



## STANDARD TERMS AND CONDITIONS (STAC) FOR HIGHER EDUCATION

### 1. OVERVIEW; AGREEMENT.

a. CollegeDegrees.com, LLC, doing business as HigherEducation.com (“**HE**”), provides a suite of platforms and services through which an advertiser can connect with students and prospective students at various points in their student journey.

b. These Standard Terms and Conditions (the “**STAC**”) apply to any insertion order referencing the STAC (each an “**Insertion Order**”) that is entered into by and between HE and the company identified on the Insertion Order (the “**Company**”). HE and Company are hereinafter sometimes referred to individually as a “**Party**” and collectively as the “**Parties**.”

c. Upon the Parties executing an Insertion Order, the STAC and the Insertion Order (collectively, the “**Agreement**”) will be a binding contract between the Parties.

### 2. THE SERVICES.

a. During the Term (defined in Section 11(a) below), HE will provide the Company with certain services as agreed between the Parties in one or more Insertion Orders (the “**Services**”). The Services may include, without limitation, displaying Advertisements on or through one or more websites, applications, and/or other platforms that may be owned or operated by or on behalf of HE or its affiliates, including websites with which HE has an affiliate relationship (“**Platforms**”). HE will use reasonable efforts to achieve “**Target Clicks**” and/or “**Target Leads**” within an Insertion Order, but cannot guarantee or otherwise promise that such targets will be reached. During the Term and if Target Clicks and/or Target Leads are met, Company guarantees the Total Spend as agreed to in the Insertion Order for such Target Clicks and/or Target Leads. During the Term, Company may ask via email to increase or decrease Target Clicks and/or Target Leads within a Term, and HE may approve such request in HE’s sole discretion; if HE approves Company’s request, it will do so via email.

b. As between the Parties (and except for the content of the Company’s Advertisements), the content, appearance, design, functionality, accessibility, components, and all other aspects of the Platforms, as modified from time to time, are determined by HE in HE’s sole discretion.

### 3. COMPANY’S USE OF THE PLATFORMS

a. The Company will ensure that the Advertisements comply with the terms of the Agreement and all applicable laws, rules, and regulations. The Company will supply to HE or otherwise approve all aspects of its Creative Assets and Advertisements that are needed for HE to provide the Services.

b. The Company grants to HE a worldwide, royalty-free, non-exclusive, revocable (but solely upon expiration or termination of the Agreement in accordance with its terms) right and license for the Term to use, reproduce, perform, display, distribute, adapt, re-format, and otherwise commercially exploit the Company’s Creative Assets and Advertisements (and to sublicense to HE’s Personnel and affiliates to do so) for purposes of providing the Services in accordance with the Agreement. The Company will not use HE’s trade names, logos, designations, trademarks, or service marks, or any information about or relating to the Agreement, without the prior written consent of HE.

### 4. REPRESENTATIONS AND WARRANTIES.

a. **Compliance with Law.** Each Party will, during the Term, be in compliance with all applicable laws, regulations, rules and requirements applicable to: its activities in connection with provision or receipt of the Services (in the case of both Parties); the Advertisements (in the case of the Company); and performance of their respective obligations under the Agreement (in the case of both Parties).

b. **Authority.** As of the Effective Date and throughout the Term, each Party represents and warrants to the other Party that: (i) it has all corporate power and authority to enter into and perform its obligations under the Agreement; and (ii) it is not subject to any other obligation, restriction, or agreement that would prevent its performance of the Agreement.

**c. No Implied Rights.** All software, documentation, reports, information and materials, and derivative works of any of the foregoing or of the Platforms, including all inventions, know-how, processes, patent rights, moral rights, copyrights, trade secrets, and all other proprietary and Intellectual Property, developed by or on behalf of HE, whether independently or in connection with the Services, are and will remain, as between the Parties, the property of HE. Notwithstanding anything to the contrary in the Agreement, neither the delivery or use of the Services, nor any provision of the Agreement will be deemed or construed to grant to the Company either expressly, by implication or by way of estoppel or otherwise, any right or license under any of HE's or HE's affiliates' Intellectual Property. The Company will not use the Services or any component thereof for any purpose other than as expressly set forth in the Agreement. There are no implied rights.

**d. Virus.** Each Party will ensure that its software, systems, platforms, and materials utilized or leveraged in connection with its performance of its obligations under the Agreement do not cause the introduction to the other Party of "viruses," "worms," "Trojan horses," "e-mail bombs," "cancelbots," or other similar destructive or harmful software, code, or computer programming routines.

