Master Subscription Agreement

THIS MASTER SUBSCRIPTION AGREEMENT (THIS "**MSA**"), COLLECTIVELY WITH ALL SCHEDULES AND EXHIBITS ATTACHED HERETO AND ANY OTHER TERMS AND ORDER FORMS ENTERED INTO BY YOU AND APOLLO EDUCATION SYSTEMS, INC. ("**Apollo**"), ARE REFERRED TO AS THIS "**Agreement**." UNLESS OTHERWISE DEFINED HEREIN, CAPITALIZED TERMS SHALL HAVE THE MEANINGS SET FORTH IN SECTION 10 BELOW. BY ACCEPTING THIS MSA, YOU ARE AGREEING ON BEHALF OF THE ENTITY ORDERING THE APOLLO PRODUCT ("**You**") THAT YOU SHALL BE BOUND BY AND BECOME A PARTY TO THIS AGREEMENT.

1. **Subscription; License Grant.**

    1. Use of the Apollo Product.

        1. Terms of Use. The parties acknowledge and agree that the terms and conditions contained in this Agreement govern Your use of the Apollo Product for the Term, unless explicitly stated otherwise in a written agreement between You and Apollo.

        2. License Grant. Subject to and conditioned upon Your payment of fees as required by any Order Form and Your compliance with the terms and conditions of this Agreement, Apollo hereby grants You a non-exclusive, non-sublicensable, non-transferable, and revocable license to use the Apollo Product and related documentation during the Term.

        3. Apollo Product Features and Components. Apollo may modify the Apollo Product, or features or components thereof, from time to time in its sole discretion. Apollo shall exercise commercially reasonable efforts to notify You of any material modifications to the Apollo Product that shall impact the Apollo Product's functionality; *provided*, *however*, that Apollo shall not have any liability for failure to provide such notice.

    2. Support Services. During the Term, and at no additional charge to You, Apollo shall provide technical support, documentation, and written or other communication to You regarding the proper use of the Apollo Product, and identify and troubleshoot issues arising during Your normal use of the Apollo Product. Apollo shall respond to phone calls from Your representatives pursuant to the terms of its Service Level Agreement (the "**Support Services**"). You shall designate in writing to Apollo no more than three (3) technical contacts to request and receive telephone support services from Apollo.

    3. Professional Services. From time to time You may purchase, and Apollo shall provide, professional services as set forth in an Order Form between the parties (the "**Professional Services**"). Professional Services may include in-person training or demonstrations or installation of hardware You purchase from Apollo. You shall be solely responsible for all transportation, lodging, meals, and other reasonable expenses incurred by Apollo in performing any such Professional Services, and any costs in connection with Your personnel or representative attending, participating in, or coordinating such Professional Services. If You cancel or postpone Professional Services within 14 days of the date such services are expected to be performed, You shall be responsible for all reasonable expenses incurred by Apollo in performing the Professional Services through the date such notice of cancellation or postponement is received, and fifty percent (50%) of the fee for such Professional Services. Apollo shall exercise its commercially reasonable efforts to perform the

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t. 949.784.0000

Professional Services as of the date(s) set forth on an applicable Order Form, but You acknowledge that all quoted dates, including dates for installation of hardware or training, may be subject to change.

4. Your Responsibilities. You shall: (a) be responsible for Users' compliance with the terms and conditions of this Agreement, (b) be solely responsible for the accuracy, integrity, and legality of Data and the means by which You acquire and use such Data, including any uses of such Data on or through the Apollo Product, (c) use the Apollo Product in accordance with Apollo's published documentation and materials, all applicable laws, rules, regulations (including, without limitation, export, data protection and privacy laws, rules and regulations), and any Apollo Product documentation, (d) use commercially reasonable efforts to prevent unauthorized access to or use of the Apollo Product, and (e) notify Apollo in writing immediately of (i) any unauthorized use of, or access to, the Apollo Product or any User account or password thereof, or (ii) any notice or charge of noncompliance with any applicable law, rule, or regulation asserted or filed against You in connection with Your Data. User accounts and passwords are specific to individual Users, and User accounts or passwords shall not be shared among or by different Users; *provided*, *however*, that Your administrator(s) may assign an existing User account to a new User during the Subscription Term.

