

# **Pathway Preparatory Academy Terms of Service**

**(Last Modified August 13, 2019)**

## **Introduction**

Pathway Preparatory Academy, Inc., a Delaware corporation, ("Pathway Preparatory Academy," "we" or "us") provides an online virtual school platform to offer a virtual educational program for grades K-12 on an individual/group course basis or on a part-time/full-time course basis, including, but not limited to the Pathway Preparatory Academy website, <https://pathwayprep.org> (the "Site"), and programs hosted by or on behalf of Pathway Preparatory Academy and related content or services (collectively referred to as the "Service"). Additionally, digital product content (the "Product" or "Products") delivered via the Site is included in the designation of "Service" herein. THESE TERMS OF SERVICE (THE "TERMS") ARE A LEGAL AGREEMENT BETWEEN YOU AND PATHWAY PREPARATORY ACADEMY AND GOVERN YOUR USE OF THE SERVICE and/or Product(s). The terms "you" and "user" shall refer to all individuals and entities that access the Service. These Terms include a release by you of, and limitations on, claims for certain damages against us that may arise out of your use of the Service. By using the Service, you are agreeing to the release and limitations.

By accepting these Terms, you are agreeing to the arbitration agreement (unless you follow the opt-out procedure) described below in these Terms to resolve any disputes with Pathway Preparatory Academy.

By your affirmative actions of registering for and/or using the Service, you are agreeing to these Terms.

## **Necessary Equipment**

Use of the Service and/or Product(s) may require a compatible device and Internet access. Your ability to use the Service and/or Product(s) may be affected by performance of these items. You acknowledge and agree that all such system requirements, which may be changed from time to time, are your responsibility, and your mobile carrier's standard charges, data rates and other fees may apply. Further, you agree to always use the most recent version of the Service made available by Pathway Preparatory Academy.

## **Service Description**

Our Services are meant as an aid to assist you in facilitating your online education via our service agreements with select and/or participating schools. We determine in our sole discretion

which schools are selected to offer the Services through the Pathway Preparatory Academy platform. NEITHER PATHWAY PREPARATORY ACADEMY NOR THE SERVICE IS INTENDED TO PROVIDE SPECIFIC EDUCATIONAL RECOMMENDATIONS, ENDORSEMENTS, OR SPONSORSHIPS OF ANY PARTICULAR EDUCATIONAL PROVIDER. PATHWAY PREPARATORY ACADEMY IS NOT AFFILIATED WITH ANY PARTICULAR EDUCATIONAL PROVIDER WITH THE LIMITED EXCEPTION OF PROVIDING THE SERVICE TO SELECT SCHOOLS AS DETERMINED BY US. The Service is intended only to facilitate your ongoing educational requirements as determined by the select schools enrolled in our service programs. The select school(s) engaging our service is solely responsible for determining the applicability and apportionment of school credits. In turn, you are solely responsible for complying with the educational requirements as an enrollee of one of our select schools. You acknowledge and agree to abide by the terms and conditions of your select school's curriculum requirements.

### **License to Use the Service; Ownership**

We hereby grant to you a non-exclusive, non-transferable, revocable license to use an object code copy of the Site (including use and access to the online curriculum we provide) for one registered account on a device owned or leased solely by you. You may not: (i) modify, disassemble, decompile or reverse engineer the Site or any of the provided curriculum, except to the extent that such restriction is expressly prohibited by law; (ii) rent, lease, loan, resell, sublicense, distribute or otherwise transfer the Site to any third-party or use the Site to provide time sharing or similar services for any third-party; (iii) make any copies of the Site with the limited exception of making a machine-readable or print copy of the Site content for your personal use only, and not for commercial exploitation of any kind; (iv) remove, circumvent, disable, damage or otherwise interfere with security-related features of the Site, features that prevent or restrict use or copying of any content accessible through the Site, or features that enforce limitations on use of the Site; or (v) delete the copyright and other proprietary rights notices on the Site. You acknowledge that we may from time to time issue upgraded versions of the Site and may automatically electronically upgrade the version of the Site that you are using on your device. You consent to such automatic upgrading on your device and agree that these Terms will apply to all such upgrades. The foregoing license grant is not a sale of the Site or any copy thereof, and Pathway Preparatory Academy and its third-party licensors or suppliers retain all right, title, and interest in and to the Site (and any copy of the Site).

### **Eligibility**

By using the Service and/or Product(s), you agree that you are of legal age to form a binding contract with Pathway Preparatory Academy, or that if you are registering on behalf of an entity,

that you are authorized to enter into, and bind the entity to, these Terms and register for the Service and/or Product(s). The Service and/or Product(s) are not available to individuals under the age of 18 (“Minor”) unless a parent and/or legal guardian has consented on behalf of said Minor. Your review of these terms of service and our privacy policy combined with your actions of checking the acknowledgment box provided shall serve as your express consent to be bound by these terms. A consenting parent and/or legal guardian also warrants and represents that they assume all risk(s) and liabilities on behalf of the Minor’s engagement in the Activities delivered through the Services. Pathway Preparatory Academy may, in its discretion, refuse to offer the Service and/or Product(s) to any person and change its eligibility criteria at any time. Your right to access the Service and/or Product(s) is revoked where these Terms or use of the Service and/or Product(s) is prohibited and, in such circumstances, you agree not to use or access the Service and/or Product(s) in any way.

### **Accounts**

You may browse the Site without registering, but as a condition to using certain aspects of the Service, you are required to register with Pathway Preparatory Academy and agree that you will provide Pathway Preparatory Academy with accurate and complete registration information (including the following: student name and email, student date of birth, student gender, student grade level, student ethnicity (optional), student address (non-minor students), name of select or participating school, select or participating school address, student phone number, and parent and/or guardian contact information for a Minor student) and keep your registration information accurate and up-to-date. Failure to do so is a breach of these Terms, which may result in immediate termination of your Pathway Preparatory Academy account. Once appropriate registration information has been provided to Pathway Preparatory Academy, we shall issue log in credentials in order for you to access and use the Service.