**e. The Company's Representations and Warranties.** The Company represents and warrants that: (i) the Advertisements comply with all applicable laws, rules and regulations and the requirements of the Agreement; and (ii) use of the Creative Assets and Advertisements under the Agreement do not breach (x) any third party rights or (y) any applicable laws, rules, and regulations.

## **5. TAXES.**

**a.** Except as provided below, each Party is responsible for its own taxes, including income, franchise, privilege, gross receipts, sales and use, excise, property, payroll and any other taxes or assessments that may be levied by a taxing jurisdiction.

**b.** HE will be responsible for any sales, use, excise, value-added, services, consumption and other taxes and duties payable by HE on the goods or services used or consumed by HE in providing the Services. The Company will be responsible for any sales, use, excise, value-added, services, consumption or other tax that is imposed on the Company's purchase of the Services.

**c.** The Parties will reasonably cooperate with each other to enable each to more accurately determine its own tax liability, to minimize such liability to the maximum extent legally permissible, and to address questions or audits by taxing authorities.

## **6. INVOICING AND PAYMENT.**

**a.** In consideration of the provision of the Services by HE and the rights granted to the Company under the Agreement, the Company agrees to pay the fees set forth in each Insertion Order executed by the Company and accepted by HE. HE will invoice the Company on a monthly basis for all fees and charges applicable to the Services. Invoices will be due and payable by the Company within 30 days of the invoice date.

**b.** The Company will make all payments under the Agreement in US dollars by the method designated by HE in writing to the Company. All amounts due to HE are exclusive of any applicable sales, use, Internet, excise or withholding taxes or any other taxes, fees, customs duties and charges now in effect or enacted in the future (all payments are subject to an increase equal to any such charges HE may be required to collect or pay, other than the tax due on the net income of HE).

**c.** Payments that are not made on or prior to the thirtieth (30<sup>th</sup>) day after Company receives an invoice from HE will bear interest at a rate of one percent (1%) per month (or the highest rate permitted by law, whichever is lower). Company will be responsible for all reasonable expenses (including attorneys' fees) incurred by HE in collecting any past due payments, fees, or other charges.

## **7. CONFIDENTIALITY.**

**a.** Each Party acknowledges that, by virtue of and in the course of the Agreement, it may receive or otherwise become aware of Confidential Information belonging to the other Party.

**b.** Each Party undertakes to maintain the confidentiality of the other Party's Confidential Information at all times and to use no less adequate measures than it uses in respect of its own Confidential Information of a similar nature to keep the other Party's Confidential Information reasonably secure (but in no event using less than a reasonable degree of care). Without limiting the generality of the foregoing, each Party will institute, implement and maintain at all times during the Term appropriate and commercially reasonable information security measures designed to: (i) help ensure the security and confidentiality of the other Party's Confidential Information, (ii) reduce the risk of reproduction, misuse, or modification of the other Party's Confidential Information, (iii) identify potential threats or hazards to the security or integrity of the other Party's Confidential Information and help protect against any anticipated threats or hazards, and (iv) help protect against unauthorized access to or use of the other Party's Confidential Information.

**c.** Neither Party will at any time, whether during the Term or at any time thereafter, without the prior written approval of the other Party, use, disclose, exploit, copy or modify any of the other Party's Confidential Information, other than to exercise its rights or to perform in relation to the Agreement.

d. Neither Party will be in breach of this “**CONFIDENTIALITY**” section if it discloses the other Party’s Confidential Information in circumstances where such disclosure is required by law, regulation or order of a competent authority, provided that the owner of the Confidential Information is given reasonable advance notice of the intended disclosure and a reasonable opportunity to challenge the same.

e. Each Party acknowledges that money damages may not be a sufficient remedy for any prohibited or unauthorized disclosure or use of Confidential Information of the other Party and that the other Party will be entitled, in addition to any other remedies available at law or otherwise, to seek an order of specific performance or other equitable relief against the breaching Party, without needing to post bond or other surety.

f. The terms of the Agreement will be considered confidential and any publication or disclosure by Company relating to the Agreement (including publication of the URL at which the STAC is available) must be approved in advance by HE in writing.