5. Restrictions. You shall not, and shall not permit any User or other person to, directly or indirectly: (a) sublicense, resell, rent, lease, distribute, market, commercialize or otherwise transfer rights or usage to the Apollo Product or any modified version or derivative work of the Apollo Product created by or for You, (b) provide or make available the Apollo Product to any person on a timesharing, service bureau or other similar basis, (c) remove or alter any copyright, trademark or proprietary notice in the Apollo Product, (d) copy any features, functions or graphics of the Apollo Product for any purpose other than what is expressly authorized in this Agreement, (e) correct, adapt, translate, enhance, or otherwise prepare derivative works or improvements of the Apollo Product, (f) modify, remove or disable any portion of the Apollo Product, (g) send, store, or authorize a third party to send or store spam, unlawful, infringing, obscene or libelous material, or Malicious Code, (h) attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Apollo Product or Data contained therein, (i) reverse engineer, disassemble or decompile all or any portion of, or attempt to discover or recreate the source code for, the Apollo Product, (j) bypass or breach any security device or protection used for or contained in the Apollo Product, (k) use any Intellectual Property Rights protected by applicable laws and contained in or accessible through the Apollo Product in violation of any such law or for the purpose of building a competitive product or service or copying its features or user interface in whole or in part or for any other purpose that is to Apollo's detriment or commercial disadvantage, (l) use the Apollo Product, or permit it to be used, for purposes of product evaluation, benchmarking, or other comparative analysis intended for publication without Apollo's prior written consent, or (m) create internet links to the Apollo Product.

6. Third Parties. You may use third-party contractors to assist with the installation and use of the Apollo Product for Your own internal business use; *provided, however*, that You shall not disclose any Apollo Confidential Information to any contractor unless and until the contractor has agreed in writing to protect the confidentiality of such Confidential Information in the manner required by Section 6 and then only to the extent necessary for the contractor to perform those services subcontracted to it. You shall be solely

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t. 949.784.0000

responsible for all payments to Your contractors and for their compliance with the terms and conditions of this Agreement.

2. **Third-Party Software; Third-Party Modules.**

    1. Third-Party Software. Third-Party Software may be incorporated into or accessible through the Apollo Product, and Your use of the Apollo Product is governed by and subject to your compliance with the terms and conditions applicable to any such Third-Party Software. If a Third-Party Software provider requires Apollo to remove such third party's software from the Apollo Product, You agree to cooperate with Apollo to ensure its removal from Your systems. Third-Party Software terms and conditions will be provided to you upon request.

    2. Third-Party Modules. You may use Third-Party Modules to add functionality to the Apollo Product; *provided* that such use is in compliance with all other terms of this Agreement; *provided further* that any Third-Party Modules shall utilized by You and your representatives solely for internal business purposes. Any exchange of Data between You and a Third-Party Module provider is solely between You and such Third-Party Module provider. Apollo does not warrant the use or safety of Third-Party Modules or offer support thereof. Apollo disclaims all liability arising from Your use of a Third-Party Module.

    3. Third-Party Privacy Policies. You understand and agree that any Data exchanged with a Third-Party Software or Third-Party Module provider is governed by that provider's privacy policy.

    4. Third-Party APIs. Certain features of the Apollo Product may interoperate with third-party services (such as Google), and be conditioned upon the continued availability and compatibility of such third party's API with the Apollo Product. If any such third party ceases to make an API or program available on reasonable terms to Apollo, Apollo may cease providing such third-party features without entitling You to any refund, credit, or other compensation.

3. **Intellectual Property Rights and Data Protection.**

    1. Intellectual Property Ownership.

        1. Ownership of Apollo Product. You acknowledge and agree that the Apollo Product is licensed, not sold, to You and You do not have under or in connection with this Agreement any ownership interest in the Apollo Product or related documentation. Apollo is the sole owner of all right, title and interest, including all Intellectual Property Rights, in and to the Apollo Product (the "**Apollo Property**"), subject only to the rights of third parties in Third-Party Materials and Third-Party Modules. You hereby unconditionally and irrevocably assign to Apollo all right, title and interest in and to any Intellectual Property Rights You may now or hereafter have in or relating to the Apollo Product, whether held or acquired by operation of law, contract, assignment or otherwise. To the

