



End User License Agreement Terms

This End User License Agreement (“Agreement”) applies to all Orders. Unless otherwise specifically, all capitalized terms in these terms and conditions shall have the same meaning as the Order.

PERIOD:

The period of this Agreement begins on the Subscription Start Date and terminates at the end of the then current term after one party notifies the other of termination (“Period”).

DESCRIPTION OF PRODUCTS AND SERVICES:

BlueStreak shall provide Customer will a license, in the quality set forth in the Order, to use the BlueStreak Math platform and mobile application (“Platform”). Each license to the Platform shall be assigned to one named student. Customer may not reassign access to a different user during the license term. All licenses to use the Platform are non-exclusive, nontransferable license, revocable and without sublicense rights

PRICE AND PAYMENT:

The prices and billing terms for the products, services, and licenses will be as set forth on the Order, except as set forth herein. Customer agrees to prepay for the Order for the next Period and from time-to-time thereafter.

TERMINATION:

Either party may terminate this Agreement at any time effective at the end of the current Period with written notice to the other party. BlueStreak may immediately terminate customer’s access to the Platform if Customer breaches any material term or fails to fulfill any representation, warranty, or material condition, term, provision or obligation contained in this Agreement. Upon termination, BlueStreak shall be entitled to seek any remedies to which it shall be entitled at law or in equity. If any change in

applicable law that is enacted after the date hereof could reasonably be expected to have a material adverse effect on the ability of any party to carry out its obligations under this Agreement, such party, upon written notice to the other party may request renegotiation of this Agreement. Such renegotiation shall be undertaken in good faith. If the parties are unable to renegotiate and agree upon revised terms within 120 days of such notice of renegotiation, then this Agreement shall be terminated effective at the end of the current Period in which such notice was given. Termination of this Agreement does not relieve Customer of any obligations for payments outstanding to BlueStreak as of the date of termination and does not relieve either party of any obligations that continue upon termination.

INFORMATION REQUIREMENTS:

Customer will provide BlueStreak with all information reasonably required by BlueStreak to provide the products, services, and licenses.

FERPA AND CONFIDENTIALITY:

Customer represents and warrants to BlueStreak that, to the extent personally identifiable information of a Customer is disclosed to BlueStreak in connection with this Agreement, Customer has the authority to disclose such and such disclosure will be in compliance with all federal, state and local laws, including, but not limited to the Family Educational Rights and Privacy Act. To the extent permitted by applicable law BlueStreak or its affiliates may provide Customer with confidential information (as designated by BlueStreak) required by Customer in writing for its internal use or reporting to regulatory authorities. Customer agrees to develop, implement, maintain and use appropriate administrative, technical or physical security measures to maintain the confidentiality of such confidential information.

HOW IS MY CHILD/STUDENT PROTECTED WITH BLUESTREAK MATH:

The student's name and location data will never be shared with any other users or published outside of BlueStreak Math.

The student's data will never be shared with other users, but may be anonymized and used for research. All of the student's personally identifiable information will be stripped in such a case.

The student will have access to multiplayer, to improve math skills in an engaging multiplayer environment, but personally identifiable information will not be shown to other students, and communication chats are only fixed phrases (good game, wow, I'm Excited, etc.) Participants are not able to freely communicate.

CALIFORNIA CONSUMER PRIVACY ACT:

For the purposes of the California Consumer Privacy Act ("CCPA"), BlueStreak shall be considered a Business and/or Third Party, as applicable. Where BlueStreak acts as a Third Party, Customer represents, warrants and covenants that all Personal Information provided or otherwise made available to BlueStreak is done so in compliance with applicable law, and that it has provided all necessary and appropriate notices and opt-outs, and otherwise has all necessary and appropriate rights, to enable BlueStreak to (i) share any and all Personal Information Customer provides with any BlueStreak company, including BlueStreak Education, Inc. and any parent, subsidiary, affiliate, or related company of BlueStreak Education, Inc. (collectively, the "BlueStreak Family Companies"), and (ii) use any such Personal Information in connection with any and all BlueStreak Family Companies' internal operations and functions, including, but not limited to, improving such BlueStreak Family Companies' products and/or services, operational analytics and reporting, internal financial reporting and analysis, audit functions and archival purposes. Notwithstanding the foregoing, the parties agree that the sharing of Personal Information between BlueStreak Family Companies does not constitute a "sale" of such Personal Information under the CCPA. Capitalized terms in this paragraph have the meanings given those terms under the CCPA.

