ARBOR API TERMS AND CONDITIONS

1. Agreement

1.1 This Agreement shall incorporate the terms and conditions set out herein in the main body of this Agreement together with any supporting Schedules and shall include where directly or indirectly applicable to the API Partner the Arbor MIS Terms of Use (found here: https://support.arbor-education.com/hc/en-us/articles/360023800113-Arbor-MIS-Terms-of-Use) as they may be updated by Arbor from time to time.

1.2 Schedule 1 contains the definitions and interpretation provisions that apply to this Agreement.

1.3 Schedule 2 contains the Licence details, including the applicable API Service Tier and Fees payable under this Agreement.

2. Licence

2.1 Subject to and in consideration of the API Partner's compliance with the terms of this Agreement and including ensuring compliance of the same by its Authorised Users, Arbor grants to the API Partner a revocable, non-exclusive, non-transferable and non-sublicensable (other than to Authorised Users) licence to access the API and API Data and use the API Service for the duration of the Term and solely for the Purpose (the "**Licence**").

2.2 The API Partner's access shall be limited only to its Authorised Users and the API Partner shall not permit anyone else access to the API Service without the prior written consent of Arbor.

2.3 The API Partner shall and shall procure that all Authorised Users comply with the terms of this Agreement, including the Terms of Use and any usage limits for the applicable API Service Tier relevant to the API Partner.

2.4 In relation to the scope of use set out in clause 2.1 the API Partner may not and the API Partner shall ensure that each Authorised User shall not:

(a) remove any proprietary notices from the API or API Data;

(b) use the API and/or API Data other than for the Purpose;

(c) use the API, API Data or API Key in any manner or for any purpose that API is aware (or ought reasonably be aware) infringes, misappropriates, or otherwise violates any Intellectual Property Right or other rights of Arbor or any person, or that violates any applicable law;

(d) design or permit the API Partner Platform to disable, override, or otherwise interfere with any Arbor-implemented settings, alerts, communications to Arbor end users, consent screens, or the like; and

(e) attempt to cloak or conceal the API Partner's or Authorised User's identity when requesting authorisation from Arbor to use the API, and must always include their

identity via the http header in all API Requests for the purposes of tracking API Partner's usage pursuant to this Agreement.

2.5 The API Partner shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the API or System and, in the event of any such unauthorised access or use, promptly notify Arbor.

2.6 The API Partner shall not share login credentials, passwords, API Keys and/or access rights with any third party, and shall keep all such credentials secure.

2.7 The API Partner acknowledges and agrees that if any individual Authorised User does not agree to the Terms of Use, it will not be entitled to access or use the API or System or any part thereof.

2.8 Arbor reserves the right, without liability or prejudice to Arbor's other rights or remedies, to disable any Authorised User's login credentials, passwords, API Key and/or access to all or any (or any part of any) the API or System in the event of any breach of a material provision in the Terms of Use. If Arbor intends to disable any login credentials, passwords, API Key and/or access pursuant to this clause 2, Arbor shall notify the API Partner of its intention to do so before disabling such login credentials, passwords, API Key and/or access.

2.9 Except as expressly stated in this clause 2, the API Partner has no right (and shall not permit any Authorised User or third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, publish, transmit, distribute or make error corrections to the API or the System, in whole or in part (except to the extent necessary pursuant to applicable law and where the API Partner provides prior written notice to Arbor). The API Partner may make a back-up copy of the API Documentation to the extent necessary to use the API for the Purpose.

2.10 Except as expressly stated in this clause 2, the API Partner shall not incorporate into any other product or service, license, sell, loan, rent, lease, transfer, assign, convey, translate, transfer or otherwise commercially exploit all or any part of the API, System or API Documentation, or permit any third party to access or use, or provide or make available to any person, all or any part of the API, System or API Documentation in any form.

2.11 If the API Partner (or its Authorised Users) uses the API or API Data:

(a) other than as specified in this clause 2 without the prior written consent of Arbor; or

(b) in a way that in Arbor's reasonable opinion, poses a security or confidentiality risk to Arbor, or its other customers' (including Institutions') systems, data or Intellectual Property Rights,

Arbor may, in its sole discretion, terminate or suspend the API Partner's access (and thereby its Authorised Users' access) to and use of the API and the API Data on written notice with immediate effect.

3. Fees

3.1 Subject always to clause 2, the grant of the Licence under this Agreement is conditional upon the API Partner paying all Fees (if any) associated with the relevant API Service Tiers set out in Schedule 2 or otherwise notified to the API Partner. No Fees are payable from the Commencement Date until 31 August 2025 (FY25) so that the parties can determine which API Service Tier applies to the API Partner over the course of FY25. Fees become payable in

advance from 1 September 2025 depending on the API Service Tier that the API Partner is assessed to be on, based on its usage over the preceding 12 months. If the API Partner is on the Free tier at this time, no Fees are payable. Any API Partner that is on or moves up to the Starter or Enterprise Service Tier during the Agreement, agrees that Arbor may invoice the API Partner at the relevant time pursuant to clause 3.8 for the applicable Fees associated with that tier in accordance with this Agreement. The API Partner's usage and Fees will be based on the System(s) that it has access to for the purposes of this Agreement.