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t. 949.784.0000

extent any of the rights, title and interest are not assignable by You to Apollo, You grant and agree to grant to Apollo an exclusive, royalty-free, transferable, irrevocable, worldwide, fully paid-up license (with rights to sublicense through multiple tiers of sublicensees) under Your Intellectual Property Rights to use, disclose, reproduce, license, sell, offer for sale, distribute, import and otherwise exploit such Intellectual Property Rights in its discretion, without restriction or obligation of any kind or nature. Except as expressly stated otherwise in this Agreement, Apollo retains all of its right, title and ownership interest in and to the Apollo Property, and no other Intellectual Property Rights or license rights are granted by Apollo to You under this Agreement, either expressly or by implication, estoppel or otherwise, including, but not limited to, any rights under any of Apollo'S or its affiliates' patents.

2. Trademarks. Apollo's name, logo, trade names and trademarks are owned by Apollo, and no right is granted to You to use any of the foregoing except as expressly permitted herein or by written consent of Apollo.

3. Suggestions. You or your Users may, from time to time, provide suggestions, enhancement or feature requests or other feedback to Apollo with respect to the Apollo Property or other Apollo products, services or related documentation (whether or not such is disclosed or delivered by Apollo to You under this Agreement) (collectively, "**Feedback**"). You agree that all Feedback is provided voluntarily. Apollo shall be free to use, disclose, reproduce, license or otherwise distribute and exploit the Feedback in its discretion, without restriction or obligation of any kind or nature. Feedback, even if designated as confidential by You, shall not create any obligation of confidentiality for Apollo, unless Apollo expressly agrees so in writing.

4. Ownership of Your Data. As between You and Apollo, You own and retain all Intellectual Property Rights in and to Your Data, including Personal Data and proprietary data from your school district.

2. Data Protection and Processing.

1. Data Processing. You hereby grant Apollo the right to use, access, and process Your Data to the extent necessary for Apollo to provide the Apollo Product and services to You, including, without limitation, to address service or technical problems or, at Your request, in connection with providing Support Services to You. Apollo agrees not to use, access, disclose, or process any of Your Data, except (a) to perform the obligations under this Agreement, and (b) comply with applicable laws. To the extent Data contains Personal Data, Apollo shall process such Data as a data processor acting on behalf of You (as the data controller) in accordance with Your instructions under applicable privacy laws.

2. Data Processing Limitations. Apollo shall not (a) modify Your Data, (b) disclose Your Data except as compelled by law or as otherwise permitted in writing by You, (c) assume any responsibility for determining the purposes and manner in which the Data is processed, or (d) process the Data for its own purposes.

Apollo Education Systems, Inc.
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t. 949.784.0000

3. Privacy Policy. You acknowledge that Apollo's privacy policy (which may be viewed at https://www.apollok12.com/wp-content/uploads/2025/07/Apollo-Privacy-Policy-Jun.-2025.pdf) shall apply to any Data and Usage Data received or collected by Apollo from You or Your Users.

4. Your Compliance with Privacy Laws. You shall at all times comply with the requirements of any applicable privacy and data protection laws.

6. Security. Apollo shall have in place and maintain throughout the Term appropriate technical and organizational measures against accidental or unauthorized destruction, loss, alteration or disclosure of the Data, and adequate security programs and procedures to ensure that unauthorized persons shall not have access to any equipment used to process the Data.

7. Sub-Processing. You authorize Apollo to subcontract Data processing to a third party provided (a) the obligations under this Section 3.2 continue to apply to the handling of the Data and to any subcontractor Apollo appoints, and (b) Apollo shall remain fully liable to You for the acts, errors, and omissions of any subcontractor it appoints to process Data.

8. Personal Health Information. You understand and acknowledge that the Apollo Product and services may receive and store personal health information ("**PHI**") as that term is defined under the Health Insurance Portability and Accountability Act ("**HIPAA**"). You further understand and acknowledge that Apollo is a "Business Associate" as that term is defined in HIPAA. You also agree that any information protected under HIPAA is protected under commercially reasonable efforts as required by Section 4 of this Agreement. You further agree that Apollo is not a "Covered Entity" as defined in HIPAA, and you represent and warrant that, as a "Covered Entity," you are in compliance with your obligations under HIPAA. You agree that Apollo may terminate this Agreement immediately without refunding any service fees to You if You are found to be in violation of this Section 3.2.8.