You represent and warrant that the information you provide to us and other Users of the Services are true, accurate, complete, and will be updated regularly. Any false or misleading Profile information is subject to removal and Account cancellation at the sole discretion of Pathway Preparatory Academy.

You acknowledge that Pathway Preparatory Academy has no obligation to monitor your or any other user's access or use of the Site or the Service or edit any User Content (as defined below). Pathway Preparatory Academy reserves the right, at any time and without prior notice, to refuse registration of, remove or disable an account (temporarily or permanently) in Pathway Preparatory Academy’s sole discretion. You are solely responsible and liable for activity that occurs on your account and shall be responsible for maintaining the confidentiality of your account and password. You agree to immediately notify Pathway Preparatory Academy in

writing of any unauthorized use of your account, or other account related security breach of which you are aware.

Unless required by law, you agree and acknowledge that your Pathway Preparatory Academy Account is non-transferable and **any** rights to your Pathway Preparatory Academy Account or Content therein terminate upon your death. In the event of your death, a valid copy of a death certificate may permit the proper party to terminate your Account and related Content on your behalf. Contact Pathway Preparatory Academy Support at [support@pathwayprep.org](mailto:support@pathwayprep.org) for additional assistance.

### **Electronic Communications and Promotional Materials**

By using the Site and/or the Services provided on or through the Site, you consent to receiving electronic communications from Pathway Preparatory Academy. These electronic communications may include notices about applicable fees and charges, transactional information and other information concerning or related to the Site and/or Services provided on or through the Site. As part of our Services offered to you, you expressly agree and consent to the receipt of email messages regarding order confirmation(s), promotional, marketing, and/or advertising related materials. We send these messages in order to inform you of specific promotional, marketing, and/or advertising information that may enhance your experience. In the event you should choose to not receive these notifications, you may opt-out by contacting us at [support@pathwayprep.org](mailto:support@pathwayprep.org)

These electronic communications are part of your relationship with Pathway Preparatory Academy. You agree that any notices, agreements, disclosures or other communications that we send you electronically will satisfy any legal communication requirements, including that such communications be in writing.

### **Privacy Policy**

Please review Pathway Preparatory Academy's [Privacy Policy](https://pathwaychristian.org/privacy-policy) (the "Privacy Policy") located at <https://pathwaychristian.org/privacy-policy> which explains how we use information that you submit to Pathway Preparatory Academy.

### **Purchases and Charges**

When a User makes purchases through the Services, the User must provide requested credit card payment information or wire transfer information where appropriate.

All wire transfers shall be made to our bank as follows:

#### *Bank Account Information*

Pathway Preparatory Academy, Inc.

Name of the Bank: Bank of America

Account Number: 3251 1838 9291

(wires) Routing Number: 121000358 (paper & electronic)/026009593

SWIFT Number: BOFAUS6S

Pathway Preparatory Academy may use third party electronic payment processing providers for payment services (e.g. card acceptance, merchant settlement, and related services) ("Payment Services") for payments related to the Service. By making use of some or all of these Payment Services on the Service, you agree to be bound by the third-party's terms and conditions as well as its privacy policy and hereby consent and authorize us to delegate the authorizations and share the information you provide to us with our third party electronic payment processing provider(s) to the extent required to provide the Payment Services to you.

#### **Service Refunds; Credits; Taxes**

At Pathway Preparatory Academy's sole discretion, refunds or credits may be granted as a result of specific refund guarantee promotions, or to correct any errors made by Pathway Preparatory Academy. You may contact us for refund inquiries at [admin@pathwaychristian.org](mailto:admin@pathwaychristian.org). All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and the User shall be responsible for payment of all taxes, levies, or duties associated with his or her purchases hereunder, excluding United States (federal or state) taxes.

#### **Modification**

Pathway Preparatory Academy reserves the right, at its sole discretion, to modify the Site or the Service or to modify these Terms, including the fees associated with the Service and/or Product(s), at any time and without prior notice. A link to the most current Terms will be available on the Pathway Preparatory Academy home page and we will indicate the date of the "Latest Updated" at the top of the Terms. If we materially modify these Terms, we will post a notice on the Service and, if you've provided Pathway Preparatory Academy with your email by creating an account through the Service, we will also notify you by email.

Your continued use of the Service and/or Product(s) following the posting of such changes constitutes your acceptance of the modified Terms. If the modified Terms are not acceptable to you, your only recourse is to cease using the Service.

#### **Pathway Preparatory Academy's Relationship to the Parties**

Pathway Preparatory Academy' community platform is merely a conduit where well-informed, independent, and discerning individuals may select Services that are most appropriate for their specific educational goals as it relates to their enrollment in a participating and/or select school.

### **Pathway Preparatory Academy Online Instructors**

As a feature of this Service and subject to our relationship with a select school(s), Pathway Preparatory Academy may offer the services of online instructors to help monitor a student's progress for the enrolled course(s). Students are encouraged to ask online instructors questions via email in order to obtain help when needed. Each student is responsible to timely complete their enrolled course work and it is a student's ultimate responsibility to turn in assignments and complete tasks as dictated by course requirements.