**8. REPORTING; AUDIT RIGHTS.** During the Term, HE and the Company will each implement and maintain systems to record and provide one another with periodic reporting regarding performance according to the following metrics: Clicks, visits, Leads, applications, and enrollment related to the Advertisements. Additionally, the Company will provide any further reporting reasonably required by (and in form and substance that is reasonably satisfactory to) HE in order to establish payments from the Company due to HE and otherwise facilitate assessment and development of the utility of the Services. The Company will maintain accurate records of such reports and associated payments made to HE for such time as may be required by law but in no event less than 3 years from the date of the report. HE reserves the limited right to audit the Company’s books and records (no more than once per calendar year, upon at least 30 days’ prior written notice to the Company, and during normal business hours) but only to the extent necessary to verify the Company’s accuracy in its reporting of Clicks and Leads to HE, and otherwise related to payments due and owing to HE under the Agreement.

## **9. INTELLECTUAL PROPERTY AND DATA.**

**a. Intellectual Property.** The Company owns all ownership, right, title to and interest in the Creative Assets and all Intellectual Property contained therein (other than Tools). HE owns all ownership, right, title to and interest in (x) all Tools and (y) all Intellectual Property relating to the Services (other than the Company’s Creative Assets and all Intellectual Property contained therein).

**b. Reservation of Rights.** All information and data generated, collected, or derived by HE on, through, or otherwise in connection with the Platforms and the Services is the sole and exclusive property, and Confidential Information, of HE. HE and its affiliates may analyze and re-use any data HE collects or receives in connection with the Platforms, the Services, and the Agreement for any purpose (including without limitation to develop and improve the Platforms and to create and distribute reports and other materials) provided that such data is in aggregated and anonymized form so as to be non-personally identifiable with respect to any advertiser or consumer. Except as specifically set forth in this Section 9, nothing in the Agreement grants either Party any express or implied license or other right to any of the other Party’s Intellectual Property, data, information, or other proprietary property, and each Party retains all right, title to and interest in its respective Intellectual Property, data, information, and other proprietary property.

## **10. LIMITATIONS ON LIABILITY.**

**a. DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH IN THE AGREEMENT, THE SERVICES AND THE PLATFORM ARE PROVIDED “AS IS” AND HE MAKES NO OTHER WARRANTIES, GUARANTEES, CONDITIONS, OR REPRESENTATIONS, EXPRESS, IMPLIED, OR STATUTORY, CONCERNING THE SERVICES, THE PLATFORM, OR ANY PORTION THEREOF (INCLUDING AS TO THE VALIDITY OR ACCURACY OF ANY DATA PROVIDED BY CONSUMERS ON OR THROUGH THE PLATFORMS). HE HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR ANY PARTICULAR PURPOSE, SPECIFIC OR OTHERWISE, REGARDING THE SERVICES, THE PLATFORM, OR ANY PORTION THEREOF. NEITHER PARTY MAKES ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, TO THE OTHER AS TO THE TOTAL AMOUNT OF REVENUE THAT WILL BE GENERATED BY EITHER PARTY AS A RESULT OF THE AGREEMENT.

**b. Limitation of Liability.** Except for the Company’s payment obligations for the Services, notwithstanding any other provision of the Agreement each Party’s entire aggregate liability and the other Party’s exclusive remedies for any and all damages arising out of the Agreement and for the performance of the Services, regardless of the form of action, whether in contract, breach of warranty, indemnification, or tort, including negligence, strict liability or otherwise, will be limited to the amount of fees paid by the Company to HE for the Services during the 12 months immediately preceding the accrual of the claim.

**c. WAIVER.** IN NO EVENT WILL EITHER PARTY, ITS AFFILIATES, MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS OR REPRESENTATIVES BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL

DAMAGES, INCLUDING LOST PROFITS, REVENUE OR GOODWILL, IN ANY WAY ARISING FROM OR RELATING TO THE AGREEMENT OR FROM THE USE OF OR INABILITY TO USE THE SERVICES OR PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING.

## 11. TERM AND TERMINATION

**a. Term.** The term of the Agreement will start on the Effective Date of an Insertion Order and will remain in effect for three months (the “**Term**”) unless terminated in accordance with the Agreement.

### **b. Termination; Suspension of Services.**

**i.** Either Party may terminate the Agreement immediately by written notice to the other Party if the other Party: (A) becomes insolvent; (B) makes a general assignment for the benefit of creditors; (C) suffers or permits the appointment of a trustee or receiver for all or any portion of the business or assets of such Party; (D) files, or has filed against it or on its behalf, a petition in any bankruptcy court or under any bankruptcy or insolvency law, which petition is not dismissed within 90 days of the date it is filed; (E) is dissolved, liquidated or wound up; or (F) enters into an agreement with a third party to do any of the foregoing. In addition, either Party may terminate the Agreement for material breach by the other Party of any term of the Agreement that is not cured within 30 days after the allegedly breaching Party’s receipt of written notice specifying the alleged breach.