9. Family Educational Rights and Privacy Act. Apollo shall comply in all respects with the Family Educational Rights and Privacy Act ("**FERPA**") and all other state and federal laws applicable to the security and confidentiality of pupil records. Apollo shall take measures to ensure pupil records' security and confidentiality, including establishing and maintaining security and authentication protocols of such records. Upon Your request, Apollo shall provide You with information regarding Apollo's compliance with FERPA and other laws applicable to the security and confidentiality of pupil records to permit You to verify such compliance.

10. Security Breach. In the event of a material security breach, Apollo shall notify You and those affected by such breach regarding the extent of the breach, time of the breach, and steps taken to ensure affected persons' security and privacy. Apollo shall use commercially reasonable efforts to notify those affected within 48 hours. Apollo shall notify the Student Relationship Platform administrative director via telephone and email; parents shall be notified via email.

Apollo Education Systems, Inc.
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t. 949.784.0000

11. Handling of Your Data Post Termination. Upon written request by You made within ninety (90) days of the effective date of expiration or termination of the Agreement (the "**Post-Term Period**"), Apollo agrees to make available to You, a copy of Your Data. Further, during the Post-Term Period and upon Your request, Apollo shall grant the You limited access to the Service for the sole purpose of permitting You to retrieve Your Data, provided that You have paid in full all good faith undisputed amounts owed to Apollo. Upon expiration of the Post-Term Period, Apollo shall have no further obligation to maintain for or provide to You any of Your Data and may thereafter, unless legally prohibited, delete all of Your Data in its systems or otherwise in its possession or under its control.

4. **Payment**.

1. Fees and Payment. You agree to pay all fees set forth in an Order Form. Except as otherwise provided in an Order Form, such fees shall be: (a) fixed during the Subscription Term in effect, (b) quoted and payable in United States dollars, (c) non-cancelable and non-refundable, and (d) due and payable thirty (30) days from the invoice date. You agree to provide Apollo with complete and accurate billing and contact information and to notify Apollo of any changes to such information. If You fail to make any payment when due then, in addition to all other remedies available to Apollo, (i) Apollo may charge interest on any past-due amounts at a rate of one percent (1.0%) per month, or the maximum rate permitted by law, whichever is lower, and (ii) if such failure continues for thirty (30) days, Apollo may suspend Your access to the Apollo Product and all other services hereunder until such amounts, and all interest accrued thereon, are paid in full.

2. Additional Module Licenses. You may purchase a license for additional Modules for use and access to the Apollo Product. You may purchase additional Module licenses at any time during a Subscription Term upon submitting a new Order Form to Apollo at Apollo's then-current subscription fee. Any such additional licenses will remain in effect for the duration of the Subscription Term then in effect. You agree that the number of Subscription Licenses You purchase during a Subscription Term may not be reduced for the duration of such Subscription Term.

3. Subscription Term Renewal. The Subscription Term of an Order Form shall automatically renew upon its expiration unless this Agreement or the Order Form is earlier terminated by either party. Prior to the renewal of a Subscription Term, Apollo shall issue to You an invoice (a "**Renewal Invoice**"), which shall reflect Apollo's then-current annual per student pricing multiplied by the number of Subscription Licenses in the upcoming term. The number of Subscription Licenses is determined based on the district's maximum unique student enrollment count during the current school year, excluding no-shows, as of the date the Renewal Invoice is generated. Apollo will conduct an annual true-up on October 1st in the next school year. Should the unique student count, excluding no-shows, increase by more than ten percent (10%), Apollo shall issue a revised invoice (a "**True-Up Invoice**") payable for the additional amount. Otherwise, should the unique student count decrease by more than ten percent (10%), Apollo shall provide a notification of a credit (a "**True-up Credit**") in dollars that shall be applied toward future invoices.

Apollo Education Systems, Inc.
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t. 949.784.0000

4. Tax. All fees and other amounts payable by You under this Agreement are exclusive of taxes. You are responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by You hereunder, other than any taxes imposed on Apollo's income.

5. **Term and Termination**.

1. Term. This Agreement commences on the Effective Date and continues until terminated by either party (the "**Term**"). The termination of this Agreement shall terminate all Order Forms then in effect.

