

Note: As a cloud-based platform provider, Scoir is unable to negotiate bespoke terms and conditions with individual customers. We created and have evolved these standard terms of service in consultation with our college and university customers to be consistent yet accommodating of varying state requirements and institutional needs. While we remain open to receiving suggestions that would improve our terms of service for all customers, we do not customize these terms of service for any individual customer.

## SCOIR, INC

### COLLEGE TERMS OF SERVICE

**Effective Date: February 27, 2024**

This College Terms of Service (“**Agreement**”) contains the legal terms and conditions of your access to and use of the Services (as defined herein) provided by Scoir, Inc., a Delaware corporation, (“**Scoir**”). The term “**Customer**” as used herein means the institution of higher education that utilizes or intends to utilize the Services. By your acceptance of this Agreement, either by your online digital indication of acceptance or by your execution of an Order Form (as defined herein) that references this Agreement, you acknowledge that you have read, understand, and agree to the terms of this Agreement and you represent that you have the authority to bind your institution to this Agreement.

**1. SCOPE.** The Services, as defined herein, provide various means by which Customer can attract and engage with prospective applicants. **The Services preclude, and technologically prevent, Customer from uploading, transmitting, or otherwise sharing Student Records or other Personally Identifiable Information with Scoir.** Additionally, Scoir will not upload, transmit, or otherwise share Student Records or Personally Identifiable Information with Customer when rendering the Services except to support a User’s application for enrollment pursuant to 34 CFR §99.31(a)(2).

**2. DEFINITIONS.** Capitalized terms defined herein shall have the meanings ascribed to them, including the following terms, which shall have the following meanings:

“**Affiliate**” means any entity which directly or indirectly controls, is controlled by, or is under common control with a party to this Agreement. For purposes of this definition, control means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“**Customer Information**” means such content, data, and other information created, collected, or compiled through use of the Services that is or which a person might reasonably deem to be proprietary to Customer. Customer Information includes, without limitation, data pertaining to Customer’s applicants and admitted and enrolled students. Customer Information excludes, without limitation, “Personally Identifiable Information,” “Public Information,” and “Student Records,” as those terms are defined herein.

“**Free Product**” means those Products, or any portion thereof, that Scoir makes available to Customer at no charge without the use of an Order Form.

“**Intellectual Property Rights**” means any patent, trademark, trade secret, service mark, copyright, moral right, right in design, know-how and any other intellectual or industrial property rights anywhere in the world whether or not registered.

“**Invitee**” means any User who is authorized by Customer to use the Services, or any portion thereof, for Customer’s benefit and for whom Customer has provisioned the Services. Invitees may include, without limitation, Customer’s or its Affiliate’s employees, representatives, consultants, contractors, and agents.

“**Order Form**” means an ordering document entered into between Customer and Scoir that identifies Customer and which specifies (i) the Products to which Customer is subscribing and which Scoir will provided to Customer pursuant to this Agreement, (ii) the Subscription Term, and (iii) the fees payable by Customer for the Services.

“**Personally Identifiable Information**” means information, either alone or combined with other linked or linkable information, that is reasonably capable of being used to distinguish or trace the identity of an individual to a reasonable certainty.

“**Product-Specific Terms**” means the additional terms and conditions that apply to Customer’s use of specific Products and which are set forth in **Schedule 1** hereto.

“**Products**” means Scoir’s web-based software applications, tools, features, and utilities set forth in **Schedule 1** hereto that are developed, operated, and maintained by Scoir, including hosting and other ancillary products and services.

“**Public Information**” means, with respect to Customer, information about Customer that is or was general available in the public domain and which Scoir may publish on the Website. Public Information includes, without limitation, information disclosed to U.S. Department of Education’s Integrated Postsecondary Education Data System, information disclosed to Common Data Set Initiative, and information published by Customer on its websites, brochures, and viewbooks.

“**Scoir Content**” means all information, data, text, messages, software, sound, music, video, photographs, graphics, images, and tags

incorporated into the Website by Scoir and accessible by all Users.

“**Services**” means the Products to which Customer has subscribed pursuant to one or more Order Forms, or which are made available to Customer as a Free Product, and which Scoir shall make available to Customer via the Website during the Subscription Term.

“**Student Records**” means all data and records that directly relate to a student or prospective student and that are maintained by an educational agency or institution, or a party acting for or on behalf of the agency or institution, including but not limited to grades, transcripts, standardized test scores, class lists, discipline files, progress reports, evaluations, and letters of recommendation.

“**Subscription Term**” means the period of time further defined in Section 7.1 during which this Agreement governs the relationship between Scoir and Customer with respect to the Services.

“**User**” means any person or entity who creates a user account on the Website. Users include, but are not limited to, Customer and Invitees.