**ii.** If the Company receives a Change Notice that substantially diminishes its rights or substantially increases its obligations under the Agreement, the Company may terminate this Agreement effective as of the applicable Change Effective Date, by providing HE with written notice of intent to terminate within 30 days of the date of such Change Notice. “Change Notice” and “Change Effective Date” are defined in Section 12(b) below.

**c. Effect of Termination; Post-Termination Obligations.** The terms of the Agreement that expressly or by their nature contemplate performance or applicability after the termination or expiration of the Agreement will survive the termination or expiration of the Agreement for any reason and continue in full force and effect. For avoidance of doubt: (A) setting forth limitations of liability, the obligation to make any outstanding payments, and this Section 11(c), each, by their nature, contemplate performance or observance after the Agreement expires or terminates; and (B) the expiration or termination of the Agreement will not affect the Company’s payment obligations in connection therewith as accrued prior to expiration or termination. In addition, if the Company asks HE to continue providing Services under the terminated or expired Agreement and HE agrees to do so (by email or otherwise in writing), the Agreement will be deemed to be reinstated and continue in full force and effect for so long as such Services are provided (or until a replacement Agreement is executed between the Company and HE).

## 12. GENERAL PROVISIONS.

**a. Relationship of Parties.** The Agreement will not be construed to create a partnership, joint venture, franchise or agency relationship between the Parties, and neither Party may bind or obligate the other Party or make representations on the other Party’s behalf.

**b. Updates to Terms and Conditions.** HE may update this STAC at any time by providing the Company Contact (defined in Section 12(j) below) with written or email notice thereof (a “**Change Notice**”) at least 60 days prior to a specified effective date (the “**Change Effective Date**”). Unless the Company terminates the Agreement in accordance with Section 11(b)(ii) above, the Change Notice will become effective on the Change Effective Date. EXCEPT AS OTHERWISE SET FORTH IN THE STAC, THE COMPANY’S CONTINUED USE OF THE SERVICES AFTER HE’S NOTICE TO THE COMPANY OF ANY CHANGES TO THE STAC WILL CONSTITUTE THE COMPANY’S ACCEPTANCE OF SUCH CHANGES OR MODIFICATIONS. Except as set forth in this Section 12(b), any amendment to the Agreement must be in writing and signed by a duly authorized representative of each Party.

**c. Interpretation.** The section headings in the Agreement are for convenience of reference only and are not to be considered as parts, provisions or interpretations of the Agreement. The use of the term “including” or words of similar meaning in the Agreement will be deemed to include the phrase “without limitation” or similar words that show the intent of the Parties to identify, by way of a non-exhaustive list, certain examples of the subject being addressed. The Agreement is not to be presumptively interpreted for or against any Party by reason of that Party having drafted or negotiated, or failed to draft or negotiate, all or any portion of any provision of the Agreement. In the event of any conflict between the STAC and an Insertion Order, the Insertion Order will govern.

**d. No Third-Party Beneficiaries.** Other than as expressly set forth in the Agreement, no third-party beneficiaries are created by the Agreement and the Agreement will not be construed to provide any person or entity not a signatory hereto with any remedy, claim or other right.

**e. Force Majeure.** Except for the Company’s payment obligations for the Services, neither Party will be liable for failure to perform any of its respective obligations hereunder if such failure is caused by an event outside its reasonable control, including an act

of God, insurrection, war, communications failure, Internet outage, natural disaster or act of a third party not under the control of the failing Party.

**f. No Waiver.** No delay or failure in exercising any right hereunder and no partial or single exercise thereof will be deemed a waiver of such right or any other rights hereunder. No consent to a breach of any term of the Agreement will constitute a consent to any prior, subsequent or other breach.

**g. Severability.** If any provision hereof is declared invalid by a court of competent jurisdiction, such provision will be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of the Agreement will be valid and enforceable to the fullest extent permitted by applicable law.

**h. Governing Law/Jurisdiction.** The Agreement will be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict-of-law rules. Any dispute in connection with the Agreement must be brought in the courts located in the state or federal courts located in New Castle County, Delaware, and the Parties consent to personal jurisdiction and venue in such courts for purposes of any such dispute.