2. Termination For Cause. Either party may terminate this Agreement and any Order Forms in effect prior to the end of the Term or Subscription Term, as applicable, upon written notice to the other party if the other party: (i) materially breaches its obligations hereunder and, where such breach is curable, such breach remains uncured for thirty (30) days following written notice of the breach, or (ii) becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors, and such proceeding is not dismissed within thirty (30) days.

3. Termination For Convenience. Either party may terminate this Agreement and any Order Forms in effect prior to the end of the Term or Subscription Term, as applicable, upon sixty (60) days' written notice to the other party.

4. Effect of Termination. No refund of payments shall be made unless termination of this Agreement and any then-current Order Forms is a result of a breach by Apollo under Section 5.2, in which case You shall be entitled to a refund of the pro rata portion of fees associated with the remainder of the Subscription Term. You understand and agree that upon expiration of the Subscription Term or termination of this Agreement, whichever occurs first, the rights granted under this Agreement and, in connection with any then-current Order Forms, shall be immediately revoked and Apollo may immediately deactivate Your account. At Apollo's request, You agree to return at Your expense any hardware provided to You as part of the Apollo Product. You acknowledge and agree that Apollo may keep copies of Data to the extent necessary to exercise its rights and perform its obligations under this Agreement. In no event shall any termination relieve You of the obligation to pay any fees payable to Apollo for the period prior to the effective date of termination, unless otherwise stated in this Agreement.

4. Surviving Provisions. Sections 3.1, 3.2.11, 5.4, 6, 8, and 9 shall survive termination or expiration of this Agreement.

6. **Confidentiality**.

1. Confidentiality. The parties acknowledge that in the course of performing their obligations under this Agreement, each may receive Confidential Information. Each party covenants and agrees that neither it nor

Apollo Education Systems, Inc.
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t. 949.784.0000

its agents, employees, officers, directors or representatives shall disclose or cause to be disclosed any Confidential Information of the Disclosing Party, except (a) to those employees, representatives, or contractors of the Receiving Party who require access to the Confidential Information to exercise its rights under this Agreement and who are bound by written agreement, with terms at least as restrictive as these, not to disclose third-party confidential or proprietary information disclosed to such party, or (b) as such disclosure may be required by law or governmental regulation, subject to the Receiving Party providing to the Disclosing Party written notice to allow the Disclosing Party to seek a protective order or otherwise prevent the disclosure. Nothing in this Agreement shall prohibit or limit the Receiving Party's use of information: (i) previously known to it without obligation of confidence, (ii) independently developed by or for it without use of or access to the Disclosing Party's Confidential Information, (iii) acquired by it from a third party that is not under an obligation of confidence with respect to such information, or (iv) that is or becomes publicly available through no breach of this Agreement. The Receiving Party acknowledges the irreparable harm that improper disclosure of Confidential Information may cause; therefore, the injured party is entitled to seek equitable relief, including temporary restraining order(s) or preliminary or permanent injunction, in addition to all other remedies, for any violation or threatened violation of this section. The terms of this Agreement and the structure, sequence, organization, and source code of the Apollo Product are Confidential Information of Apollo or its licensors.

2. Destruction. Within five (5) days after a Disclosing Party's request, the Receiving Party shall return or destroy the Disclosing Party's Confidential Information; *provided*, *however*, that the Receiving Party shall be entitled to retain archival copies of the Confidential Information of the Disclosing Party solely for legal, regulatory, or compliance purposes unless otherwise prohibited by law.

7. **Warranties, Exclusive Remedies and Disclaimers**.

1. Apollo Warranties. Apollo warrants that (a) it has the legal power to, and hereby does, enter into this Agreement, (b) the Apollo Product shall perform materially in accordance with Apollo's published documentation and materials, and (c) Apollo shall use commercially reasonable measures to detect whether the Apollo Product contains any Malicious Code. If the Apollo Product does not conform to the foregoing warranty, You shall notify Apollo within thirty (30) days of the breach of warranty, and Apollo shall use commercially reasonable efforts to cure the non-conforming portions of the Apollo Product before You may pursue any other remedy. If you provide timely notice of a breach of warranty and Apollo is unable to cure such breach to your reasonable satisfaction, Your sole and exclusive remedy for such breach shall be to terminate the Agreement pursuant to Section 5.2 and have Apollo refund to You the pro rata unused portion of any pre-paid Subscription fees.