“**User-Generated Content**” means materials or content inputted into the Website by a User and which is accessible by some or all Users through the Services.

“**Website**” means the online application services available at <https://app.scoir.com>, including any subdomain thereof, and all associated mobile applications.

### **3. PROVISION AND USE OF SERVICES**

3.1. Access to Services. During the Subscription Term, Scoir will provide Customer and its Invitees access to use the Services as described in this Agreement and all applicable Order Forms. Scoir reserves the right to provide some or all elements of the Services through third-party service providers. Scoir shall be responsible for the acts or omissions of any third-party service providers as if they were the acts or omissions of Scoir.

3.2. Additional Products. During the Subscription Term, Customer may add Products to the Services by executing one or more additional Order Form(s). Unless stated otherwise on an additional Order Form, this Agreement will apply to all Products and Services that Scoir provides Customer during the Subscription Term.

3.3. Customer Use. Subject to the terms and conditions of this Agreement, Scoir grants Customer the non-exclusive, non-transferrable, non-sublicensable, worldwide right to access and use, and to grant Invitees access to use, the Services for Customer’s own lawful and legitimate business or organizational purposes.

3.4. Use by Invitees. Customer acknowledges and agrees that it is solely responsible for (i) determining who is an Invitee; (ii) informing each Invitee that their use of the Services is subject to these Terms of Service; and (iii) controlling each Invitee’s level of access to relevant portions of the Services.

3.5. Account Ownership. Customer shall, at all times during the Subscription Term, designate and have designated: (i) one Invitee as an “account owner” authorized to serve as primary liaison to Scoir for account-related communications; and (ii) no less than one Invitee as “account administrator” authorized to create accounts for and manage permissions of other Invitees.

3.6. Access Control. Customer shall take reasonable precautions to require its Invitees to secure usernames, passwords, and any other means of gaining access to the Services. Without limiting the foregoing, Customer agrees to not require Invitees to disclose their passwords and will promptly revoke any Invitee’s access to the Services following the termination of such Invitee’s employment or engagement by Customer. Customer will promptly notify Scoir of any suspected unauthorized access to, or use of, the Services known to Customer.

3.7. Data Practices and Machine Learning. Scoir may monitor use of the Services by all Users and customers and use the information gathered in an aggregate and anonymized manner for machine learning and other purposes designed to improve the Services.

3.8. Accuracy of Information. Scoir may, but is not obligated to, monitor or review User-Generated Content and Public Information to ensure that it is not inappropriate, erroneous, defamatory, libelous, slanderous, obscene, or profane. If Scoir deems, at its sole discretion, any such User-Generated Content and Public Information inappropriate, Scoir may remove such User-Generated Content and Public Information from the Website, provided that Scoir promptly notifies Customer of any removal of its Public Information prior to the removal and provide Customer an opportunity to modify such content so that it is deemed appropriate. Notwithstanding the foregoing, Scoir will not be liable for the accuracy or appropriateness of any User-Generated Content, Public Information, and Student Records. In addition, certain portions of the Services may enable Users to post reviews, make recommendations, or provide ratings. No review, recommendation, or rating provided within the Services shall be deemed to be either an endorsement by Scoir or an accurate statement of quality, competency, experience, or qualification pertaining to the subject matter thereof.

3.9. Restrictions of Use. When using the Services, Customer shall not knowingly (and shall use commercially reasonable efforts to prohibit any Invitee to):

- (a) attempt to gain unauthorized access to any Personally Identifiable Information of a User;
- (b) attempt to undermine the security or integrity of the Website and the Services, and, where the Services are hosted by a third

party, that third party's computing systems and networks;

(c) use, or misuse, the Services in any way which would reasonably be expected to impair or degrade the functionality of the Services or Website, or other systems used to deliver the Services, or impair or degrade the ability of any other User to use the Services or Website;

(d) attempt to gain unauthorized access to any portions of the Services other than those expressly provisioned pursuant to a valid Order Form;

(e) transmit via, or input into, the Website, anything that directly or indirectly (i) knowingly contains any viruses, worms or other malicious computer programming codes intended or likely to damage Scoir's or any User's system or data; (ii) may reasonably be deemed to be offensive to a preponderance of Users; (iii) is deceptive, defamatory, obscene, pornographic, or unlawful; or (iv) knowingly infringes or misappropriates any Intellectual Property Rights of a third party;

(f) sublicense, lease, sell, resell, rent, loan, distribute, transfer or otherwise allow the use of the Services for the benefit of any unauthorized third party;

(g) access or use the Services to build a similar or competitive product or service; or

(h) attempt to modify, copy, adapt, create derivative works of, reproduce, disassemble, decompile or reverse engineer the Services or any computer programs used to deliver the Services or to operate the Website.