3.2   Unless otherwise specified in Schedule 2:

(a)   Arbor will invoice the API Partner annually in advance from 1 September of each calendar year for the Fees (if any) associated with the API Service Tier applicable to the API Partner based on its API usage over the preceding twelve (12) month period;

(b)   all amounts invoiced to the API Partner shall be due and payable within thirty (30) days of the date of the invoice from Arbor;

(c)   the API Partner will pay all amounts due under this Agreement in British Pounds (GBP);

(d)   all Fees are exclusive of VAT or any other taxes, levies, duties which may apply and which will be charged at the prevailing rate at the invoice tax point. If any taxes, are found to be applicable, the appropriate amount of tax shall be invoiced to and paid by the API Partner;

(e)   all Fees shall be paid free and clear of any deduction or withholding of any kind, save only as may be required by applicable law. If any such withholding or deduction is required, the API Partner shall, at the same time as making the payment to which the withholding or deduction relates, pay to Arbor such additional amount as will, after the deduction or withholding has been made, leave Arbor with the same total amount that it would have received if no such withholding or deduction had been required; and

(f)   other than as set out in clause 13.8, all Fees and other amounts paid or payable (including any Fees paid in advance) by the API Partner are non-refundable.

3.3   Arbor may restrict or suspend access to its API Service (including access to API Data) in the event of any non-payment by the API Partner of the Fees in accordance with clause 3.2, and Arbor shall have no obligation to provide any of the API Service whilst any invoice remains unpaid. If Arbor intends to restrict or suspend access to its API Service pursuant to this clause 3.3, Arbor shall notify the API Partner of its intention to do so before disabling such login credentials, passwords, API Key and/or access.

3.4   All amounts due under this Agreement shall be paid by the API Partner to Arbor in full without any set-off, counterclaim, deduction or withholding.

3.5   Any amounts unpaid by the API Partner shall accrue interest on a daily basis until received in full by Arbor (whether payment happens before or after any court judgment), at (i) the rate of a rate of 8% above the base rate of the Bank of England per annum or (ii) the maximum amount permitted by applicable law, whichever is higher.

3.6   [Removed]

3.7   Arbor reserves the right to amend its Fees as follows:

(a)   API Partner's usage of API Service has increased during the Agreement such that usage has gone up to the next API Service Tier and Arbor is able to provide supporting evidence of such increase using the API Request information that Arbor has. In such case, Arbor shall increase the Fees as set out in Schedule 2 as may be updated by Arbor from time to time;

(b)   Arbor may vary the Fees associated with each API Service Tier annually by an amount equal to the Retail Price Index in the preceding twelve (12) month period or 4%, whichever is greater and shall notify the API Partners 30 days prior to the new Fees taking effect for each calendar year;

(c)   to take account of any increase in the value or costs of the API Service in its provision or delivery by Arbor (including any increase in the costs or charges of any third party supplier or licensor to Arbor); or

(d)   to pass on any increase in data centre and/or power charges imposed by any third party supplier to Arbor; or

(e)   to include any additional Support Services requested by API Partner from time to time.

3.8   Changes to Fees made pursuant to clause 3.7 shall be notified and invoiced as follows:

(a)   For changes made pursuant to clause 3.7(a), Arbor may at its discretion either invoice the API Partner:

(i) at the relevant time for the additional Fees associated with the new API Service Tier that the API Partner has now moved up to which will be pro rata for the remaining number of months up to 31 August in each calendar year; or

(ii) Include the additional Fees in the annual invoice to the API Partner pursuant to clause 3.2(a);

(b)   For changes made pursuant to clauses 3.7(b) to 3.7(d) inclusive, Arbor shall notify the API Partner by either posting the changes within the API portal or by other means of communication and such changes shall be deemed to be incorporated into this Agreement and be legally binding on the parties with effect from thirty (30) days after the date of such communication to the API Partner. Arbor will include the increased Fees in the annual invoice to the API Partner as set out in clause 3.2(a);

(c)   For changes made pursuant to clause 3.7(e), Arbor shall invoice the API Partner in the following month after the occurrence of the event in question.

3.9   In the event that the API Partner does not accept any such Fee increase hereunder and wishes to terminate the Agreement, it may do so by serving notice prior to the expiry of either the Initial Term or Renewal Term as the case may be to terminate the Agreement in accordance with clause 13.2.

3.10   To the best of Arbor's knowledge, the API Request information provided to the API Partner is materially true and complete at the time of the API Partner's usage.

4.   Arbor responsibilities

4.1   Arbor warrants that:

(a)   it has the right to enter into this Agreement, and to grant to the API Partner a Licence to use the API as set out in this Agreement;

(b)   it shall provide all API Services as described in this Agreement in a professional and skilled manner consistent with generally accepted industry practices; and

(c)   the API and API Services will comply with the industry standard cybersecurity requirements.