**i. Counterparts; Execution; Entire Agreement.** The Agreement may be executed in one or more counterparts, each of which will be an original, and all of which together will constitute a single instrument. Each of HE and the Company agree that the Agreement may be signed or transmitted in whole or in part by electronic mail of a .PDF document or electronic signature (e.g., DocuSign or similar electronic signature technology) and thereafter maintained in electronic form, and such electronic record will be valid and effective to bind each Party so signing as a paper copy bearing such Party's handwritten signature. The Agreement represents the entire agreement between the Parties with respect to its subject matter, supersedes all other negotiations, agreements, contracts, representations, proposals, commitments, and understandings, oral and written, with respect thereto, and does not operate as acceptance of, and will prevail over, any conflicting terms, conditions and provisions of any other instrument of a Party. In the event of any conflict between the component parts of the Agreement, the order of precedence will be as follows: (i) the Insertion Order and (ii) the STAC.

**j. Notices.** Except as otherwise specified in the Agreement, all demands, approvals, consents and notices to be given hereunder will be made in writing and sent by both email at the email addresses set forth on the Insertion Order and by Certified Mail, Return Receipt Requested (or reputable overnight delivery service with record of delivery), addressed to the respective Parties at the addresses set forth below, or to such other addresses as each may hereafter designate. Notices to HE must be sent to "Attn: HE Account Director – [Company name]," with a copy to "Attn: Legal Department (Higher Education)," in each case at the following physical address: 1423 Red Ventures Drive, Fort Mill, South Carolina, 29707. Notices to the Company will be sent to the Company Contact listed on the Insertion Order.

### 13. ADDITIONAL DEFINITIONS.

The following capitalized terms may be used above or elsewhere in the Agreement:

**"Advertisement"** means a displayed advertisement or other promotional material (which may incorporate Creative Assets and other Company-provided Intellectual Property or other materials) provided to HE by or on behalf of, or otherwise approved by, the Company for use in the Services.

**"Click"** means when a Visitor's click on an HE Platform results in the Visitor being directed to the Company.

**"Confidential Information"** means non-public, proprietary information of a Party or its affiliates in oral, tangible or electronic form, including but not limited to business plans, business strategy, methods of doing business, distribution channels, information about a Party's (or its affiliates') costs or pricing structure, and technological innovations used in the business. Confidential Information includes without limitation any document marked "Confidential", and any information which the receiving Party has been informed is confidential or which it ought reasonably to expect the disclosing Party would regard as confidential. Notwithstanding the foregoing, Confidential Information excludes information which: (i) at the time of receipt by the receiving Party is in the public domain; (ii) subsequently comes into the public domain through no fault of the receiving Party or any of its affiliates, Personnel, or other employees or subcontractors; (iii) is lawfully received by the receiving Party from a third party on an unrestricted basis; (iv) is generated independently by the receiving Party without reference to the disclosing Party's Confidential Information; or (v) can be demonstrated to have already been known to the receiving Party before receipt hereunder.

**"Creative Assets"** means the graphics, images, logographics, designations, trade names, trademarks, service marks, and any other Intellectual Property or assets proprietary to the Company (or otherwise provided to HE by or on behalf of, or otherwise approved by, the Company) for use in the Services.

**"Effective Date"** means the date defined on an Insertion Order signed by both Parties.

**“Intellectual Property”** means, collectively, with respect to either Party, all of its: worldwide intellectual property rights (including trademarks, trade names, service marks, service names, mark registrations and applications, trade dress, layouts, logographics, designations, domain names, social and mobile media identifiers, URLs, and other source indicators); common law rights relating thereto; goodwill of any business symbolized by the foregoing; registered and unregistered copyrights; patents and patent applications; trade secrets and know-how; Tools; proprietary lists (including customer and vendor lists); and computer programs, data, and reports.

**“Lead”** means a Click that results in the Visitor completing and submitting a request for information to Company.

**“Personnel”** of a Party means any agents, employees, or subcontractors engaged or appointed by such Party in connection with its performance of its obligations or exercise of its rights under the Agreement.

**“Tools”** means all tools, systems, databases, data sets, software, processes, and methodologies used by HE in providing the Services or developed by HE in connection with the Agreement. “Tools” excludes the Company’s Intellectual Property.

**“Visitors”** means consumers visiting one or more websites, applications, or digital assets.

\*\*\*\*\*