#### **4. SCOIR'S RESPONSIBILITIES**

4.1. Accessibility. Scoir shall use reasonable efforts to ensure that the Services maintain, at all times during the Subscription Term, compliance with all applicable federal and state laws and regulations providing for equally effective and substantially equivalent ease of use for persons with disabilities, including but not limited to those set forth in the Americans with Disabilities Act (ADA). The Web Content Accessibility Guidelines (WCAG) 2.1 Level AA shall be used to evaluate conformance of the Services with this Section 4.1.

4.2. Service Reliability. Subject to the terms and conditions of this Agreement, Scoir will use commercially reasonable efforts to make the Services generally available for use by Customer and its Invitees at any time, excluding planned downtime and any unavailability caused by circumstances beyond our reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Scoir's own employees), Internet service provider failures or delays, denial of service attacks, or any other force majeure event or factors. Scoir acknowledges that Customer may consider a failure to reasonably meet its service reliability commitments to be a material breach of this Agreement. Accordingly, and notwithstanding anything to the contrary in this Agreement, Customer's sole remedy for Scoir's failure to reasonably meet its service reliability commitments shall be to terminate this Agreement for cause pursuant to Section 7.2.

4.3. Confidentiality of Customer Information. Scoir shall take all reasonable measures to protect the secrecy of, and avoid disclosure or misuse of, Customer Information, which measures shall entail no less than the same degree of care that Scoir uses to protect its own confidential information of a similar nature. Scoir shall use Customer Information solely for the purpose of providing the Services and, in so doing, limit access to Customer Information to its employees and contractors who have a need to know and who are bound by written confidentiality obligations. Scoir shall promptly notify Customer in writing of any misuse or misappropriation of Customer Information that comes to its attention. Notwithstanding the foregoing, Scoir will not be in violation of this Section 4.3 with regard to the disclosure of Customer Information in response to an order or subpoena of a court, agency, or tribunal of competent jurisdiction, or pursuant to any applicable law or regulation, provided that Scoir provides Customer with prior written notice of such compelled disclosure to the extent reasonably practicable and legally permissible.

4.4. Support Services. During the Subscription Term, Scoir will provide Customer and its Invitees with "help desk support" of the Products via email to [support@scoir.com](mailto:support@scoir.com) during customary business hours and via access to Scoir's online self-service support portal available at <https://scoir.helpdocs.io>. Technical issues resulting from Customer's integration of some or all of the Products with third-party products may be outside the scope of "help desk support" services. Scoir will use reasonable practices to respond to email support queries within one business day. Scoir reserves the right, in its sole discretion, to limit or deny access to support services to any Invitee who acts or who has acted in a way that might reasonably be determined to be harassing or abusive of Scoir's support representatives.

Additionally, Scoir may assist Customer in its adoption and usage of the Services by providing Customer and its Invitees one or more of the following enhanced support service levels, which shall be indicated on an Order Form.

(a) Guided Subscription. Scoir will provide Customer and its designated Invitees with periodic (quarterly, or as otherwise agreed between Scoir and Customer) analysis of its utilization of the Services, observed best practices, and guidance on feature optimization and usage tactics. For the avoidance of doubt, the "guided subscription" support services exclude the creation by Scoir of content for Customer's use or benefit within the Services.

(b) Managed Subscription. Scoir will liaise with Customer to identify its enrollment objectives, admissions priorities, and marketing practices and then assist Customer in devising, executing, and periodically assessing the performance of a Customer-approved strategy that utilizes the Services to help achieve those identified objectives.

4.5. Data Privacy and Data Security. Scoir shall use information it creates, receives, processes, stores, or transmits in providing the Services

solely for the purpose of fulfilling its duties under this Agreement and shall adhere to applicable federal and state laws relating to data privacy and data security relating thereto. Without limitation to the foregoing, Scoir shall maintain one or more written policies describing its administrative, physical, and technical safeguards to protect Student Records and Customer Information from unauthorized access, disclosure, acquisition, destruction, use, or modification and to ensure the security and continuity of its Services. Such written policies shall, among other things, provide that Scoir shall:

- (a) host the Services data in SOC 2 compliant environments located within the continental United States of America;
- (b) implement cybersecurity protection measures based on the nationally recognized standards set forth in the National Institute of Standards and Technology's Cybersecurity Framework;
- (c) establish and regularly test an incident response protocol to be followed in the event of an identified or suspected breach of Student Records or Customer Information; and
- (d) establish and regularly test a data recovery protocol to be followed in the event of a disruption to the data centers that host the Services.