4.2   Arbor will use reasonable endeavours to ensure availability of the API and API Service during the term of the Agreement but will be subject to availability of services offered by a third party that complement the System, including third party integrations, which could have an impact on the System's availability and are outside of Arbor's control. Arbor shall not have any liability to the API Partner under the Agreement for any delays, delivery failures, errors or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet resulting from circumstances or causes beyond its reasonable control, and the API Partner acknowledges that the API and API Service may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

4.3   Other than as set out in clause 4.1, no warranty is given that the API Service (in whole or in part) are free from defects or are bug or error-free or that access to them via an API will be uninterrupted, and the API Partner acknowledges and agrees that the API Service is provided "as is". All other warranties, representations, conditions and other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement.

4.4   Arbor will maintain a public status page for its customers and API Partners to see current availability and any incident logs at https://status.arbor-education.com/.

4.5   Arbor shall provide the Support Services for the Fees as described in Schedule 2.

4.6   This Agreement shall not prevent Arbor from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

5.   API Partner responsibilities

5.1   The API Partner warrants that it has the full power, authority and capacity to enter into this Agreement and that any individual signing the Agreement on the API Partner's behalf has been duly appointed by the API Partner and given the requisite power and authority to bind the API Partner.

5.2   The API Partner must register for a Developer Account via the Arbor Developer Portal to use and access the Arbor API.

5.3   The API Partner shall:

(a) without affecting its other obligations under this Agreement, comply with all applicable laws and regulations with respect to its activities under this Agreement;

(b) carry out all of its responsibilities set out in this Agreement in a timely and efficient manner and to promptly provide Arbor with any information that it may reasonably request from the API Partner in relation to this Agreement. In the event of any delays in the API Partner's provision of such assistance and/or information, Arbor will use reasonable endeavours to mitigate the impact of such delays, and may take any such actions as reasonably required or adjust any agreed timetable or delivery schedule as reasonably necessary;

(c) keep a complete and accurate record of:
   (i)   its Authorised Users and Institutions;
   (ii) its development of the API Partner Platform; and
   (iii) its use of the API and API Data in terms of the amount of API Requests made to the relevant API types within the scope of this Agreement,

   and produce such records to Arbor promptly upon Arbor's written request from time to time;

(d) acknowledge that Institutions are not permitted to use the API for the purpose of developing any product or software which substantially replicates the functionality of any part of the System, or which competes with any of Arbor services or products. API Partner shall notify Arbor as soon as it becomes aware of any use of the API or API Data that is contrary to this or not consistent with the Purpose or the terms of this Agreement and the API Partner shall liaise with the relevant Authorised User and/or Institution to facilitate the remedying of such situation without any delay;

(e) ensure that a Competitor cannot interface with the API or be appointed as an Authorised User and that API Data is not transferred or made available to a Competitor for any reason. API Partner shall notify Arbor as soon as it becomes aware of any use of the API or API Data that is contrary to this or not consistent with the Purpose or the terms of this Agreement and the API Partner shall liaise with the relevant Authorised User and/or Institution to facilitate the remedying of such situation without any delay;

(f) ensure that its integration and usage of the API and System is in accordance with the instructions of the Institutions and not contrary to the terms of their agreement with Arbor for use of and access to the System; and

(g) comply with the Terms of Use and any API fair usage limits and/or API Request restrictions set out at Schedule 3 as may be varied by Arbor from time to time and/or otherwise as notified to the API Partner by Arbor from time to time, and the API Partner shall procure that Authorised Users comply with the same.

5.4   The API Partner shall:

(a) obtain and shall maintain all necessary licences, consents and permissions necessary for it to receive Institution Data under the Agreement;

(b)   be solely responsible for determining the fitness of the API Service for its purposes and requirements, including compliance with any laws or regulatory requirements applicable to, or requirements of, the Institution and its business; and

(c)   procure and maintain any and all systems, software, hardware, networks and other components required from time to time in order to access, use and obtain the benefit of the API Services (including its network connections and telecommunications links from its systems to the API) and be solely responsible for any and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to them.

5.5   Arbor shall not have any liability to the API Partner under the Agreement if Arbor breaches the Agreement and/or is prevented or delayed in providing the API Services or performing its other obligations under the Agreement as a result of any breach of this clause 5 by the API Partner.

5.6   Subject to clause 4.1 the API Partner is responsible and liable for all uses of the API resulting from access provided to the API Partner, directly or indirectly, whether such access or use is permitted by or in breach of this Agreement. Without limiting the generality of the foregoing, the API Partner is responsible for all acts and omissions of its Authorised Users in connection with the API Partner Platform and their use of the API and API Data. Any act or omission by any Authorised User that would constitute a breach of this Agreement will be deemed to be a breach of this Agreement by the API Partner. The API Partner shall allow API Partner Apps access to the API and API Data at its own risk and shall ensure that all use of such API Partner Apps are subject to provisions concerning confidentiality, security and data protection no less onerous than those set out in this Agreement.

5.7   The API Partner shall monitor the use of the API in respect of it and its Authorised Users' usage of the API under this Agreement and shall promptly notify Arbor of:

(a)   any technical issues affecting any Authorised Users;

(b)   any breach of this Agreement or the Terms of Use by an Authorised User; or

(c)   any breaches of applicable law by an Authorised Users' usage of the Arbor API,

and promptly restrict any offending Authorised Users from further use.

