

**eLumen, Inc.**  
**Terms and Conditions**  
**(including Acceptable Use Policy)**

**Last Modified: 09/01/2018**

1. License Grant. Subject to the terms of this Agreement and authorization by your sponsoring educational institution ("**Sponsor**"), Company grants you a limited, non-exclusive, and non transferable license (without a right to sublicense) to:

a. use the Service for your personal, non-commercial, educational use on a device owned or otherwise controlled by you ("**Device**") strictly in accordance with this Agreement; and

b. access, stream, and use on such Device the Content (as defined in Section 6) made available in or otherwise accessible through the Service, strictly in accordance with this Agreement to such Content as set forth in Section 6.

2. License Restrictions. Licensee shall not:

a. copy any Content of the Service, except as expressly permitted by this license;

b. modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Service;

c. reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Service or any part thereof;

d. remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from the Service, including any copy thereof;

e. rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Service, or any features or functionality of the Service, to any third party for any reason,



including by making the Service available on a network where it is capable of being accessed by more than one device at any time; or

f. remove, disable, circumvent, or otherwise create or implement any workaround to any copy protection, rights management, or security features in or protecting the Service.

3. Reservation of Rights. You acknowledge and agree that the Service is provided under license, and not sold, to you. You do not acquire any ownership interest in the Service under this Agreement, or any other rights thereto other than to use the Service in accordance with the license granted, and subject to all terms, conditions, and restrictions, under this Agreement. Company reserves and shall retain its entire right, title, and interest in and to the Service, including all copyrights, trademarks, and other intellectual property rights therein or relating thereto, except as expressly granted to you in this Agreement.

4. The Service. Through the Service, you may upload information and documents, view information posted by Sponsor or another user and in certain circumstances interact with other users. Generally, your rights to the Service will be “read only” in nature. The Company may expand or contract the Service at any time in its discretion, and this Agreement will automatically apply to the Service in its current iteration.

a. We do not take part in the interaction between users and Sponsor. Your interactions with other users or the Sponsor are solely between you and such user or Sponsor, and Company shall not be responsible for any loss or damage incurred as the result of any such interactions. When interacting with other users you should exercise caution and common sense to protect your personal safety, information and property. If there is a dispute between you and any user, Company is under no obligation to become involved, but reserves the right to do so. The Company's responsibilities are limited to making the Site and Service available. We do not have control over and we make no representations regarding information posted or uploaded to the Site by you, other users or the Sponsor.

b. In order to use the Service, you must first register for an account ("**Account**") and provide certain information about yourself as prompted by the account registration form. You represent and warrant that: (i) all required registration information you submit is truthful and accurate; and (ii) you will maintain the accuracy of such information. You also acknowledge that your account is personal to you and, except as contemplated by this Agreement, you agree not to provide any other person with access to the Site or portions of it using your user name, password, or other security information. You agree to notify us immediately of any unauthorized access to or use of your username or password or any other breach of security. You also agree to ensure that you exit from your account at the end of each session. You should use particular caution when accessing your account from a public or shared computer so that others are not able to view or record your password or other personal information



- c. You may upload or post information to the Site. By posting information to the Site, you agree that (i) you are solely responsible for the accuracy and completeness of such information; and (ii) the Company may remove any information posted with or without notice at any time for any reason. You agree that the Company will not be liable to you or to any third party for any removal of such information or any part thereof.
- d. You agree not to create an Account or use the Site or Service if you have been previously removed by us or banned by Sponsor. The Company reserves the right, in its sole discretion, to suspend or terminate your Account and refuse any and all current or future use of the Site or Service (or any portion thereof) at any time for any reason. You agree that the Company will not be liable to you or to any third party for any suspension or termination of your Account or any refusal of any use of the Site or Service (or any portion thereof). Information on your profile may include information and content you provide ("**Profile Information**"). The Company reserves the right in its sole discretion to remove Profile Information at any time for any reason. You agree that the Company will not be liable to you or to any third party for such removal. You are responsible for maintaining the confidentiality of your Account login information and are fully responsible for all activities that occur under your Account. You agree to immediately notify the Company of any unauthorized use, or suspected unauthorized use of your Account or any other breach of security. The Company cannot and will not be liable for any loss or damage arising from your failure to comply with the above requirements.
5. User Acknowledgements. You acknowledge that when you use the Service, Company may use automatic means (including, for example, cookies and web beacons) to collect information about your Device and about your use of the Service. You also may be required to provide certain information about yourself as a condition to the Service or certain of its features or functionality, and the Service may provide you with opportunities to share information about yourself with others. Please read this Agreement carefully to understand our policies and practices regarding your information and how we will treat it. If you do not agree with the terms and conditions set forth in this Agreement, and our policies and practices, your choice is not to use our Site. By accessing the Site, using the Service, and providing information to or through this Service, you consent to all actions taken by Company with respect to your information in compliance with this Agreement. No security measures are perfect or impenetrable. Additionally, we cannot control the actions of other users of the Site with whom you may choose to share information. The information you choose to share is at your own risk and we cannot and do not guarantee that your information will not be viewed by unauthorized persons.
6. Content. The Service may provide you with access to the Site and products and services accessible thereon, and certain features, functionality, and content (including End User Content) accessible on or through the Service may be hosted on the Site (collectively, "**Content**").
7. User Content.