### **Links to Third-Party Sites and Application Integration**

This Site may be linked and/or integrated to/within other web sites or applications that are not Pathway Preparatory Academy sites (collectively, "**Third-Party Sites**"). Certain areas of the Site may allow you to interact and/or conduct transactions with such Third-Party Sites and, in certain situations, you may be transferred to a Third-Party Site through a link, but it may appear that you are still on this Site. In any case, you acknowledge and agree that the Third-Party Sites may have different privacy policies and terms and conditions and/or user guides and business practices than Pathway Preparatory Academy, and you further acknowledge and agree that your use of such Third-Party Sites is governed by the respective Third-Party Site privacy policy and terms and conditions and/or user guides. For example, we may use data compliant SIS/LMS third-party data integration providers in order to provide our Services. Additionally, we may utilize third-party educational publication sites such as **Edmentum** or select vendors as we deem appropriate. In turn, by using our Service you expressly agree to be bound by their terms of service agreements and privacy policies located at <https://www.edmentum.com/terms-of-use> and at <https://www.edmentum.com/privacy-policy>

Notwithstanding the above, you hereby agree to comply with any and all terms and conditions, user guides and privacy policies of any of Third-Party Sites. Pathway Preparatory Academy is providing links to the Third-Party Sites to you as a convenience, and Pathway Preparatory Academy does not verify, make any representations or take responsibility for such Third-Party Sites, including, without limitation, the truthfulness, accuracy, quality or completeness of the content, services, links displayed, and/or any other activities conducted on or through such Third-Party Sites. YOU AGREE THAT PATHWAY PREPARATORY ACADEMY WILL NOT, UNDER ANY CIRCUMSTANCES, BE RESPONSIBLE OR LIABLE, DIRECTLY OR

INDIRECTLY, FOR ANY GOODS, SERVICES, INFORMATION, RESOURCES AND/OR CONTENT AVAILABLE ON OR THROUGH ANY THIRD-PARTY SITES AND/OR THIRD-PARTY DEALINGS OR COMMUNICATIONS, OR FOR ANY HARM RELATED THERETO, OR FOR ANY DAMAGES OR LOSS CAUSED OR ALLEGED TO BE CAUSED BY OR IN CONNECTION WITH YOUR USE OR RELIANCE ON THE CONTENT OR BUSINESS PRACTICES OF ANY THIRD-PARTY. Any reference on the Site to any product, service, publication, institution, organization of any third-party entity or individual does not constitute or imply Pathway Preparatory Academy's endorsement or recommendation.

### **Intellectual Property Rights**

You understand and acknowledge that (i) the software, code, proprietary methods and systems used to provide the Site or Services, (ii) the design, look and feel of our template reports, (iii) the graphical elements of our template reports, (iv) the Content other than the Content submitted by you or on your behalf and (v) any intellectual property therein (collectively, "Our Intellectual Property") may not be copied, modified, reproduced, republished, posted, transmitted, sold, offered for sale, or redistributed in any way without our prior written permission and the prior written permission of our applicable licensors (if applicable). You acknowledge and agree that Our Intellectual Property is the sole property of Pathway Preparatory Academy and/or its licensors. You must abide by all copyright notices, information, or restrictions contained in or attached to any of Our Intellectual Property.

Nothing in this Agreement grants you any right to receive delivery of a copy of Our Intellectual Property or to obtain access to Our Intellectual Property except as generally and ordinarily permitted through the Site according to this Agreement. Furthermore, nothing in this Agreement will be deemed to grant, by implication, estoppel or otherwise, a license to Our Intellectual Property. Certain of the names, logos, and other materials displayed on the Site or in the Services constitute trademarks whether registered or unregistered, tradenames, service marks or logos ("Marks") of Pathway Preparatory Academy or other entities. You are not authorized to use any such Marks except to the extent such rights are expressly granted elsewhere. Ownership of all such Marks and the goodwill associated therewith remains with us or those other entities. Any use of third party software provided in connection with the Site or Services will be governed by such third parties' licenses and not by this Agreement. The contents of all material available on the Site are copyrighted by Pathway Preparatory Academy unless otherwise indicated or provided for herein. All rights are reserved by Pathway Preparatory Academy and, except as permitted in any license grant, may not be reproduced, downloaded, disseminated, published, or transferred in any form or by any means, except with the prior written permission of Pathway Preparatory Academy.

In the event that you provide us any ideas, thoughts, criticisms, suggested improvements or other feedback related to our Site or Services (collectively “Feedback”), you agree we may use the Feedback to modify our products and services and that you will not be due any compensation, including any royalty related to the product or service that incorporates your Feedback. You grant to us a worldwide, sublicensable, assignable, royalty-free, fully paid, perpetual, irrevocable right and license to use, reproduce, modify, translate, distribute, create derivative works of, perform, display, import, sell, offer for sale, make, have made and otherwise exploit, without the requirement to make any payment to you or to any third party or the need to seek any third party permission, the Feedback in any form, media, or technology, whether now known or hereafter devised or developed, and to allow others to do the same. This is true whether you provide the Feedback in any Content submitted publicly or privately, email or any other method of communication with us unless we have entered into a separate agreement with you that provides otherwise.

## **Acceptable Use Policy**

### **Content**

All Content, whether publicly posted or privately transmitted, is the sole responsibility of the person who originated such Content. Pathway Preparatory Academy cannot guarantee the authenticity of any Content or data which users may provide about themselves. You acknowledge that all Content accessed by you using the Service is at your own risk and you will be solely responsible and liable for any damage or loss to you or any other party resulting therefrom. For purposes of these Terms, the term "Content" includes, without limitation, any location information, videos, audio clips, comments, messages, information, data, text, photographs, software, scripts, graphics, and interactive features generated, provided, or otherwise made accessible by Pathway Preparatory Academy on or through the Service.