6.   Releases

6.1   Releases shall be notified to the API Partner by subscription to the Arbor Change Log https://support.arbor-education.com/hc/en-us/articles/6790058820253-Arbor-Change-Log.

6.2   The API Partner is required, at all times, to use the latest Release of the API and make any changes to the API Partner Platform that is required for integration as a result of any Release at the API Partner's sole cost and expense as soon as reasonably practicable after receiving notice of a new Release.

7.   Feedback

7.1   The API Partner may, in its discretion, provide Feedback to Arbor, but Arbor shall not be obliged to take any action in response to the Feedback.

7.2 Feedback, even if marked confidential, will not create any confidentiality obligations on Arbor unless Arbor has otherwise agreed in writing, signed by an authorised signatory of Arbor.

7.3 Arbor will be free to use, disclose, reproduce, distribute, implement in the System or API and otherwise commercialise all Feedback provided by the API Partner without obligation or restriction of any kind, and the API Partner hereby waives all rights to be compensated or seek compensation for the Feedback.

8. Audit

8.1 Arbor and/or its representative, may physically or remotely monitor and audit the API Partner's and its Authorised Users' use of the API and the API Data to ensure the API Partner is complying with the terms of this Agreement provided any physical audit shall take place on reasonable advance notice and at reasonable times. Such an audit may include an audit of the Usage Data to verify the name and password of each Authorised User.

8.2 If the audit referred to in clause 8.1 reveals that the API or API Data has been used or accessed other than in accordance with this Agreement, then Arbor has a right to demand that the API Partner shall promptly disable such access and use, and Arbor shall be entitled to revoke any existing passwords, or not issue any new passwords, to any Authorised User implicated in the unauthorised use or access.

8.3 The API Partner shall keep complete and accurate records to demonstrate its compliance with this Agreement, and the fulfilment of its obligations under it, including those matters set out at clause 5.4(c) and shall make such records available for inspection by Arbor, or Arbor's representative, as part of the audit referred to in clause 8.1. Arbor and/or its representative may take copies of such records to the extent necessary to verify that the API Partner is in compliance with the terms of this Agreement.

9. Confidentiality and publicity

9.1 Each party shall, during the term of this Agreement and thereafter, keep confidential, and shall not use for its own purposes (other than the implementation of this Agreement) nor without the prior written consent of the other, disclose to any third party (except its professional advisers or as may be required by any law or any legal or regulatory authority) any Confidential Information which relates to the other party or any of its Affiliates. A party's Confidential Information shall not include information that:

(a) is or becomes publicly known other than through any act or omission of the receiving party;

(b) was in the other party's lawful possession before the disclosure;

(c) is lawfully disclosed to the receiving party from a third party without restriction on disclosure; or

(d) is independently developed by the receiving party, which independent development can be shown by written evidence.

9.2 Arbor shall be entitled to reference the API Partner as a customer in Arbor's general marketing literature, including on Arbor's website and other online platforms. The reference may include a reference to the API Partner's corporate name and to any of its trade names and

trademarks. Arbor shall ensure its use of the API Partner's corporate name, trade names and trademarks comply with any reasonable brand guidelines provided to Arbor from time to time.

9.3   Provided that the API Partner shall be entitled during the Term of this Agreement to reference Arbor as a partner in the API Partner's general marketing literature, including on the API Partner's website and other online platforms, subject to compliance with Arbor's brand guidelines as provided to the API Partner from time to time. The reference may include a reference to Arbor's corporate name and to any of its trade names and trademarks. Arbor reserves the right to request, without cause, for the API Partner to remove Arbor's name or logo from any documentation. Any goodwill or other rights arising pursuant to the API Partner's use of the Arbor Marks shall vest in Arbor pursuant to clause 12.1.

9.4   Save as provided for in clause 9.2 and 9.3, no party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

10.   Data protection

10.1   The parties do not consider that either of them acts as a processor or subprocessor on behalf of the other in respect of the Institution Data, but rather as a direct processor appointed by the Institution.

10.2   Both parties shall, and the API Partner shall ensure that any Authorised Users shall, comply with all applicable requirements of the Data Protection Legislation in connection with the performance of this Agreement. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

10.3   Both parties shall perform their obligations under this Agreement in such a way as to ensure that it does not cause the other party to breach any of its applicable obligations under the Data Protection Legislation.

10.4   The API Partner acknowledges that the Institutions shall own and control the Institution Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Institution Data.

10.5   The parties are each individually appointed by Institutions to provide services and/or software applications to the Institutions. The parties acknowledge and agree that each of them acts as a processor, in respect of Institution Data processed by them in order to provide services and/or software applications to the relevant Institution.

10.6   The parties acknowledge and agree that where Institution Data is transferred between them, the transfer takes place on the instruction of the relevant Institution, and pursuant to individual agreements in place between each of the parties and the relevant Institution.

