARTIES CONSENT TO PERSONAL JURISDICTION IN, AND THE EXCLUSIVE VENUE OF, THE COURTS IN FREDERICKSBURG, VIRGINIA.

15.11 **Amendments.** Any amendment must be in writing and expressly state that it is amending this Agreement.

15.12 **Survival.** The following Sections will survive expiration or termination of this Agreement: 7 (Confidential Information), 8.1 (Intellectual Property Rights), 12.3 (Effects of Termination), 13 (Indemnification), 14 (Limitation of Liability), 15 (Miscellaneous), and 16 (Definitions).

15.13 **Entire Agreement.** This Agreement, and all documents referenced herein, is the parties' entire agreement relating to its subject and supersedes any prior or contemporaneous agreements on that subject. If Customer is presented with a similar agreement on the same subject matter upon its log in to use the Services, this Agreement supersedes and replaces that agreement. The terms located at a URL and referenced in this Agreement are hereby incorporated by this reference.

15.14 **Interpretation of Conflicting Terms.** If there is a conflict between the documents that make up this Agreement, the documents will control in the following order: the Order Form (if applicable), the Agreement, and the terms located at any URL.

15.15 **Counterparts.** The parties may enter into this Agreement by executing the applicable Order Form (if any) or this Agreement in counterparts, including facsimile, PDF or other electronic copies, which taken together will constitute one instrument.

16. **Definitions.**

"**Acceptable Use Policy**" means the acceptable use policy for the Services provided by either party.

"**Admin Account(s)**" means the administrative account(s) provided to Customer by Reclaim Hosting for the purpose of administering the Services. The use of the Admin Account(s) requires a password, which Reclaim Hosting will provide to Customer.

"**Admin Console**" means the online tool provided by Reclaim Hosting to Customer for use in reporting and certain other administration functions.

"**Administrators**" mean the Customer-designated technical personnel who administer the Services to End Users on Customer's behalf.

"**Ads**" means online advertisements, excluding advertisements provided by any advertising products that are not part of the Services that Customer chooses to use in connection with the Services, displayed by Reclaim Hosting to End Users.

**"Affiliate"** means any entity that directly or indirectly controls, is controlled by, or is under common control with a party.

**"Agreement"** means, as applicable either this Reclaim Hosting Apps for Education Agreement, or the combination of an Order Form and this Reclaim Hosting Institutional Agreement.

**"Alumni"** means graduates or former Students of Customer.

**"Annual Charge"** means the annual charge for the Services set forth in the Order Form (if applicable).

**"Billing Start Date"** means the date upon which Customer will begin paying Reclaim Hosting for the Services (if applicable).

**"Confidential Information"** means information disclosed by a party to the other party under this Agreement that is marked as confidential or would normally be considered confidential under the circumstances. Customer Data is considered Customer's Confidential Information.

**"Customer Data"** means data, including email, provided, generated, transmitted or displayed via the Services by Customer or End Users.

**"Customer Domain Names"** means the domain names owned or controlled by Customer, which will be used in connection with the Services, as identified within the Services Admin Console. Customer may provide the Services to any of its sub-domains (for example, if Customer Domain Name is "edu.com", a sub-domain may include "alumni.edu.com") without written approval from Reclaim Hosting.

**"Effective Date"** means the date this Agreement is countersigned.

**"Emergency Security Issue"** means either: (a) Customer's use of the Services in violation of the Acceptable Use Policy, which could disrupt: (i) the Services; (ii) other customers' use of the Services; or (iii) the Reclaim Hosting network or servers used to provide the Services; or (b) unauthorized third party access to the Services.

**"End Users"** means the individuals Customer permits to use the Services.

**"End User Account"** means a Reclaim Hosting-hosted account established by Customer through the Services for an End User.

**"Export Control Laws"** means all applicable export and re-export control laws and regulations, including the Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control, and the International Traffic in Arms Regulations ("ITAR") maintained by the Department of State.

**"Fees"** means the amounts invoiced to Customer by Reclaim Hosting for the Services (if applicable) as described in this Agreement.