### **Content Backup**

Although Pathway Preparatory Academy makes reasonable efforts to provide proper care and skill in delivering its services and/or Product(s), Pathway Preparatory Academy does not guarantee, warrant, or covenant that any Content you access and/or store via the services will not be accidentally lost, corrupted, or damaged. Given this reality, you agree and acknowledge that it is your sole responsibility to back up any important Content on your device(s) and/or computer(s).

### **Pathway Preparatory Academy Content**

The Service contains Content specifically provided by Pathway Preparatory Academy or its partners and such Content is protected by copyrights, trademarks, service marks, patents, trade secrets or other proprietary rights and laws, as applicable. You shall abide by and maintain all



copyright notices, information, and restrictions contained in any Content accessed through the Service.

Subject to these Terms, Pathway Preparatory Academy grants each user a worldwide, non-exclusive, non-sublicensable and non-transferable license to use the Content, solely for personal, non-commercial use in connection with the Service. Any other use, reproduction, modification, distribution or storage of any Content is expressly prohibited without prior written permission from Pathway Preparatory Academy, or from the copyright holder identified in such Content's copyright notice, as applicable.

### **User Submissions**

Content added, created, uploaded, submitted, distributed, posted or otherwise obtained through the Service by users, including Content that is added to the Service in connection with users linking their accounts to third party websites and services, is collectively referred to as, "User Submissions."

By submitting User Submissions on the Site or otherwise through the Service, you grant Pathway Preparatory Academy a worldwide, non-exclusive, royalty-free, fully paid, sublicensable and transferable license to use, copy, edit, modify, reproduce, distribute, prepare derivative works of, display, perform, and otherwise fully exploit the User Submissions in connection with the Site, the Service and Pathway Preparatory Academy' (and its successors and assigns') business, including without limitation for promoting and redistributing part or all of the Site (and derivative works thereof) or the Service in any media formats and through any media channels (including, without limitation, third party websites and feeds). For clarity, the foregoing license grant to Pathway Preparatory Academy does not affect your other ownership or license rights in your User Submission(s), including the right to grant additional licenses to the material in your User Submission(s), unless otherwise agreed in writing with Pathway Preparatory Academy.

You acknowledge and agree that you have all rights to grant such license to us without infringement or violation of any third-party rights, including without limitation, any privacy rights, publicity rights, copyrights, contract rights, or any other intellectual property or proprietary rights.

### **Conduct, Content and Use Restrictions**

As a condition of use, you agree not to use the Service for any purpose that is prohibited by these Terms. You are responsible for all of your activity in connection with the Service. Additionally, you shall abide by all applicable local, state, national and international laws and regulations and, if you represent a business, any advertising, marketing, privacy, or other self-regulatory code(s) applicable to your industry. In addition to the Conduct, Content, and Use Restrictions herein, you also acknowledge and agree to be bound by the Pathway Preparatory Academy Policy

Handbook which can be located at <https://pathwaychristian.org/school-policies> and is incorporated by reference into these Terms of Service.

You are solely responsible for the Content that you post, upload, transmit, publish or display on or through the Service (hereinafter, "post"), or transmit to other users. You will not provide inaccurate, misleading or false information to Pathway Preparatory Academy or to any other user. If information provided to Pathway Preparatory Academy or another user subsequently becomes inaccurate, misleading or false, you will promptly notify us of such change. You will not post on the Service, or transmit to other users, any defamatory, inaccurate, abusive, obscene, profane, offensive, sexually oriented, threatening, harassing, racially offensive, or illegal material, or any material that infringes or violates another party's rights (including, but not limited to, intellectual property rights, and rights of privacy and publicity). Without limiting the previous sentence, you may not post any Content or use the Service in any way that:

- is patently offensive, such as Content that promotes racism, bigotry, hatred or physical harm of any kind against any group or individual;
- intimidates, threatens, or otherwise harasses other users of the Service, or advocates harassment of another person;
- is false, misleading or promotes illegal activities or conduct that is abusive, threatening, obscene, defamatory or libelous;
- impersonates any person or entity, including any employee or representative of Pathway Preparatory Academy;
- includes anyone's identification documents or sensitive financial information;
- breaches the Privacy Policy and/or any of the other policies you acknowledge herein including but not limited to the Pathway Preparatory Policy Handbook;
- imposes or may impose (as determined by Pathway Preparatory Academy in its sole discretion) an unreasonable or disproportionately large load on Pathway Preparatory Academy' (or its third-party providers') infrastructure;
- interferes or attempts to interfere with the proper working of the Service or any activities conducted on the Service;
- bypasses any measures Pathway Preparatory Academy may use to prevent or restrict access to the Service (or other accounts, computer systems or networks connected to the Service);

- attempts to collect personal information about any other user of the Service or any third party without such user or third party's informed consent;
- involves commercial activities (whether or not for profit) and/or sales without Pathway Preparatory Academy' prior written consent, such as contests, sweepstakes, barter, advertising, or pyramid schemes;
- provides instructional information about illegal activities such as making or buying illegal weapons, violating someone's privacy, or providing or creating computer viruses;
- contains or transmits viruses, corrupted data or other harmful, disruptive or destructive files or code;
- involves the transmission of "junk mail", "chain letters," or unsolicited mass mailing or "spamming";
- use any robot, spider, site search/retrieval application, or other manual or automatic device or process to retrieve, index, "data mine", or in any way reproduce or circumvent the navigational structure or presentation of the Service or its contents;
- infringes any third party's intellectual property rights or privacy rights;
- otherwise takes any action in violation of these Terms or Pathway Preparatory Academy' guidelines and policies.

Pathway Preparatory Academy has the right, but not the obligation, to monitor all conduct on and Content submitted to the Service.