10.7   In accordance with the data handling principle of 'data minimisation', the API Partner shall limit requests to access and collection of Institution Data to only data which are directly relevant and necessary for the Purpose and pursuant to its agreement in place with the Institution, and agrees that it shall keep such requests for Institution Data under review to ensure that it is not requesting any personal data beyond that which is adequate, relevant and necessary to achieve the Purpose.

10.8 The parties shall each:

    (a)   provide reasonable assistance and co-operation to the other in respect of the transfer from one party to the other of Institution Data, for the purposes of ensuring that the transfer of Institution Data is lawful; and

    (b)   ensure that persons who have access to and/or process the Institution Data are obliged to keep the Institution Data confidential.

10.9 The parties agree to negotiate, in good faith, any further documents or processes requested by one party for the purpose of one or both parties ensuring compliance with Data Protection Legislation in respect of the Institution Data transferred between them.

10.10 Either party may only collect and process Usage Data for the purposes of developing and improving the API or the System or for benchmarking purposes (the "**Additional Purpose**").

10.11 The parties acknowledge that:

    (a)   the Usage Data is processed by Arbor as an independent controller for the purposes of the Data Protection Legislation.

    (b)   the Usage Data is processed by the API Partner as an independent controller for the purposes of the Data Protection Legislation.

10.12 To the extent a party processes Usage Data, the party shall ensure:

    (a)   Usage data is aggregated before and at all times during its use for the Additional Purpose;

    (b)   at all times it complies with the Data Protection Legislation, including ensuring a lawful basis to aggregate and process Usage Data for the Additional Purpose; and

    (c)   it has obtained all necessary consents and put notices in place to enable it to process Usage Data for the Additional Purpose.

10.13 All Usage Data held by either party shall be deleted promptly after termination or expiration of this Agreement.

11. Limits of liability

11.1 Except as expressly and specifically provided in this Agreement the API Partner assumes sole responsibility for its use of the API and the API Data by the API Partner and Authorised Users, and for conclusions drawn from such use. Arbor shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Arbor by the API Partner in connection with the API, or any actions taken by Arbor at the API Partner's direction.

11.2 The exclusions in clause 11 shall apply to the fullest extent permissible at law, but neither party excludes liability for:

    (a)   the API Partner's obligation to pay the Fees as they become due;

(b)   death or personal injury caused by that party's negligence, or the negligence of its officers, employees, contractors or agents;

(c)   fraud or fraudulent misrepresentation; or

(d)   any other liability which may not be excluded by law.

11.3   Subject to clauses 11.1 and 11.2, neither party shall be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for:

(a)   any loss of profits or revenue (except in connection with the Fees);

(b)   loss of anticipated savings;

(c)   loss of contract, business or business opportunity;

(d)   depletion of goodwill; or

(e)   any special, indirect or consequential loss,

in each case arising (directly or indirectly) out of or in connection with the Agreement and whether or not reasonably foreseeable, reasonably contemplatable, actually foreseen or actually contemplated by a party at the Commencement Date.

11.4   Subject to clauses 11.1, 11.2 and 11.3, the total aggregate liability of Arbor, whether in contract, tort (including negligence), misrepresentation, restitution or otherwise shall in no circumstances exceed a sum equal to the total Fees paid during the twelve (12) months preceding the date on which the claim arose, less all amounts paid and all amounts liable to be paid by Arbor in satisfaction of any liability accrued against this liability cap.

12.   Intellectual property rights

12.1   The API Partner acknowledges and agrees that Arbor and/or its licensors own all rights (including Intellectual Property Rights), title and interest in or relating to:

(a)   the System, the API, API Documentation and/or the API Service (or part of them) whether or not existing before or after the Commencement Date or developed independently of the Agreement; and

(b)   any and all Releases, adaptations, add-ons, modifications and/or enhancements to the System, the API, API Documentation or the API Service (or part of them) and/or any of their use and/or receipt and all copies of them but excluding any API Partner IP,

(together, "**Arbor IP**");

12.2   Arbor acknowledges that the API Partner and/or its licensors own all rights (including Intellectual Property Rights), title and interest in or relating to :

(a)   the API Partner Platform whether or not existing before or after the Commencement Date or developed independently of the Agreement;

(b) any application programming interface that the API Partner has independently developed and is necessary to integrate the API PArtner Platform with the API and/or the API Services; and

(c) any data derived by the API Partner from usage of the API Partner Platform, other than Derived Data,

(together, "**API Partner IP**")

12.3 To the extent that, at any time, by operation of law any Arbor IP vests in the API Partner, the API Partner hereby irrevocably assigns to Arbor (by way of present and future assignment) with full title guarantee all Arbor IP (or, if applicable, shall procure such an assignment to Arbor).

12.4 Each party shall not act in a way which is inconsistent with or undermines the other's or their licensors' (as the case may be) right of ownership or diminishes each party's IP as the case may be or calls the same into question.

12.5 Except to the extent expressly specified otherwise in the Agreement, the Agreement does not grant the Institution or any Authorised User any right, title or interest in, to or arising in connection with any Arbor IP or any licences in respect of any Arbor IP.