a. Ownership. Each End User owns its own End User Content (defined below). By making available your End User Content on or in the Site or Service, you represent that you own or have all rights necessary to make available your End User Content.

b. End User Content. "End User Content" means any and all information and content that an End User submits to, or uses with, the Site or Service (e.g., content in the user's profile or postings). All User Contributions must comply with the Content Standards and Acceptable Use Policy set out in this Agreement. You are solely responsible for your End User Content. Because you alone are responsible for your End User Content, you may expose yourself to liability if, for example, your End User Content violates the Content Standards and Acceptable Use Policy. The Company is not obligated to backup any End User Content, and your End User Content may be deleted at any time without prior notice. You are solely responsible for creating and maintaining your own backup copies of your End User Content if you desire. The Company has no responsibility or liability for the deletion or accuracy of any End User Content; the failure to store, transmit, or receive transmission of End User Content. You acknowledge that the Company has no obligation to pre-screen End User Content, although the Company reserves the right in its sole discretion to pre-screen, refuse, or remove any End User Content at any time for any reason. PLEASE MAKE SURE THAT YOU ONLY PROVIDE INFORMATION TO THE SERVICES THAT YOU ARE ALLOWED TO PROVIDE WITHOUT VIOLATING ANY OBLIGATIONS YOU MIGHT HAVE TOWARDS A THIRD PARTY, INCLUDING ANY CONFIDENTIALITY OBLIGATIONS. PLEASE DO NOT PROVIDE ANY INFORMATION THAT YOU ARE NOT ALLOWED TO SHARE WITH OTHERS, INCLUDING BY CONTRACT OR LAW; PLEASE NOTE THAT ANY INFORMATION YOU PROVIDE WILL BE ACCESSIBLE BY USERS OF THE SITE AND SERVICES.

c. Distribution of End User Content. You may share End User Content with third parties of your choice by sending a link to your End User Content. You do so at your own risk. The Company is not responsible for any loss of privacy, data or any other issues that arise as a result of you sharing End User Content with third parties.

d. License. By providing any End User Content on the Site, you grant us and Sponsor and our respective licensees, successors, and assigns the right to use, reproduce, modify, perform, display, distribute, and otherwise disclose within the Site and End User Content. You hereby irrevocably waive (and agree to cause to be waived) any claims and assertions of moral rights or attribution with respect to your End User Content.

e. Content Standards and Acceptable Use Policy. The following terms constitute our content standards and "Acceptable Use Policy":



- i. You agree not to use the Site or Service to collect, upload, transmit, display, or distribute any content (A) that violates the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with this Agreement; (B) that contains any material that is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory, or otherwise objectionable; (C) that promotes sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age (D) that exploits, harms, or attempts to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise is harmful to minors in any way; (E) that is in violation of any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the U.S. or other countries), regulation, or obligations or restrictions imposed by any third party; (F) that is likely to deceive any person; (G) that promotes any illegal activity, or advocates, promotes, or assists any unlawful act; (H) that causes annoyance, inconvenience, or needless anxiety or be likely to upset, embarrass, alarm, or annoy any other person; or (H) that impersonates any person, or misrepresents your identity or affiliation with any person or organization.
  
  - ii. In addition, you agree not to: (A) use the Site in any manner that could disable, overburden, damage, or impair the Site or interfere with any other user's use of the Site, including their ability to engage in real time activities through the Site; (B) use any robot, spider, or other automatic device, process, or means to access the Site for any purpose, including monitoring or copying any of the material on the Site; (C) use any manual process to monitor or copy any of the material on the Site or for any other unauthorized purpose without our prior written consent; (D) use any device, software, or routine that interferes with the proper working of the Site; (E) introduce any viruses, trojan horses, worms, logic bombs, or other material that is malicious or technologically harmful; (F) attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Site, the server on which the Site is stored, or any server, computer, or database connected to the Site; (G) attack the Site via a denial-of-service attack or a distributed denial-of-service attack; or (H) otherwise attempt to interfere with the proper working of the Site
- f. Enforcement. We reserve the right (but have no obligation) to review any End User Content, and to investigate and/or take appropriate action against you in our sole discretion if you violate the Acceptable Use Policy or any other provision of this Agreement or otherwise create liability for us or any other person. Such action may include removing or modifying your End User Content, recalling any End User Content, terminating your Account, removing your access and/or reporting you to Sponsor and/or law enforcement authorities. Similarly, we have the right to disable any user name, password, or other identifier, whether chosen by you or provided by us or the Sponsor, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of this Agreement