### **No Liability for Shared or Third-Party Content**

A portion of the Content contained on the Site may be supplied by third parties (“Third Party Content”), including, without limitation, information providers and curriculum providers, advertisers, and other Users. Pathway Preparatory Academy is a distributor (and not a publisher) of such Third-Party Content. Except to the extent that Pathway Preparatory Academy seeks to enforce its rights under any of the terms of this Agreement, Pathway Preparatory Academy does not have editorial control over any Shared Content or Third-Party Content. Any reliance you place on Shared Content or Third-Party Content is therefore at your own risk. Any Shared Content, Third Party Content, including, without limitation, such Content in the nature of opinions, advice, statements, services, offers, or other information, expressed or made available on the Site or through the Services are those of the respective authors or distributors thereof, and not Pathway Preparatory Academy. Neither Pathway Preparatory Academy nor any third-party provider or distributor of information on or through the Site or Services guarantees, endorses, or

is otherwise responsible or liable for the accuracy, completeness, timeliness, reliability, availability, or usefulness of any Content accessible through the Site or Services.

### **Proprietary Notices**

You may not remove any watermarks, labels or other legal or proprietary notices included in any Content, and you may not attempt to modify any Content obtained through Pathway Preparatory Academy, including any modification for the purpose of disguising or changing any indications of the ownership or source of Content.

### **Digital Millennium Copyright Act**

#### **General**

Pathway Preparatory Academy respects the intellectual property of others, and we ask our users to do the same. Each user is responsible for ensuring that the Content they upload to Pathway Preparatory Academy does not infringe any third-party copyright.

Pathway Preparatory Academy will promptly remove materials in accordance with the Digital Millennium Copyright Act ("DMCA") if properly notified that the materials infringe a third party's copyright. In addition, Pathway Preparatory Academy may, in appropriate circumstances, terminate the accounts of repeat copyright infringers.

#### **DMCA Takedown Notice**

If you believe that your work has been copied in a way that constitutes copyright infringement, please provide us with a written notice containing the following information:

1. Your name, address, telephone number, and email address (if any).
2. A description of the copyrighted work that you claim has been infringed.
3. A description of where the material that you claim is infringing is located on Pathway Preparatory Academy, sufficient for Pathway Preparatory Academy to locate the material.
4. A statement that you have a good faith belief that the use of the copyrighted work is not authorized by the copyright owner, its agent, or the law.
5. A statement by you that the information in your notice is accurate and, UNDER PENALTY OF PERJURY, you are the copyright owner or authorized to act on the copyright owner's behalf.
6. An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest.

You may submit this information via:

1. Email: [support@pathwayprep.org](mailto:support@pathwayprep.org) Offline: Pathway Preparatory Academy, Inc.'s Copyright Agent (see below)

### **DMCA Counter-notification**

If you believe that your material has been removed by mistake or misidentification, please provide Pathway Preparatory Academy with a written counter-notification containing the following information:

1. Your name, address, and telephone number.
2. A description of the material that was removed and the location where it previously appeared.
3. A statement UNDER PENALTY OF PERJURY that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification.
4. A statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which your address is located, or if your address is outside of the United States, any judicial district in which Pathway Preparatory Academy, Inc. may be found (which includes the Denton County Superior Court), and that you will accept service of process from the person who filed the original DMCA notice or an agent of that person.
5. Your electronic or physical signature.

You may submit this information via:

1. Email: [support@pathwayprep.org](mailto:support@pathwayprep.org)
2. Offline: Pathway Preparatory Academy, Inc., Copyright Agent (see below)

Please note that we will provide complete counter-notifications to the person making the DMCA claim. That person may elect to file a lawsuit against you for copyright infringement. If we do not receive notice that a lawsuit has been filed within ten (10) business days after we provide notice of your counter-notification, we will restore the disabled materials. Until that time, your materials will remain disabled.

Warning: In filing a DMCA notice or counter-notification, please make sure that you have complied with all of the above requirements. If we request additional information necessary to make DMCA your notice or counter-notification complete, please provide that information promptly. If you fail to comply with all of the requirements, your notification or counter-notification may not be processed.

In addition, please make sure that all of the information you provide is accurate. UNDER SECTION 512(f) OF THE COPYRIGHT ACT, 17 U.S.C. § 512(f), ANY PERSON WHO KNOWINGLY MATERIALLY MISREPRESENTS THAT MATERIAL OR ACTIVITY IS INFRINGING, OR WAS REMOVED OR DISABLED BY MISTAKE OR MISIDENTIFICATION MAY BE SUBJECT TO LIABILITY.

If you have questions about the legal requirements of a DMCA notice, please contact an attorney or see Section 512(c)(3) of the U.S. Copyright Act, 17 U.S.C. § 512(c)(3), for more information. If you have questions about the legal requirements of a DMCA counter-notification, please contact an attorney or see Section 512(g)(3) of the U.S. Copyright Act, 17 U.S.C. § 512(g)(3), for more information.

### **Pathway Preparatory Academy LLC's Copyright Agent**

You may send a DMCA notice, a DMCA counter-notification, or any inquiries concerning intellectual property to Pathway Preparatory Academy, Inc.'s Copyright Agent:

***Pathway Preparatory Academy, Inc.***

*6160 Warren Parkway Suite 100*

*Frisco, Texas 75034*

*Phone: 915-995-0318*

*Email: [support@pathwayprep.org](mailto:support@pathwayprep.org)*

### **No Warranties**

THE SERVICE, AND THE CONTENT, MATERIAL, AND INFORMATION CONTAINED AND/OR ADVERTISED THEREIN, ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. YOU EXPRESSLY AGREE THAT USE OF THE SERVICE, INCLUDING ALL CONTENT OR DATA DISTRIBUTED BY, DOWNLOADED OR ACCESSED FROM OR THROUGH THE SERVICE, IS AT YOUR SOLE RISK. EXCEPT AS EXPRESSLY PROVIDED IN THE SERVICE, WE DISCLAIM ALL WARRANTIES INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT RELATED TO THE INFORMATION, MATERIALS, CONTENT ON OR GOODS PURCHASED THROUGH THE SERVICE. WE DO NOT REPRESENT OR WARRANT THAT MATERIALS IN THE SERVICE ARE ACCURATE, COMPLETE, RELIABLE, CURRENT, OR ERROR-FREE OR UNINTERRUPTED. WE DO NOT PROMISE THAT ANY DEFECTS WILL BE CORRECTED, OR THAT YOUR USE OF THE SERVICE WILL PROVIDE SPECIFIC

RESULTS. SOME STATES DO NOT ALLOW LIMITATIONS OR EXCLUSIONS ON WARRANTIES, SO THE LIMITATIONS ABOVE MAY NOT APPLY TO CERTAIN USERS. IN ANY SUCH JURISDICTION, THE ABOVE EXCLUSIONS AND LIMITATIONS SHALL INSTEAD BE IMPUTED AS REWRITTEN SO AS TO APPROXIMATE THE ABOVE EXCLUSIONS AND LIMITATIONS TO THE FULLEST EXTENT PERMISSIBLE BY THE LAWS OF SUCH JURISDICTION.

WE ARE NOT RESPONSIBLE FOR TYPOGRAPHICAL ERRORS OR OMISSIONS RELATING TO THE CONTENT OR MATERIAL. WHILE WE ATTEMPT TO ENSURE YOUR ACCESS AND USE OF THE SERVICE IS SAFE, WE CANNOT AND DO NOT REPRESENT OR WARRANT THAT THE SERVICE OR ITS SERVER(S) ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ALL USERS ACCESSING THE SERVICE FROM OUTSIDE THE UNITED STATES OF AMERICA ASSUME FULL RESPONSIBILITY FOR COMPLIANCE WITH LOCAL LAWS, IF APPLICABLE.

### **Limitation of Liability**

You acknowledge that educational planning is inherently risky and that it is necessary and appropriate to limit liability and in consideration of such limitation to agree to the following limitations:

YOU ACKNOWLEDGE AND AGREE THAT WE ARE ONLY WILLING TO PROVIDE ACCESS TO THE SITE AND TO PROVIDE THE SERVICES IF YOU AGREE TO CERTAIN LIMITATIONS OF OUR LIABILITY TO YOU AND TO THIRD PARTIES. NEITHER PATHWAY PREPARATORY ACADEMY NOR ITS DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, AGENTS OR SPONSORS ARE RESPONSIBLE OR LIABLE TO YOU OR ANYONE ELSE FOR ANY LOSS OR INJURY OR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER DAMAGES UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY ARISING OUT OF OR RELATING IN ANY WAY TO (i) THE USE OF, DELAYS IN OPERATION, TRANSMISSION OR RESPONSE OF, OR INABILITY TO USE THE SITE OR THE SERVICES; (ii) ANY CONTENT CONTAINED ON THE SITES AND/OR THE SERVICES; (iii) STATEMENTS OR CONDUCT POSTED OR MADE PUBLICLY AVAILABLE ON THE SITES AND/OR THE SERVICES; (iv) ANY PRODUCT OR SERVICE PURCHASED OR OBTAINED THROUGH THE SITES; (v) ANY ACTION TAKEN IN RESPONSE TO OR AS A RESULT OF ANY INFORMATION AVAILABLE ON THE SITES OR THE SERVICES; (vi) ANY DAMAGE CAUSED BY MISTAKES, INACCURACIES, OMISSIONS, ERRORS, INTERRUPTIONS OR LOSS OF ACCESS TO, DELETION OF, FAILURE TO STORE, FAILURE TO BACK UP, OR ALTERATION OF ANY CONTENT ON THE SITES OR THE

SERVICES, (vii) THE OPERATION OF ANY CONTENT, PERFORMANCE, OR RESULTS, (viii) ACCESS TO THE SITE, INCLUDING THE ABILITY TO INITIATE, PAUSE, HAULT, OR CANCEL AND CONTENT IN PROGRESS, (ix) THE ACCURATE FUNCTIONING OF ANY CONTENT, LIMITS, SPREADS, EXECUTION, OR THE DATA UPON WHICH ANY SUCH FUNCTIONALITY MAY RELY, OR (x) ANY OTHER FAILURE OF PERFORMANCE OF THE SITE OR SERVICES OR OTHER MATTER RELATING TO THE SITE AND/OR THE SERVICES, IN EACH CASE WHETHER OR NOT CAUSED BY EVENTS BEYOND THE CONTROL OF OUR DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, AGENTS OR SPONSORS, INCLUDING, BUT NOT LIMITED TO, ACTS OF NATURE, COMMUNICATIONS LINE FAILURE, THEFT, DESTRUCTION, OR UNAUTHORIZED ACCESS TO THE SITE OR SERVICES OR CONTENT STORED THEREIN. IN NO EVENT SHALL PATHWAY PREPARATORY ACADEMY'S TOTAL LIABILITY TO YOU FOR ANY AND ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT, STATUTORY, OR OTHERWISE) EXCEED THE GREATER OF: (i) FIVE HUNDRED DOLLARS (\$500.00) OR (ii) THE TOTAL AMOUNT PAID OR PAYABLE BY YOU TO US, IF ANY, FOR USING ANY OF THE SERVICES OR THE SITE IN THE TWELVE (12) MONTHS PRIOR TO THE DATE ON WHICH YOU FIRST ASSERT A CLAIM. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF CERTAIN TYPES OF LIABILITY. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS AND DISCLAIMERS MAY NOT APPLY TO YOU. TO THE EXTENT THAT WE MAY NOT, AS A MATTER OF APPLICABLE LAW, DISCLAIM ANY IMPLIED WARRANTY OR LIMIT LIABILITIES, THE SCOPE AND DURATION OF SUCH WARRANTY AND THE EXTENT OF OUR LIABILITY WILL BE THE MINIMUM PERMITTED UNDER SUCH APPLICABLE LAW.