12.6 All rights, title and interest in any Derived Data and Feedback shall vest in Arbor on creation. The API Partner hereby assigns to Arbor absolutely with full title guarantee (including by way of present assignment of future Intellectual Property Rights) all right, title and interest in and to the Derived Data and Feedback.

12.7 The API Partner hereby waives (and shall ensure that all Authorised Users and any third parties have waived) any moral rights arising in (i) any Arbor IP that vests in the API Partner, (ii) Feedback and (iii) Derived Data, pursuant to Chapter IV of the Copyright, Designs and Patents Act 1988, or any broadly equivalent rights in any other part of the world.

12.8 The API Partner shall ensure that Derived Data shall not be used by any third parties whether intentionally or otherwise without the prior written permission of Arbor.

12.9 All use by the API Partner of the Arbor Marks, if any, will comply with any usage guidelines that Arbor may specify. The API Partner acknowledges that the API Partner's use of Arbor Marks in connection with this Agreement will not create any right, title, or interest in or to Arbor Marks in favour of the API Partner and all goodwill associated with the use of Arbor Marks will inure to the benefit of Arbor.

12.10 If the API Partner's use of the API results in, or is in Arbor's opinion likely to become subject to, any claim of infringement or misappropriation, then Arbor may, at its sole option and expense, either: (a) procure the right for the API Partner to continue using the API, or (b) replace or modify the API so that it becomes non-infringing or, (c) if neither of such remedies can be accomplished on commercially reasonable terms, then Arbor may terminate the API Partner's right to use the affected API on notice to the API Partner and if it does it shall refund to the API Partner any unused prepaid Fees for the API.

12.11 Subject to clause 12.10, Arbor undertakes to defend the API Partner from and against any claim or action that the possession, use, development, modification or maintenance of the API (or any part thereof) infringes the Intellectual Property Rights of a third party (a "**Claim**") and shall indemnify and hold harmless the API Partner from and against any reasonable losses,

damages, costs (including reasonable legal fees) and expenses finally awarded against the API Partner or agreed in a settlement by Arbor as a result of, or in connection with, any such Claim. For the avoidance of doubt this clause 12.11 shall not apply where the Claim in question is attributable to possession or use of the API, API Data or Arbor Marks (or any part thereof) by the API Partner other than in accordance with the terms of this Agreement, use of the API or API Data in combination with any hardware or software not supplied or specified by Arbor if the infringement would have been avoided by the use of the API or API Data not so combined, or use of a non-current release of the API or API Data.

12.12   If any third party makes a Claim, or notifies an intention to make a Claim against the API Partner, Arbor's obligations under clause 12.11 are conditional on the API Partner:

(a)   as soon as reasonably practicable, giving written notice of the Claim to Arbor, specifying the nature of the Claim in reasonable detail;

(b)   providing reasonable co-operation to Arbor in the defence or settlement of the Claim including without limitation giving Arbor and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the API Partner, so as to enable Arbor and its professional advisers to examine them and to take copies (at Arbor's expense) for the purpose of assessing the Claim;

(c)   not making any admission of fault or liability, agreement or compromise in respect of the claim without Arbor's prior written consent; and

(d)   giving Arbor sole authority to defend or settle the Claim.

12.13   Clause 12.11 is the API Partner's sole and exclusive right and remedy and Arbor's entire obligation and liability for infringement of any third party Intellectual Property Rights, and for the avoidance of doubt is subject to clause 11.

13.   Duration and termination

13.1   Unless terminated earlier in accordance with the terms of this Agreement, this Agreement shall commence on the Commencement Date and continue for the Initial Term and shall, subject to clause 13.2, automatically extend for twelve (12) months ("**Renewal Term**") at the end of the Initial Term and at the end of each Renewal Term.

13.2   Either party may give written notice to the other party, not later than ninety (90) days (unless such shorter period of time is agreed in writing between the parties) to expire on or before the end of the Initial Term or the relevant Renewal Term, to terminate this Agreement at the end of such applicable period.

13.3   Without affecting any other right or remedy available to it, the API Partner or Arbor may terminate this Agreement or any part of the API Service with immediate effect by giving written notice if either party commits a material or persistent breach of the Agreement which is not capable of remedy or, if it is capable of remedy, the other party does not remedy such breach within thirty (30) days of receiving notice from the other requiring it to do so.

13.4   Each party may terminate this Agreement with immediate effect by giving written notice to the other party if that party:

   (a)   is unable to pay its debts as defined in section 123 Insolvency Act 1986;

   (b)   has steps taken for a receiver, administrator or manager to be appointed over the whole or a material part of its business or assets;

   (c)   is subject to an order being made, a resolution passed or other steps being taken for its winding-up (except for the purposes of a bona fide solvent reorganisation), bankruptcy or dissolution;

   (d)   proposes or enters into any composition or arrangement with its creditors generally or any class of them;

   (e)   ceases to carry on business or claim the benefit of any statutory moratorium; or

   (f)   if any event occurs, or court proceedings taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 13.4(a) to 13.4(e) (inclusive).