WARRANTY:

BlueStreak agrees that the services will be performed in a professional and workmanlike manner in accordance with commercially reasonable industry standards. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND BLUESTREAK MAKES NO GUARANTEES AS TO THE RESULTS OR ACHIEVEMENTS OF THE STUDENTS. WITHOUT LIMITING THE FOREGOING, BLUESTREAK MAKES NO GUARANTEES AND SHALL NOT BE LIABLE FOR OUTAGES OR OTHER NON-ACCESSIBILITY TO THE BLUESTREAK OR PLATFORM WEBSITE,

END-USER CONNECTION SPEED OR CONNECTIVITY PROBLEMS REGARDLESS OF THE CAUSE. BLUESTREAK OFFERS NO WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCTS OR SERVICES PROVIDED PURSUANT TO THIS AGREEMENT. BLUESTREAK DOES NOT WARRANT THAT USE THE SITE OR PLATFORM WILL BE UNINTERRUPTED OR ERROR-FREE, THAT ERRORS WILL BE CORRECTED OR THAT IT WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

INTELLECTUAL PROPERTY:

Customer acknowledges and agrees that all courses, content, software, graphics, pictures, documents, licenses, designs, and materials, and any and all derivatives thereof (collectively, Works) made available to Customer pursuant to this Agreement are protected by copyrights, trademarks, service marks, patents, trade secrets, or other proprietary rights and laws and BlueStreak (or its affiliates or licensors) own all right, title and interest in and to the Works. Customer acknowledges and agrees that it has no intellectual property interest or claims in the Works and has no rights to make any use of such Works except as expressly granted herein. Except as expressly authorized in writing by an officer of BlueStreak. Customer agrees not to sell, license, sublicense, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit, or create derivative works from any of the Works. Customer will not act or permit any action that would impair any of BlueStreak (or its affiliates' or licensors') rights in the Works.

Digital Millennium Copyright Act (“DMCA”) Notice:

BlueStreak respects the copyright interests of others and, as a policy, does not knowingly permit materials on the Platform that infringe another party’s copyright. If you believe any materials on the Platform infringe a copyright, you should provide us with written notice that at a minimum contains:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;

- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material;
- Information reasonably sufficient to permit us to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;
- A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

All DMCA notices should be sent to our designated agent as follows:

BlueStreak Education, Inc.
PO Box 38
Frankfort, IL 60423

BlueStreak may, in appropriate circumstances and at its discretion, terminate the account or access of users who infringe the intellectual property rights of others.

INDEMNIFICATION AND LIMITATION OF LIABILITY:

To the extent permitted by law, BlueStreak and Customer (“Indemnifying Party”) agree to indemnify and hold harmless the other (“Indemnitee”) from and against any and all liabilities, claims, damages, injuries, judgments, demands and expenses, including court costs and attorney's fees, to the extent that arise out any acts or omissions of the Indemnifying Party related to this Agreement (collectively "Claims"). **NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL BLUESTREAK'S LIABILITY TO CUSTOMER AND ITS EMPLOYEES, CONTRACTORS, OFFICERS AND BOARD MEMBERS UNDER THIS AGREEMENT OR FOR ANY MATTER OR CAUSE OF ACTION ARISING IN CONNECTION HEREWITH EXCEED THE AMOUNT PAID BY CUSTOMER TO BLUESTREAK HEREUNDER. IN NO EVENT SHALL BLUESTREAK BE**