### **Educational and College Acceptance Disclaimer.**

You acknowledge and understand that the Services are not intended to supply specific educational requirements as determined by a participating and/or select school. Our services do not constitute college planning advice nor do the Services provide any predictive results or guaranteed outcomes. The Services are merely a tool for the execution of your own school's educational requirements and/or college planning strategies. You acknowledge and agree that any use of the Services, any decisions made in reliance on the Services, including any college planning activities, are made at your own risk. No employee, agent or representative of Pathway Preparatory Academy is authorized to provide any college acceptance guarantees or predictive outcomes of any nature whatsoever, and any such advice, if given, is in violation of Pathway Preparatory Academy's policies, is unauthorized and may not be relied upon.



**User Content Submissions.**

You are solely responsible for the accuracy of the Content you provide. While certain automated guidance and value generation has been made available in the Services to ease and expedite your entry of the parameters required, you, as User of the system, are solely responsible for ensuring the quality of all Service inputs. As such, you must carefully review all input parameters and modify their values in all ways necessary to ensure their accuracy and fidelity, and to optimize these inputs to suit your particular educational and/or college planning needs. Pathway Preparatory Academy makes no representations or warranties regarding the accuracy of its default inputs.

Pathway Preparatory Academy makes no representation that your Content can be executed and effectively monitored and managed in practice. It is entirely your responsibility to assess the appropriateness and practicality of the solutions generated by the Services. It is your responsibility to ensure the final educational decisions by you are executable and manageable, and appropriate for your needs.

**Data Disclaimer.**

You acknowledge that certain data, including data consolidation, used to provide the Services is provided by third party providers. The accuracy, timeliness, and completeness are not guaranteed, and Pathway Preparatory Academy shall not have any liability for errors, delays, interruptions, omissions or malfunctions with respect to any such data. You may not use such data other than in connection with your use of the Services or disseminate such data in any way or amount that could compete with, substitute for or be a source of the data. Neither Pathway Preparatory Academy nor our third-party providers are responsible for any damages or losses arising from any use of this information.

**Your Data.**

You shall ensure that you have the right to disclose your Data, if any, that may be provided by you to Pathway Preparatory Academy for the purpose of enabling Pathway Preparatory Academy to perform its obligations under this Agreement. You grant Pathway Preparatory Academy the right to use the Data solely on your behalf and solely for the purpose of providing the Services and performing its obligations under this Agreement. You shall be responsible for the accuracy, quality, and legality of your Data and of the means by which you acquired the Data, including ensuring that your Data does not infringe upon or violate the rights of any third party. You agree to defend, indemnify and hold Pathway Preparatory Academy and its Affiliates and their officers, directors, and employees harmless from and against any and all claims, suits, actual damages, costs and expenses, including reasonable attorneys' fees, brought against or suffered by such

Pathway Preparatory Academy indemnified parties arising out of any third party claim that you and/or your Affiliates (i) are not the owner or license of any Data or (ii) do not have the right, title, and/or interest to grant the license rights provided for herein and to submit and make available to Pathway Preparatory Academy any Data for the purpose of allowing Pathway Preparatory Academy to provide the Services.

## **Indemnification**

As a requirement to use our services, you expressly agree to defend, indemnify, and hold Pathway Preparatory Academy and its subsidiaries, affiliates, directors, officers, employees, contractors, agents, and licensors, harmless from any claim or demand thereof, including reasonable attorney's fees, made by a third party, relating to or arising from: (a) any violation by you of this Agreement; (b) any Content in its entirety that you upload, transmit, or make available through the services; (c) your use of the services; (d) any violation that Pathway Preparatory Academy determines through its reasonable investigations of a suspected violation(s) of this Agreement; or (e) your violation of another's rights. This express waiver and indemnity provision applies to all violations described in or contemplated by this Agreement. This obligation shall survive the termination or expiration of this Agreement and/or your use of the services.

## **Release.**

To the extent permitted under applicable laws, you hereby release Pathway Preparatory Academy from any liability related to: (a) any incorrect or inaccurate Content posted on the Services, whether caused you, Pathway Preparatory Academy, any User, or by any of the equipment or programming associated with or utilized in the Services; (b) the conduct, whether online or offline, of any User; (c) any loss or damage caused by Content posted on the Services or transmitted by and to Users, or any interactions between Users), whether online or offline; and (d) any error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or destruction or unauthorized access to, or alteration of User communications. If you are a California resident, you hereby waive California Civil Code Section 1542, which states: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which, if known by him must have materially affected his settlement with the debtor."

## **Termination**

Pathway Preparatory Academy may terminate these Terms at any time without notice, discontinue or remove the Site or any portions thereof or suspend or terminate your access and use of the Site and/or the Service at any time, with or without cause, in Pathway Preparatory Academy's sole discretion. In the event of termination, the intellectual property, disclaimers,

releases, arbitration agreement, class action waiver, limitations of liability provisions and any other provisions which by their nature are intended to survive set forth in these Terms will survive.

## **Dispute Resolution and Arbitration**

### **Introduction**

This section includes an arbitration agreement and an agreement that all claims will be brought only in an individual capacity (and not as a class action or other representative proceeding). Please read it carefully. You may opt out of the arbitration agreement by following the opt out procedure described below.