13.5   Arbor may terminate this Agreement with immediate effect by giving written notice to the API Partner if:

   (a)   Arbor has not received payment of an undisputed invoice within thirty (30) days of receiving notice from Arbor, requiring that the outstanding invoice be paid; or

   (b)   the API Partner commits any breach (whether material or not) of clause 2 (Licence), clause 5 (API Partner Responsibilities), clause 10 (Data Protection) or clause 12 (Intellectual Property Rights), which is not capable of remedy or if it is capable of

remedy, if it does not remedy such breach within twenty-one (21) days of receiving notice from Arbor requiring it to do so.

13.6 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

13.7 On termination for any reason:

(a) all rights granted to the API Partner under this Agreement shall cease;

(b) the API Partner shall cease all activities authorised by this Agreement;

(c) the API Partner shall immediately pay to Arbor any sums due to Arbor under this Agreement;

(d) the API Partner shall immediately delete or return to Arbor (at Arbor's option) API Data extracted from the Arbor API, schema documentation in its possession, custody or control, and shall certify to Arbor that it has done so.

13.8 On termination of this Agreement by the API Partner pursuant to clause 13.3, API Partner shall be entitled to a pro-rata refund of any Fees paid in advance. Such refund shall be provided by Arbor as a credit note against the relevant invoice.

13.9 Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.

14. Assignment and Sub-licensing

14.1 The API Partner shall not:

(a) sub-license or assign the benefit of this Agreement in whole or in part except as permitted under clause 2.1; and

(b) allow the API or API Data to become the subject of any charge, lien or encumbrance.

14.2 Arbor may at any time sub-license transfer or assign any or all of its rights and obligations under this Agreement, provided it gives prior written notice to the API Partner.

15. Notices

15.1 Notices under this Agreement shall be in writing and sent to the person and address in clause 15.2. They may be given and shall be deemed received:

(a) by first-class post, two (2) Business Days after posting;

(b) by courier or by hand, on delivery; and

(c) by e-mail, on being sent, provided that no notice of failed delivery is received by the sender.

15.2   Notices will be sent:

    (a)   to Arbor FAO The Legal Department, Hylo, 103-105 Bunhill Row, London EC1Y 8LZ; and

    (b)   to API Partner at the address provided in Schedule 2

16.   Waiver

16.1   No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy, unless such waiver is set out in writing and signed by the waiving party (or its authorised representative). No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

17.   Remedies

17.1   Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided under this Agreement or by law.

18.   Entire agreement

18.1   This Agreement contains the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

18.2   Each party acknowledges that it does not rely on, and shall have no remedy in respect of any statement, representation, assurance or warranty (whether of fact or law made innocently or negligently) that is not set out in this Agreement.

19.   Variation

19.1   Except as otherwise expressly permitted in this Agreement, no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives), and in respect of Arbor, must be signed in writing by a Director of Arbor Education Partners Limited.

20.   Severance

20.1   If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

21.   Third-party rights

21.1   A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

22.   No partnership or agency

22.1   Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or

authorise any party to make or enter into any commitments for or on behalf of any other party.

22.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

22.3 The API Partner represents, warrants, and undertakes that it has the requisite power and authority to enter into this Agreement, and that any individual signing the Agreement on the API Partner's behalf has been duly appointed by the API Partner and given the requisite power and authority to bind the API Partner and Arbor shall be entitled to rely on this clause as a condition of this Agreement.

23. No exclusivity

23.1 Each party acknowledges and agrees that the arrangement anticipated under this Agreement is not an exclusive arrangement. Each party shall have the right freely to perform itself, procure from a third party and/or enter into an arrangement in connection with any service, function, process or responsibility similar to, or the same as, any of the matters that are the subject of this Agreement and each party acknowledges that nothing in this Agreement shall affect either party's right to do so.

24. Force majeure

24.1 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control.

25. Governing law and jurisdiction

25.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

25.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Additional Purpose	Is as defined in clause 10.10.
Agreement	is as defined in clause 1.
Affiliate	includes, in relation to either party, each and any entity that controls, is controlled by, or is under common control with such party where "control" or "controlled by" means direct or indirect power to direct or cause the direction of the management and policies of a company or other business entity, whether through ownership of 50% or more of the voting interest, by contract, or otherwise.
API	the application programming interface made available by Arbor to the API Partner, to enable API Partner and its API Partner Apps to interface directly with the System and to allow access to the Institution Data held therein, as updated or amended by Releases, in each case, from time to time.
API Partner	the entity which accepts the terms of this Agreement in order to access and use the API.
API Partner Apps	means a third party app that connects with the API Partner's Platform and which will be able to receive API Data, subject always to the terms of this Agreement.
API Partner IP	is defined in clause 12.2.
API Partner Platform	any API Partner platform developed by, or on behalf of, the API Partner to interact with the API and to act as an interface to the API Partner Apps.
API Data	means all data published or made available through the API, along with any related metadata, and may include without limitation Institution Data and Derived Data as applicable.
API Documentation	means the online service guides or other documentation which we may make available to the API Partner from time to time, which includes the specification of the API and any relevant instructions as to how to use the API.