LIABLE TO CUSTOMER, WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR SPECIAL DAMAGES (INCLUDING ANY DAMAGE TO BUSINESS REPUTATION, LOST PROFITS OR LOST DATA), WHETHER FORESEEABLE OR NOT AND WHETHER BLUESTREAK IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

DISPUTE RESOLUTION:

The parties agree that they will use their best efforts to settle any and all disputes arising out of, under or in connection with this Agreement, including without limitation the validity, interpretation, performance and breach hereof, prior to initiating any legal proceeding, whether judicial or administrative in nature. The efforts shall be primarily between the President of BlueStreak and the Customer or their respective designees. The laws of the State of Illinois, without regard to its conflict of laws provisions, will govern all disputes arising out of or related to this Agreement, including the validity, enforceability or construction thereof. Each party submits to the jurisdiction of the state and federal courts located in the State of Illinois.

Bill Payment Services:

A. Description of Bill Payment Services provided by Stripe, Inc., a Delaware corporation, of 510 Townsend Street San Francisco CA 94103 (“Stripe”), a licensed money transmitter in required states, provides the bill payment service that allows Customer to make payments to bill payment providers. To be eligible to use the Bill Payment Services, Customer must be an individual resident of the United States (excluding its territories). Customer further agrees that it will only use the service to send bill payments on its own behalf and will not use the Bill Payment Services as an agent, guardian, conservator or guarantor for any other person or entity. In order to use the Bill Payment Services, Customer may need to provide us with its account information with service providers it chooses (such as account passwords and usernames) and any information necessary for us to access Customer’s accounts with such service providers ("Bill Payment Account Information"). By using the Bill Payment Services, Customer expressly authorizes Stripe to access the Bill Payment Account Information, on Customer’s behalf and as Customer’s agent, solely for the purpose of providing the Bill Payment Services to Customer. Once

Customer has added a service provider account, we will submit information, including usernames and passwords that Customer's provide, to log Customer into the third party site (each, a "Third Party Site"). Customer hereby authorizes and permits Stripe to use and store Customer Bill Payment Account Information to accomplish the foregoing and to configure the Bill Payment Services so that they are compatible with the Third Party Sites for which Customer submits Customer Bill Payment Account Information. In some cases, we may display bills to Customer from Customer's service providers who are also customers of our other products or services.

B. Description of Fees; There may be charges for certain transactions and services when Customer elects to use the Bill Payment Services. Customer agrees to pay any fees for the Bill Payment Services Customer use or subscribe to as described on the Sites.

C. Payee Information; Authority By initiating a payment through the Bill Payment Services, Customer authorizes Stripe to charge the account that Customer designate as the account to which the bill payments should be charged or withdrawn from (the "Funding Account"). Customer agrees to maintain a balance or available credit limit in the specified Funding Account that is sufficient to fund all payments Customer initiates. Customer represents and warrants that Customer has the right to authorize Stripe to charge the Funding Account for payments Customer initiates using the Bill Payment Services. Customer will indemnify and hold BlueStreak harmless from any claims by any third party, including any other owner of the account related to Stripe's access to the Funding Account.

Customer is responsible for confirming the accuracy of the information Customer provides about each payment Customer sends, including the email/ physical address or telephone number of the recipient (the "Payee"), and the amount of the transaction.

Customer represents and warrants that Stripe may send communications to the Payee on Customer's behalf in connection with the Bill Payment Services. By using the Bill Payment Services, Customer represent and warrant that Customer and each person Customer identify have consented to receive ongoing communication, including text messages from us. Such communication may include messages, including text messages, to the recipient of the Bill Payment Services to receive money Customer had paid them using the Bill Payment

Services. Customer agrees to inform Stripe if a person withdraws its consent to receiving text messages from Customer.