2. Warranty Exceptions. Notwithstanding any provisions to the contrary in this Agreement, the warranty set forth in Section 7.1 shall not apply to issues arising out of or relating to: (a) Malicious Code present in Your Data, (b) modifications of the Apollo Product made by anyone other than Apollo, (c) Your or any third party's negligence, abuse, misapplication, or misuse of the Apollo Product, including any use that violates the

Apollo Education Systems, Inc.
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t. 949.784.0000

permitted uses set forth hereunder, (d) Your failure to install any maintenance releases that Apollo has previously made available to you, (e) Your breach of any material provision of this Agreement, or (f) any other circumstances or causes outside of the reasonable control of Apollo.

3. Your Warranties. You warrant that (a) You have the legal power to, and hereby do, enter into this Agreement, (b) You have all rights in and to Your Data necessary to permit Apollo to exercise its rights to access and use the Data as permitted by this Agreement, and (c) Your Data or the media on which it resides does not contain any Malicious Code.

4. Disclaimer of Warranties. EXCEPT AS EXPRESSLY STATED IN SECTION 7.1 AND AS PERMITTED BY APPLICABLE LAW, THE APOLLO PRODUCT IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. THE APOLLO PRODUCT OR SERVICE MAY BE SUBJECT TO LIMITATIONS OR ISSUES INHERENT IN THE USE OF THE INTERNET AND APOLLO IS NOT RESPONSIBLE FOR ANY PROBLEMS OR OTHER DAMAGE RESULTING FROM SUCH LIMITATIONS OR ISSUES. ALL THIRD-PARTY SOFTWARE AND THIRD-PARTY MODULES ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING THEM IS STRICTLY BETWEEN YOU AND THE THIRD-PARTY OWNER OF SUCH SOFTWARE OR MODULES.

8. **Limitation of Liability**.

1. Limitation on All Damages. IN NO EVENT SHALL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT WHETHER IN CONTRACT, TORTS, OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED IN THE AGGREGATE, THE LESSOR OF THE TOTAL AMOUNT PAYABLE TO APOLLO UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE ACT OR GIVING RISE TO THE LIABILITY OR TWENTY-FIVE THOUSAND DOLLARS ($25,000). THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLEGATIONS HEREUNDER.

2. Disclaimer of Consequential Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOST PROFITS OR REVENUE OR FOR ANY INDIRECT, SPECIAL, COVER, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, ARISING UNDER THIS AGREEMENT ANDWHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

3. Scope of Limitations on Liability. THE LIMITATIONS SET FORTH IN THIS SECTION 8 SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND REGARDLESS OFTHE LEGAL OR EQUITABLE THEORY ON WHICH CLAIMS ARE BROUGHT (CONTRACT, TORT, INCLUDING NEGLIGENCE OR OTHERWISE).

Apollo Education Systems, Inc.
19600 Fairchild Road Suite 300, Irvine, CA 92612
t. 949.784.0000

9. **General**.

1. Publicity. Apollo may include Your name, logos and trademarks in Apollo's customer presentations, website, brochures and other marketing materials and display areas at Apollo's events to represent that You are an Apollo customer.

2. Relationship of the Parties. Apollo and You are independent contractors, and nothing in this Agreement or any attachment hereto shall create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties.

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

4. Choice of Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the federal U.S. laws applicable therein, excluding its conflicts of law provisions.

5. Attorneys' Fees. In any action related to this Agreement, if any party is successful in obtaining some or all of the relief it is seeking or in defending against the action, the other party shall pay, on demand, the prevailing party's reasonable attorneys' fees and reasonable costs.

6. Notice. Notices regarding this Agreement shall be in writing and addressed to You at the address You provide, or, in the case of Apollo, when addressed to Apollo Education Systems Inc., Attn.: General Counsel, 19600 Fairchild Road Suite 300, Irvine, CA 92612. Notices regarding the Apollo Product in general may be given by electronic mail to Your e-mail address on record with Apollo.

7. Force Majeure. Neither party shall be liable to the other for any delay or failure to perform hereunder (excluding payment obligations) due to circumstances beyond such party's reasonable control, including acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (excluding those involving such party's employees), service disruptions involving hardware, software or power systems not within such party's reasonable control, and denial of service attacks.