8. No Support; Updates. Company may from time to time in its sole discretion develop and provide Service updates, which may include upgrades, bug fixes, patches, other error corrections, and/or new features (collectively, including related documentation, "**Updates**"). Updates may also modify or delete in their entirety certain features and functionality. You agree that Company has no obligation to provide any Updates or to continue to provide or enable any particular features or functionality. You further agree that all Updates will be deemed part of the Service and be subject to all terms and conditions of this Agreement. You acknowledge and agree that the Company will have no obligation to provide you with any support or maintenance in connection with the Site or Service. The Company reserves the right, at any time, to modify, suspend, or discontinue the Site or Service (in whole or in part) with or without notice to you. You agree that the Company will not be liable to you or to any third party for any modification, suspension, or discontinuation of the Site or Service or any part thereof. In the event the Company decides to offer an Update, you agree that the Company may amend this Agreement in connection with such Update without specific notice to you and that your use of the Site or Service following such Update is conditioned upon your acceptance of any revised Agreement terms. By using the Site or Service following an Update, you are representing that you have reviewed the then-current version of the Agreement and the modified terms and agree to be bound by such version. All Updates will be governed by the version of this Agreement published by the Company as of the date you use the Site or Service following such update.

9. Third-Party Materials. The Service may display, include, or make available third-party content (including data, information, services, and other products, services, and/or materials) or provide links to third-party Sites or services, including without limitation content from Sponsor ("**Third-Party Materials**"). You acknowledge and agree that Company is not responsible for Third-Party Materials, including their accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality, or any other aspect thereof. Company does not assume and will not have any liability or responsibility to you or any other person or entity for any Third-Party Materials. Third-Party Materials and links thereto are provided solely as a convenience to you, and you access and use them entirely at your own risk and subject to such third parties' terms and conditions. All statements and/or opinions expressed in these materials, other than the content provided by the Company, are solely the opinions and the responsibility of the person or entity providing those materials. These materials do not necessarily reflect the opinion of the Company.

10. Term and Termination; Access to the Site.

- a. The term of this Agreement commences when you click to agree to this Agreement and will continue in effect until our agreement with the Sponsor is terminated or as set forth herein or per Sponsor's request, at which point this Agreement and your access to the Site shall terminate.
- b. You may terminate this Agreement by deleting your account from the Service.



- c. Your access to the Site will terminate upon request by the Sponsor.
- d. This Agreement and your access to the Site will terminate immediately and automatically without any notice if you violate any of the terms and conditions of this Agreement. Notwithstanding anything to the contrary, the Company may terminate this Agreement at any time in its sole discretion if the Company deems any content uploaded to the Service to be inappropriate, obscene, inflammatory, illegal, or if your use of the Service disrupts or causes a malfunction of the Service.
- e. Upon termination, all rights granted to you under this Agreement will also terminate.
- f. Termination will not limit any of Company's rights or remedies at law or in equity.

11. Disclaimer of Warranties. THE SERVICE IS PROVIDED TO LICENSEE "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, COMPANY, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES AND ITS AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE SERVICE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, COMPANY PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE SERVICE WILL MEET YOUR REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE, OR WORK WITH ANY OTHER SOFTWARE, SERVICES, SYSTEMS, OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR-FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

THE COMPANY DOES NOT GUARANTEE OR WARRANT THAT FILES AVAILABLE FOR DOWNLOADING IN CONNECTION WITH THE SERVICE WILL BE FREE OF INFECTION OR VIRUSES, WORMS, TROJAN HORSES OR OTHER CODE THAT MANIFEST CONTAMINATING OR DESTRUCTIVE PROPERTIES. YOU ARE RESPONSIBLE FOR IMPLEMENTING SUFFICIENT PROCEDURES AND CHECKPOINTS TO SATISFY YOUR PARTICULAR REQUIREMENTS FOR ACCURACY OF DATA INPUT AND OUTPUT, AND FOR MAINTAINING A MEANS EXTERNAL TO THE COMPANY SERVERS FOR THE RECONSTRUCTION OF LOST DATA

12. Limitation of Liability. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL COMPANY OR ITS AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE LICENSORS OR SERVICE PROVIDERS, HAVE ANY LIABILITY ARISING FROM OR RELATED TO YOUR USE OF OR INABILITY TO USE THE SERVICE OR THE CONTENT FOR:





- a. PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS, COST OF SUBSTITUTE GOODS OR SERVICES, LOSS OF DATA, LOSS OF GOODWILL, BUSINESS INTERRUPTION, COMPUTER FAILURE OR MALFUNCTION, OR ANY OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES.
- b. DIRECT DAMAGES IN AMOUNTS THAT IN THE AGGREGATE EXCEED THE AMOUNT ACTUALLY PAID BY YOU FOR THE SERVICE.