Stripe does not charge a fee to send a text message when using the Bill Payment Services. However, any text messages sent and/or received are subject to standard text message rates depending on the recipient's carrier and terms and conditions with the carrier. To stop receiving messages, reply STOP to any text messages Customer receives from us.

D. Limits On Payees, Payment Amounts And Methods; Customer acknowledges that certain Payees may not accept payment from all types of funding sources and that we may otherwise limit the payment methods available for a particular Payee. Additionally, Stripe may, at its discretion, impose limits on the number and amount of payments, in aggregate, that Customer can send using the Bill Payment Services.

Stripe may refuse to permit payment to any Payee if we reasonably believe such refusal is necessary or advisable for legal or security reasons. If Customer fails to maintain a balance in the applicable Funding Account that is insufficient to fund any payment that Customer initiates, Stripe may refuse to make any subsequent payment for as long as we determine to be necessary or appropriate. Stripe also reserves the right to refuse to make any payment.

Stripe reserves the right to select the method in which to remit funds on Customer's behalf, and the method to return funds to Customer in the event Customer's Funding Account is closed or otherwise unavailable to us. The payment methods through the Bill Payment Services may include, but are not limited to, electronic or paper check payments, Customer's designated credit card, or payment via other form of funds transfer that Stripe may choose to employ. Payments to Payees outside of the United States, including its territories, are prohibited through the Bill Payment Services. The Bill Payment Services does not support payment to all types of billers, including certain government agencies and bills such as tax payments and court-ordered payments.

E. Rejected or Returned Payments.

When Customer sends a payment via the Bill Payment Services, the Payee is not required to accept it. Customer also understand that Payees, payment

processors, or the mail/package delivery service providers may return payments to the Bill Payment Services for various reasons. These reasons can include, but are not limited to: the Payee's forwarding address has expired; the Payee's account number is not valid; the Payee is unable to locate the account; or Customer account with the Payee is paid in full. Customer agrees that Customer will not hold BlueStreak liable for any damages resulting from a Payee not receiving payment made through the Bill Payment Services for any reason.

We use reasonable efforts to research and correct the returned payment and deliver it to Customer's Payee. Payments outstanding after a reasonable time based on the method of payment may be automatically voided by Stripe and the payment amount credited to Customer's Funding Account. Customer is responsible for reconciling Customer's Account(s) and reviewing the status of the payments. If we are unable to complete a payment for any reason, we may, in a method of our choosing and at our sole discretion, provide Customer with notice. We will, to the extent permitted by law, make reasonable attempts to return any unclaimed, refused, refunded, prohibited or denied payments to Customer's Funding Account, or use other reasonable efforts to return such payment to Customer as permitted by law.

F. Inability to Access Funds from Funding Account: In using the Bill Payment Services, Customer is requesting BlueStreak to facilitate making payments from Customer's Funding Account(s) to Customer's Payee(s). If Bill Payment Service is unable to access funds from Customer's specified Funding Account to complete a bill payment transaction Customer requests for any reason (for example, non-sufficient funds, closed account, inability to locate account, or reversal by Customer and/or Customer's bank), the transaction may not be completed. If Bill Payment Service is unable to access funds from Customer's specified Funding Account for any reason, Customer agrees that:

- Customer will reimburse Stripe immediately, upon demand, the transaction amount to the extent that Stripe sent a payment to the Payee on Customer's behalf;
- Customer will reimburse Stripe for any fees imposed on us as a result of the transaction;
- During the telephone call Customer makes when Customer initiate payment for the Bill Payment Services, Customer agrees that Stripe can

rely on Customer's verbal authorization for the payment method
Customer selects;

- Customer agrees to give Stripe permission to record the call should any dispute arise regarding the Stripe Service; and
- Customer will reimburse the Bill Payment Services for any fees, including reasonable attorney fees, we incur in attempting to collect the amount of the transaction from Customer.