### **Informal Process First**

You agree that in the event of any dispute between you and Pathway Preparatory Academy, you will first contact Pathway Preparatory Academy and make a good faith sustained effort to resolve the dispute before resorting to more formal means of resolution, including without limitation any court action.

### **Arbitration Agreement**

After the informal dispute resolution process any remaining dispute, controversy, or claim (collectively, "Claim") relating in any way to your use of Pathway Preparatory Academy's services and/or products, including the Service, or relating in any way to the communications between you and Pathway Preparatory Academy or any other user of the Service, will be finally resolved by binding arbitration. This mandatory arbitration agreement applies equally to you and Pathway Preparatory Academy. However, this arbitration agreement does not (a) govern any Claim by Pathway Preparatory Academy for infringement of its intellectual property or access to the Service that is unauthorized or exceeds authorization granted in these Terms or (b) bar you from making use of applicable small claims court procedures in appropriate cases. If you are an individual, you may opt out of this arbitration agreement within thirty (30) days of the first of the date you access or use this Service by following the procedure described below.

Arbitration is more informal than a lawsuit in court. There is no judge or jury in arbitration. Instead, the dispute is resolved by a neutral arbitrator. Court review of an arbitration award is limited. Except to the extent the parties agree otherwise, arbitrators can award the same damages and relief that a court can award. You agree that the U.S. Federal Arbitration Act governs the interpretation and enforcement of this provision, and that you and Pathway Preparatory Academy are each waiving the right to a trial by jury or to participate in a class action. This arbitration provision will survive any termination of these Terms.

If you wish to begin an arbitration proceeding, after following the informal dispute resolution procedure, you must send a letter requesting arbitration and describing your claim to Pathway

Preparatory Academy, Inc. dba Pathway Preparatory Academy at 6160 Warren Parkway, Suite 100, Frisco, Texas 75034. The arbitration will be administered by the American Arbitration Association (AAA) under its rules including, if you are an individual, the AAA's Supplementary Procedures for Consumer-Related Disputes. If you are not an individual or have used the Service on behalf of an entity, the AAA's Supplementary Procedures for Consumer-Related Disputes will not be used. The AAA's rules are available at <http://www.adr.org> or by calling 1-800-778-7879.

The number of arbitrators will be one. You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the county where you live or at another mutually agreed location. The arbitration will be conducted in the English language. Texas law will apply. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules.

The arbitrator, and not any federal, state, or local court, will have exclusive authority to resolve any dispute relating to the interpretation, applicability, unconscionability, arbitrability, enforceability, or formation of this arbitration agreement, including any claim that all or any part of this arbitration agreement is void or voidable.

If you do not want to arbitrate disputes with Pathway Preparatory Academy and you are an individual, you may opt out of this arbitration agreement by sending an email to [support@pathwayprep.org](mailto:support@pathwayprep.org) within thirty (30) days of the first of the date you access or use the Service.

## **Miscellaneous**

If any of the provisions of these Terms are held by a court or other tribunal of competent jurisdiction to be void or unenforceable, such provisions shall be limited to the minimum extent necessary and replaced with a valid provision that best embodies these Terms.

## **Choice of Law**

These Terms, the Service, and your use hereof, are governed by the laws of Texas, without regard to Texas' choice of law provisions, and any claim arising out of your use of the Site or Service must be brought in Denton County, Texas. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

## **Force Majeure.**

Either party is excused from performance and shall not be liable for any delay in performance or availability, in whole or in part, of the Site or Services, caused by the occurrence of any contingency beyond the control of the parties including, but not limited to, (i) work stoppages, fires, hurricanes, civil disobedience, riots, rebellions, accident, explosion, flood, storm, Acts of God and similar occurrences, (ii) a substantial or complete shutdown of the trading markets or

digital, informational or communications systems used to facilitate use of the Site or Services, and (iii) commercial disputes with vendors or contractors affecting of the ability to deliver the Site or Services.

### **Modification to Services.**

We reserve the right to modify or discontinue the Site and any or all of the Services with or without notice to you. We will not be liable to you or any third party should we exercise our right to modify or discontinue the Site and/or any or all of the Services. If you object to any such changes, your sole recourse will be to cease access to the Site and/or Services, as applicable. Continued access to the Site and/or Services, as applicable, following notice of any such changes will indicate your acknowledgment of such changes and satisfaction with the Site and/or Services, as applicable, as so modified. In the event we discontinue the Site and Services in full, you will no longer be required to pay any agreed subscription fees. In the event we discontinue any material portion of the Services to which you have subscribed, you may elect to discontinue the Services and terminate your obligation to pay subscription fees in the manner provided as a part of the Services. Any waiver, consent, modification or change of terms of this Agreement must appear in a posted update to the Agreement or in a writing signed by the party to be bound.

### **Amendments and Modifications of this Agreement.**

Pathway Preparatory Academy may amend or modify this Agreement from time to time and at any time. If any such amendment or modification is materially prejudices your rights hereunder, we will post notice of it on the Site's home page, as a conspicuous part of our Terms of Use, or by email to Users. Your continued access of the Site and use of the Services following any such amendment or modification shall be deemed your acceptance of such amendment and modification. You agree to review the Agreement periodically make yourself aware of such amendments and modifications.

### **Electronic Contracting**

You consent to receive communications from us in an electronic form and agree that all terms and conditions, agreements, notices, documents, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such Communications would satisfy if they were in writing. You may withdraw your consent to receive communications electronically only by contacting us at [support@pathwayprep.org](mailto:support@pathwayprep.org). If you withdraw your consent, from that time forward, you must stop using the Site and Services. The withdrawal of your consent will not affect the legal validity and enforceability of any obligations or any electronic communications provided, or business transacted between us prior to the time you withdraw your consent.