**"FERPA"** means the Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and the Family Educational Rights and Privacy Act Regulations (34 CFR Part 99), as amended or otherwise modified from time to time.

**"Help Center"** means the Reclaim Hosting help center accessible at <http://support.reclaimhosting.com/hc>, or other such URL as Reclaim Hosting may provide.

**"High Risk Activities"** means uses such as the operation of nuclear facilities, air traffic control, or life support systems, where the use or failure of the Services could lead to death, personal injury, or environmental damage.

**"HIPAA"** means the Health Insurance Portability and Accountability Act of 1996, as may be amended from time to time, and any regulations issued thereunder.

**"Intellectual Property Rights"** means current and future worldwide rights under patent law, copyright law, trade secret law, trademark law, moral rights law, and other similar rights.

**"Initial Services Term"** means the term for the applicable Services beginning on the Service Commencement Date and continuing for the "Current Services Term" set forth in the Order Form from the Billing Start Date (if an Order Form applies to the Services) or if no Order Form applies to the Services, for the term that begins on the Effective Date and continues for one year.

**"Initial Term Charge"** means the charge for the Services for the Initial Services Term (excluding any applicable one time fees), as set forth in the Order Form (if applicable).

**"Monthly Charge"** means the monthly charge for the Services set forth in the Order Form (if applicable).

**"Non-Reclaim Hosting Applications"** means Reclaim Hosting products which are not part of the Services, but which may be accessed by End Users using their End User Account login and password.

**"Non-Reclaim Hosting Applications Terms and Conditions"** means the terms and conditions set forth by Non-Reclaim Hosting Applications.

**"Notification Email Address"** means the email address designated by Customer to receive email notifications from Reclaim Hosting. Customer may change this email address through the Admin Console.

**"Order Form"** means an order form, which is the written document provided by Reclaim Hosting specifying the Services Customer will purchase from Reclaim Hosting for a Fee (if any) under the Agreement. The Order Form will contain: (i) a signature block for Customer, or for both Customer and Reclaim Hosting; (ii) applicable service SKUs; (iii) Fees (if applicable); and (iv) number of, and current Services Term for, any End User Accounts.

**"Purchase Order"** means a Customer issued purchase order.

**"Services"** means the Reclaim Hosting Institutional Services and Applications provided by Reclaim Hosting and used by Customer under this Agreement.

**"Service Commencement Date"** is the date upon which Reclaim Hosting makes the Services available to Customer.

**"Services Pages"** mean the web pages displaying the Services to End Users.

**"Services Term"** means the Initial Services Term and all renewal terms for the applicable Services.

**"SLA"** means any applicable Services Level Agreement established between Customer and Reclaim Hosting.

**"Staff"** means an individual (including any faculty) who is or has been employed by Customer. Any Student or Alumni who are also Staff are deemed Staff under this Agreement (and excluded from the Student or Alumni definition) if they have been employed by Customer within the last twelve months.

**"Student"** means an individual who has been registered for classes offered by Customer within the last twelve months.

**"Suspend"** means the immediate disabling of access to the Services, or components of the Services, as applicable, to prevent further use of the Services.

**"Taxes"** means any duties, customs fees, or taxes (other than Reclaim Hosting's income tax) associated with the sale of the Services, including any related penalties or interest.

**"Term"** means the term of the Agreement, which will begin on the Effective Date and continue until the earlier of: (i) the end of the last Services Term or (ii) the Agreement is terminated as set forth herein.

**"Third Party Request"** means a request from a third party for records relating to an End User's use of the Services. Third Party Requests can be a lawful search warrant, court order, subpoena, other valid legal order, or written consent from the End User permitting the disclosure.

**"TSS"** means the technical support services provided by Reclaim Hosting to the Administrators during the Term pursuant to the TSS Guidelines.

**"TSS Guidelines"** means Reclaim Hosting's technical support services guidelines then in effect for the Services. TSS Guidelines are at the following URL:

<http://reclaimhosting.com/institution/tss-guidelines/> or such other URL as Reclaim Hosting may provide.

**"Terms of Service"** means the Acceptable Use Policy, the SLA, the TSS Guidelines, and this Institutional Agreement.

*Last Modified 08-05-2014*