Additionally, Customer agrees that Stripe may: (a) reverse any corresponding credit or direct deposits issued to Customer; (b) reverse any payments Stripe made to Customer's Payee; (c) apply any money currently held by Stripe to any amount owed to us; and (d) initiate electronic fund transfer from Customer's account to collect any unpaid amounts and our fees.

Stripe is not responsible for any overdraft fees, over-the-limit fees, or insufficient fund charges (including finance charges, late fees, or similar charges) that result from Customer's failure to maintain a balance or available credit in the Funding Account that is sufficient to fund all payments Customer initiates.

If Stripe is not able to recover all amounts owed to us, we may report this information to third parties, including consumer reporting agencies and financial institutions. BlueStreak reserves all rights to pursue all available legal remedies to recover all owed amounts.

G. Customer's Liability; Customer is solely liable for errors Customer makes in using the Bill Payment Services, including the following:

- Customer directs Stripe to submit a payment to a Payee from the wrong Funding Account;
- Customer erroneously directs Stripe to submit a payment to a Payee multiple times;
- Customer direct Stripe to submit the wrong amount to a Payee;
- Customer direct Stripe to submit a payment to the wrong Payee; or

- Customer changes Customer's mind about making a payment to a Payee after directing Stripe to submit the payment.

Customer is responsible for all fees, fines, penalties, and other liability incurred by BlueStreak, a Payee, Customer or a third party caused by or arising out of Customer's breach of this Agreement and/or Customer's use of the Bill Payment Services. Customer agrees to reimburse BlueStreak, a Payee or the applicable third party for any and all such liability.

In the event that Customer is liable for any amounts owed to BlueStreak for a payment Customer authorized through the Bill Payment Services, Stripe may immediately remove such amounts from or charge such amounts to Customer's applicable Funding Account. If the applicable Funding Account does not have funds or available credit sufficient to cover Customer's liability, Customer will be required to immediately add funds to the Funding Account or otherwise provide payment to BlueStreak through other means. If Customer does not do so, BlueStreak may engage in collection efforts to recover such amounts from Customer.

BlueStreak does not have control of, or liability for, the products or services that are paid for via the Bill Payment Services.

H. As permitted, Customer may cancel, edit, or stop a payment prior to the pay date by following the directions within the help section of the Bill Payment Service. Our ability to stop a payment request will depend on the manner in which the payment was initiated, the method of payment, and whether or not the Payee has begun processing payment. Although we will make a reasonable effort to accommodate a stop payment request, we will have no liability for failing to do so unless there is an exception provided elsewhere in this Agreement. We may also require Customer to present Customer's stop payment request in writing after contacting customer care. The charge for each stop payment will be the current charge for such stop payment and fund recovery service as set out in any applicable fee schedule or as disclosed through the site.

I. Delays, Unauthorized Transactions, or Errors

i. Payment Processing Delays and Protection for Late Fees. Customer acknowledges that some transactions may take longer to be credited to Customer's account with the applicable Payee due to circumstances beyond Stripe's control, such

as delays in handling and posting payments by Payees or financial institutions or errors with account information or funding instructions.

When Customer sends a payment to certain Payees, the payment may be treated as an authorization to the Payee to process Customer's payment and complete the transaction. Some Payees may delay processing Customer's payment, in which case the payment may be held as pending until the Payee processes Customer's payment and Customer's payment authorization will remain valid for up to 30 days.

To help ensure that there is enough time for the applicable Payee to receive any payments Customer submits through the Bill Payment Services, Customer should submit payment instructions prior to the due date. Before completing the transaction, Customer will be provided with an estimated delivery date for the bill payment. It is solely Customer's responsibility to submit payments so they arrive by the Payee's due date.