THE FOREGOING LIMITATIONS WILL APPLY WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR COMPANY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW CERTAIN LIMITATIONS OF LIABILITY SO SOME OR ALL OF THE ABOVE LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU.

13. Intellectual Property Rights. We own all right, title and interest, including any related intellectual property rights, in and to the Service, excluding third party content and excluding any End User Content. This Agreement does not give you title to or ownership of any Company technology, intellectual property or Content, or any copies thereof, but only a right of limited remote use under this Agreement. This Agreement does not give the Company title to or ownership of any your content, or any copies thereof, but only a right of limited remote use under this Agreement. We own and have the unrestricted right to implement and use any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to Service, which are provided by you or any other party. The Terms and Conditions of Website Use permit you to use the Site for your personal, non-commercial, educational use only. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, or transmit any of the material on our Site, except as follows. Your computer may temporarily store copies of such materials in RAM incidental to your accessing and viewing those materials. You may store files that are automatically cached by your browser for display enhancement purposes. You may print one copy of a reasonable number of pages of the Site for your own personal, non-commercial, educational use and not for further reproduction, publication or distribution. You must not modify any materials from the Site. You must not delete or alter any copyright, trademark, or other proprietary rights notices from copies of materials from the Site. If you print, copy, download, or otherwise use or provide any other person with access to any part of the Site in breach of this Agreement, your right to use the Site will stop immediately and you must, at our option, return or destroy any copies of the materials you have made. Any use of the Site not expressly permitted in this Agreement is a breach of this Agreement and may violate copyright, trademark, and other laws.

14. Trademarks. The Company name, the terms eLumen and all related names, logos, product and service names, designs, and slogans are trademarks of the Company or its affiliates or licensors. You must not





use such marks without the prior written permission of the Company. All other names, logos, product and service names, designs, and slogans on this Site are the trademarks of their respective owners.

15. Indemnification. You agree to indemnify, defend, and hold harmless Company and its officers, directors, employees, agents, affiliates, successors, and assigns from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, arising from or relating to your use or misuse of the Service or your breach of this Agreement, including but not limited to the content you submit or make available through this Service.

16. US Government Rights. The Service is commercial computer software, as such term is defined in 48 C.F.R. §2.101. Accordingly, if you are an agency of the US Government or any contractor therefor, you receive only those rights with respect to the Service as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other US Government licensees and their contractors.

17. Export Compliance. The Service and related technology are subject to U.S. export control laws and may be subject to export or import regulations in other countries. You agree to strictly comply with all such laws and regulations and acknowledge that you have the responsibility to obtain authorization to export, re-export, or import the Service and related technology, as may be required. You will indemnify and hold the Company harmless from any and all claims, losses, liabilities, damages, fines, penalties, costs and expenses (including, but not limited to, attorney's fees) arising from or relating to any breach by you of your obligations under this section.

18. Severability. If any provision of this Agreement is illegal or unenforceable under applicable law, the remainder of the provision will be amended to achieve as closely as possible the effect of the original term and all other provisions of this Agreement will continue in full force and effect.

19. Governing Law. This Agreement is governed by and construed in accordance with the internal laws of the State of Minnesota without giving effect to any choice or conflict of law provision or rule. Any legal suit, action, or proceeding arising out of or related to this Agreement or the Service shall be instituted exclusively in the federal courts of the United States or the courts of the State of Minnesota in each case located in Minneapolis and Hennepin. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

20. Limitation of Time to File Claims. ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES OTHERWISE SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.



21. Arbitration. At Company's sole discretion, it may require you to submit any disputes arising from the use of this Agreement or the Site, including disputes arising from or concerning their interpretation, violation, invalidity, non-performance, or termination, to final and binding arbitration under the Rules of Arbitration of the American Arbitration Association applying Minnesota law. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, AND CLAIMS OF MORE THAN ONE END USER CANNOT BE ARBITRATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER END USER.

22. Entire Agreement. This Agreement constitutes the entire agreement between you and Company with respect to the Service and supersedes all prior or contemporaneous understandings and agreements, whether written or oral, with respect to the Service.

23. Waiver. No failure to exercise, and no delay in exercising, on the part of either party, any right or any power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power hereunder preclude further exercise of that or any other right hereunder. In the event of a conflict between this Agreement and any applicable purchase or other terms, the terms of this Agreement shall govern.

24. Your Comments and Concerns.

a. This website is operated by eLumen, Inc., 514 N. 3<sup>rd</sup> St., Ste. 203, Minneapolis, MN 55401.

b. All feedback, comments, requests for technical support, and other communications relating to the Website should be directed to: [info@elumenconnect.com](mailto:info@elumenconnect.com).