API Key	means the code used to identify and authenticate any Authorised User or API Partner App in respect of the API.
API Request	each request from an API Partner App via the API to interact with the relevant System.
API Service	means all services provided by Arbor to the API Partner in accordance with the terms of this Agreement including (i) the provision of the API and related activities which, amongst other things, extracts and standardises the Institution Data for the Institutions from the System to enable the API Partner to access such data via the API; (ii) access to Derived Data as may be applicable; and (iii) Support Services and, to the extent relevant, any related support services provided by Arbor to the API Partner from time to time in accordance with the terms of this Agreement.
API Service Tier	means the usage limits and Fees for the API Service associated with a tier, as set out in Schedule 2 or otherwise may be varied by Arbor from time to time and notified to the API Partner pursuant to clause 3.8.
Arbor	Arbor Education Partners Limited, company number 07790198.
Arbor Marks	means proprietary trade marks, trade names, branding, or logos belonging to Arbor and/or its Affiliates which are made available for use in connection with this Agreement.
Arbor IP	is defined in clause 12.1.
Authorised User	means any persons authorised by the API Partner to access the API and API Data in accordance with this Agreement and shall include without limitation: - end users of the API Partner Platform which are usually the staff of or other personnel related to, the Institutions; and - all API Partner Apps.
Commencement Date	means the date when the API Service pursuant to this Agreement is made available to the API Partner.
Competitor	means an entity which in Arbor's reasonable

	opinion, is engaged in the business of providing products or services substantially equivalent or similar to any material component of the System or API Service, which shall include Bromcom Computers PLC and Education Software Solutions Ltd and their Affiliates.
Confidential Information	means any and all information that: (i) is proprietary and/or confidential in nature and is either clearly labelled as such or would, by its nature, reasonably be considered to be confidential; and/or (ii) in the case of the Arbor, concerns the API Service, technology, know-how, methodology of supply, business, development or finances of Arbor (including the System, the API Service and the Derived Data).
Data Protection Legislation	means all legislation relating to data protection, the processing of personal data, privacy and/or electronic communications in force and as amended, extended or re-enacted from time to time in the UK including the Data Protection Act 2018 (DPA 2018); the UK GDPR (as defined in the DPA 2018) and Privacy and Electronic Communications Regulations 2003 (or any replacement of the same). The terms "personal data", "processing", "controller", "processor", "supervisory authority" and "data subject" shall have the meanings set out in the UK GDPR and be construed accordingly.
Derived Data	means data derived by Arbor from Institutions' use of the System for benchmarking, analysis and/or other purposes.
Feedback	all current and future suggestions, comments or other feedback regarding the API or API Data provided by or on behalf of the API Partner.
Fees	means the Licence fee and other charges payable by the API Partner to Arbor pursuant to this Agreement.
Initial Term	means twenty (24) months from the Commencement Date, or such other duration as the parties may agree in writing in Schedule 2 or from time to time.

Institution(s)	means any institutions, or other relevant education bodies or organisations (including multiple academy trusts and local authorities) which: ● have the right to use the System pursuant to their agreement with Arbor; ● have engaged API Partner pursuant to a contract to provide services and/or software applications or related products to it; and ● wish to grant access to the API Partner to its Institution Data via the API.
Institution Data	means the data entered into and controlled by the System, excluding any Derived Data.
Intellectual Property Rights	means patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and accrued rights of action, the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.
Licence	has the meaning set out in clause 2.1.
Purpose	means to integrate the API Partner Platform and API Partner Apps to the System using the API to enable Institutions to make or put calls to the API to benefit from the wider datasets of API Data and the technologies of the API Partner.
Release	means a release of the API that corrects faults, adds functionality or otherwise amends or upgrades the API.
Renewal Term	has the meaning as defined in clause 13.1 and shall mean the renewal of the Agreement by a further twelve (12) months from the expiry

	of either the Initial Term or previous Renewal Term.
Support Services	means the additional support services provided by Arbor for the Fees as described in Schedule 2.
System	may include any of Arbor's software platforms and/or associated products/services that Institutions are licensed to use and as set out in Schedule 2.
Term	means the Initial Term and all subsequent Renewal Terms.
Terms of Use	has the meaning given to it in clause 1.1.
Territory	has the meaning given to it in Schedule 2.
Usage Data	means API Requests and any other data relating to the API Partner's and its Authorised Users' use of the API or System.
Working Day	Means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

1. Interpretation

1.1 Clause headings shall not affect the construction or interpretation of this Agreement and are for convenience only.

1.2 Unless expressly stated otherwise, or the context otherwise requires:

(a) words in the singular shall include the plural and words in the plural shall include the singular;

(b) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;

(c) a reference to one gender shall include a reference to the other genders and unless the context requires otherwise, words in the singular shall include the plural and vice versa;

(d) any obligation not to do an act or thing includes an obligation not to agree, allow, permit or acquiesce to that act or thing being done; and

(e) any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms and shall be construed as if they were immediately followed by the words "without limitation".

1.3   A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assignments.

1.4   References to clauses are to the clauses of this Agreement and references to schedules are schedules of this Agreement.