Subject to the other provisions of this Agreement, Stripe will bear responsibility for any satisfactorily documented late payment related charges up to a reasonable amount, not to exceed \$50.00 in the event a payment posts after its due date provided that (i) the payment was submitted by Customer for payment in accordance with the guidelines specified in this Section and (ii) the Bill Payment Services issued Customer a confirmation number for a payment, unless we are not responsible to Customer for one of the reasons listed in this section or below under "Protection for Stripe Errors." THIS IS BLUESTREAK'S ONLY OBLIGATION TO CUSTOMER FOR ANY PAYMENT ERRORS, DELAYS, OR FAILURE. IF CUSTOMER DOES NOT FOLLOW THESE RULES OR IF CUSTOMER DOES NOT ALLOW ENOUGH TIME TO COMPLETE A PAYMENT, CUSTOMER ALONE IS RESPONSIBLE FOR ANY PENALTIES OR LATE CHARGES ON THAT PAYMENT.

ii.Errors or other Issues Regarding Payments. It is Customer's responsibility to review all payment transactions initiated in the Bill Payment Services against account statements Customer receives Customer's bank or other financial institution. Customer's payment transaction information is included in the receipts we provide Customer. ALL QUESTIONS ABOUT TRANSACTIONS MADE THROUGH THE BILL PAYMENT SERVICES MUST BE DIRECTED TO STRIPE CUSTOMER'S

ACCOUNT. We are responsible for our Bill Payment Services and for resolving any errors we caused.

We may not send Customer a periodic statement listing transactions that Customer make using the Bill Payment Services. The transactions will appear only on the statement issued by Customer's bank or other financial institution. **SAVE THE RECEIPTS FROM OUR BILL PAYMENT SERVICES, AND CHECK THEM AGAINST THE ACCOUNT STATEMENT CUSTOMER RECEIVE FROM CUSTOMER'S BANK OR OTHER FINANCIAL INSTITUTION.**

IF CUSTOMER'S CREDENTIALS TO ACCESS THE BILL PAYMENT SERVICES OR CUSTOMER'S MOBILE DEVICE ARE LOST OR STOLEN, NOTIFY US AT ONCE USING THE CONTACT METHODS SPECIFIED IN SECTION 6 OF ARTICLE I (GENERAL TERMS) ABOVE.

iii. Protection for Stripe Errors. Stripe will use commercially reasonable efforts to facilitate the payment of Customer's bills in accordance with this Agreement. However, BlueStreak will not be liable, for instance:

- if, through no fault of ours, Customer do not have enough money in Customer's Funding Account to make the transfer;
- the payment is rejected, returned, mishandled, or delayed by the Payee for any reason;
- Customer have provided Stripe with incorrect information about the Payee;
- the Funding Account Customer specify as the payment source is closed or the charge is rejected or returned by Customer's bank or financial institution;
- due to any pre-announced unavailability of the Bill Payment Services;
- due to fraud or attacks on our systems, service or the Bill Payment Services;

- due to third party service providers; or
- due to circumstances beyond our control (for example, fire, flood, interference from an outside source, postal delays, or any failure by Customer's computer, software, or Internet connection).

iv. **Unauthorized Transactions.** If Customer has experienced a billing error or unauthorized transaction related to bill payment services, please see the Stripe's Unauthorized Transaction and Error Resolution Policy. For unauthorized transfers and errors with respect to Customer's credit card or debit card that are not related to the Bill Payment Services, please see Customer's applicable card holder agreement.

A. Risk Monitoring; Unusual or Suspicious Transactions In an effort to manage our risk, we may monitor Customer's transactions and processing activity for high-risk practices or for fraudulent transactions. We may also engage third-party service providers to assist in these efforts and other elements of the Bill Payment Services. If Stripe believes there is suspicious or unusual activity, Stripe may temporarily suspend Customer's access to Bill Payment Services. Suspicious or unusual activity includes, but is not limited to, changes in Customer's Stripe may require additional documentation to promptly reinstate Customer; Stripe may terminate or suspend Customer's access to the Bill Payment Services at any time. Neither termination nor suspension shall affect Customer's liability or obligations under this Agreement. In the event Customer or Stripe terminates Customer's account, any payment(s) Stripe has already processed before the requested termination date may be completed. Customer should verify payment directly with Customer's intended Payee. Stripe is not responsible for any payments not completed by us as a result of termination.