8. Entire Agreement. This Agreement and any Order Forms or materials referenced herein represent the entire agreement of the parties and supersede all prior discussions, emails, and/or agreements (including requests for proposals) between the parties and is intended to be the final expression of their Agreement. To the extent there is a conflict between this Agreement and any additional or inconsistent terms, including any pre-printed terms on Your purchase order, the terms of this Agreement shall prevail, unless expressly stated otherwise. Notwithstanding any language to the contrary therein, no terms stated in a purchase order or in any other order document (other than an Order Form) shall be incorporated into this Agreement, and all such terms shall be void. No failure or delay in exercising any right hereunder shall constitute a waiver of such right. This Agreement and all Order Forms may not be modified or altered except by written instrument, and no amendment or waiver of any provision of this Agreement shall be effective unless in

Apollo Education Systems, Inc.
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t. 949.784.0000

writing and signed (either manually or electronically) by an authorized representative of You and Apollo. All rights not expressly granted to You are reserved by Apollo and its licensors.

9. Equitable Relief. Except as otherwise provided, remedies specified herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

10. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions shall remain in effect.

10. **Definitions**.

1. "**API**" means application programming interfaces provided by Apollo as part of the Apollo Product, which set forth rules and specifications that Third-Party Modules may utilize to access Your Data in accordance with this Agreement.

2. "**Apollo Product**" means any software or hardware that Apollo supplies, licenses, sells, or makes available to You from time to time during the Term, as set forth in the Order Form, excluding all Third-Party Software and Third-Party Modules.

3. "**Data**" means any data, information, or material submitted by You to Apollo, or stored or transmitted by You in or through the Apollo Product.

4. "**Confidential Information**" means information that one party (the "**Disclosing Party**") provides to the other party ("**Receiving Party**") during the Term of this Agreement that is identified in writing at the time of disclosure as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.

5. "**Intellectual Property Rights**" means any patents and applications thereto, copyrights, trademarks, service marks, trade names, domain name rights, trade secret rights, and all other intellectual property and proprietary rights.

6. "**Malicious Code**" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents, or programs.

7. "**Order Form**" means a document for purchases of Subscriptions hereunder, including purchase orders, order notifications and order confirmation documents (either in writing or via the Web), that are agreed to by Apollo, or entered into between Apollo and You from time to time. Order Forms are deemed incorporated herein by reference.

8. "**Personal Data**" means any information relating to an identified or identifiable natural person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an

Apollo Education Systems, Inc.
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t. 949.784.0000

identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.

9. "**Subscription**" means Your right to use the Apollo Product for the Subscription Term in accordance with the terms of this Agreement.

10. "**Subscription Licenses**" refers to the metric used to calculate all fees for Apollo services under this Agreement. The number of Subscription Licenses is based on the maximum unique student enrollment count, excluding no-shows, within the Customer's district during the current school year, as of the invoice generation date for the following academic year. For new subscribers, the enrollment count may be determined using another mutually agreed-upon source. Apollo will conduct an annual true-up on October 1 of each school year: (a) If the unique student count (excluding no-shows) increases by more than 10%, a True-Up Invoice will be issued for the additional amount. (b) If the count decreases by more than 10%, a True-Up Credit, in dollars, will be applied toward the Customer's next invoice. All pricing for Apollo services is derived from this enrollment-based calculation.

11. "**Subscription Term**" means the period of time which You may access the applicable Apollo Product as set forth in an Order Form.

12. "**Third-Party Modules**" means software developed by a third party that You may use to add functionality to the Apollo Product, the use of which software is governed by the applicable terms and conditions specified by such third party.

13. "**Third-Party Software**" means online, web-based applications and offline software products that are developed by third parties, and may interoperate with the Apollo Product, the use of which software is governed by the applicable terms and conditions specified by such third party.

14. "**Usage Data**" means diagnostic- and usage-related content from the computers, mobile phones, or other devices Users use to access the Apollo Product. Such content may include, without limitation, a User's IP address, internet service, location, and the type of browser and modules that are used or accessed by the User. Usage Data excludes Data.

15. "**User**" means an individual user that You authorize to use the Apollo Product.

16. "**You**" means the hospital, college, university, school district, corporation, or other entity or individual who has been invoiced.

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