Apple Requirements:

If you downloaded any of the Services or product from the Mac App Store, the following terms also apply to you:

A. **Acknowledgement:** You acknowledge that this Agreement is between you and BlueStreak only, and not with Apple, and BlueStreak, not Apple, is solely responsible for the Software and the content thereof.

- B. Scope of License:** The license granted to you for the Software is a limited, non-transferable license to use the Software on Mac product that you own or control and as permitted by the Usage Rules set forth in the terms of service applicable to the Mac App Store.
- C. Maintenance and Support:** BlueStreak and not Apple is solely responsible for providing any maintenance and support services, for which additional fees may apply, with respect to the Services. You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Software.
- D. Warranty:** BlueStreak is solely responsible for any product warranties, whether express or implied by law, to the extent not effectively disclaimed. In the event of any failure of the Software to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the Software to you. To the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Software, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be BlueStreak's sole responsibility.
- E. Product Claims:** BlueStreak, not Apple, is responsible for addressing any user or third party claims relating to the Software or the user's possession and/or use of the Software, including, but not limited to: (i) product liability claims; (ii) any claim that the Software fail to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.
- F. Intellectual Property Rights:** You acknowledge that, in the event of any third party claim that the Software or your possession and use of the Software infringes that third party's intellectual property rights, BlueStreak, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.
- G. Legal Compliance:** You represent and warrant that (i) you 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 are not listed on any U.S. Government list of prohibited or restricted parties.
- H. Developer Contact Info:** Direct any questions, complaints or claims to:

BlueStreak Education, Inc.

PO Box 38

Frankfort, IL 60423

- I. **Third Party Terms of Agreement:** You must comply with any applicable third party terms of agreement when using the Software.
- J. **Third Party Beneficiary:** You acknowledge and agree that Apple and Apple's subsidiaries are third party beneficiaries of this Agreement, and that, upon your acceptance of the terms and conditions of the Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce the Agreement against you as a third party beneficiary thereof.

ADDITIONAL TERMS:

(a) A waiver of any part of this Agreement in one instance is not a waiver of any other part or any other instance; (b) If any part of this Agreement is held invalid or if the applicability of any part of this Agreement is held invalid to a particular set of circumstances for any reason, such holding or declaration shall not in any way affect or impair the remaining provisions or the application to a different set of circumstances; (c) Except as otherwise provided in this Agreement, neither party may assign or delegate any rights or obligations under this Agreement without the prior written consent of the other party and any such assignments shall be void and of no effect, except that BlueStreak may assign all of its rights and obligations under this Agreement to any person or entity that controls, is controlled by or I under common control with BlueStreak or to any successor in interest that acquires all or substantially all of the assets of BlueStreak; (d) This Agreement does not create any legal or equitable rights on the part of any third party, as a third party beneficiary or otherwise; (e) Notwithstanding any other section of this Agreement, no party will be liable for any delay in performance or, except with respect to payment hereunder, inability to perform due to acts of God or due to war (declared or undeclared), riot, terrorism, civil war, embargo, fire, flood, explosion, sabotage, labor strike, internet outage or other acts beyond its reasonable control and unrelated to its fault or negligence; (f) All representations, warranties and indemnities made in this Agreement will survive termination of this agreement; (g) This Agreement and the documents to which it refers form the entire Agreement between the parties with respect to the subject matter herein. Customer may not rely on any other documents, proposals, statements, or representations by any sales or service representatives or other parties, unless

expressly contained herein; (h) All written notices required by the terms of this Agreement will be sent to the parties at the address set forth in the Order (and such addresses may be changed upon proper notice to such addressees). Notice may be given by either certified or registered mail, return receipt requested, or reputable overnight carrier, postage prepaid and is deemed to have been given three days after mailing or, the of personal delivery to the address stated thereon; and (i) The parties agree that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits thereto.