4.6. **Insurance.** Without limiting Scoir's liability hereunder, Scoir shall, at its sole cost and expense, procure from a national insurance company having an A.M. Best Company financial strength rating of at least "A" and maintain throughout the Subscription Term the following or equivalent insurance policies with limits no less than:

- (a) Commercial general liability of \$1,000,000 per occurrence and \$2,000,000 aggregate;
- (b) Product liability of \$2,000,000 per occurrence and \$2,000,000 aggregate;
- (c) Technology E&O liability of \$1,000,000 per occurrence and \$1,000,000 aggregate; and
- (d) Cyber liability of \$1,000,000 per occurrence and \$1,000,000 aggregate.

Scoir further agrees to provide, upon request, Customer with copies of current and valid certificates of insurance evidencing Scoir's compliance with the above insurance requirements.

## 5. FEES AND PAYMENTS

5.1. **Subscription Fees.** In consideration for the access rights granted to Customer and the Services made available by Scoir under this Agreement, Customer will pay to Scoir the fees set forth in the Order Form(s) in accordance with the fee schedule(s) specified therein. Unless otherwise provided for in an Order Form, all undisputed fees are due and payable within thirty (30) days of the Customer's receipt date of the invoice. All fees paid are non-refundable except as otherwise provided for herein. Customer agrees to provide Scoir with complete, accurate, and current billing and contact information at all times. Customer and Scoir agree to work together in good faith to resolve any disputed fees in a timely manner.

5.2. **Non-Payment.** If Customer fails to pay undisputed amounts due under this Section 5, then Scoir's sole recourse is to suspend Services pursuant to Section 6.2 and to terminate this Agreement pursuant to Section 7.2. Notwithstanding the foregoing, if any Customer payment is dishonored or returned because it cannot be processed by a bank, Scoir reserves the right to charge Customer any bank fees or charges for return items that Scoir incurs.

5.3. **Taxes.** Scoir may charge, and Customer agrees to pay, any applicable sales, use, or value-added taxes applicable to the provision of the Services. Customer shall have no liability for any taxes based upon Scoir's gross revenues or net income.

(a) If Customer is a tax-exempt organization, Customer agrees to provide Scoir with a valid and accurate certificate of sales tax exemption within seven (7) days of submitting an Order Form.

(b) Scoir is solely responsible for timely remittance to state and/or local authorities of any sales and use taxes it collects from Customer related to the sale of goods and services under this Agreement.

5.4. **Payment by Credit Card.** If paying by credit card, Customer authorizes Scoir to charge its credit card or bank account for all fees payable. Customer further authorizes Scoir to use a third party to process payments for fees payable, and consent to the disclosure of payment information to such third party as required to process such payments.

5.5. **Recordkeeping.** Scoir shall maintain, in accordance with U.S. Generally Accepted Accounting Principles, records for all fees charged to Customer hereunder for a period of five (5) years following termination of this Agreement; and, during such five-year term, Customer and/or its designee may audit Scoir's records related to fees charged to Customer hereunder.

## 6. SERVICE SUSPENSIONS

6.1. **Suspension for Prohibited Acts.** Scoir may suspend any User's access to any or all Services without notice for use of the Services in a manner that Scoir deems, at its reasonable and sole discretion, to: (i) violate applicable local, state, or federal laws or regulations; or (ii) violate any restrictions of use contained in Section 3.9. If Scoir suspends an Invitee's access pursuant to this Section 6.1, Scoir shall, as soon as commercially practical, provide Customer prior written notice describing the violation and, for violations capable of being resolved, Scoir shall provide Customer a thirty-day period to cure such violation and restore said Invitee's access promptly after the cause of the violation has been

resolved.

6.2. Suspension for Non-Payment. In the event that any undisputed fees due and payable hereunder remain unpaid for a period of thirty (30) days or more after the due date specified on the corresponding invoice, Scoir may suspend Customer's (and its Invitees') access to any or all of the Services until such amounts are paid in full. Scoir will notify Customer at least fourteen (14) days before suspension.

6.3. Suspension for Present Harm. If Customer's website or use of the Service is (i) being subjected to denial-of-service attacks or other disruptive activity; (ii) being used to engage in denial-of-service attacks or other disruptive activity; (iii) creating a security vulnerability for the Services or others; or (iv) causing harm to Scoir or any Users, then Scoir may, with written electronic and telephonic notice to Customer, suspend all or any access to the Service. Scoir will try to limit the suspension to the affected portion of the Services and promptly resolve the issues causing the suspension.

## **7. SUBSCRIPTION TERM; TERMINATION**

7.1. Subscription Term. This Agreement shall commence on the date of Customer's first acceptance of an Order Form and shall continue, unless lawfully terminated sooner as permitted herein, until the latest subscription period end date set forth in an Order Form. Notwithstanding the foregoing, the Subscription Term for Free Products shall begin on the date Customer first utilizes the Services related to such Free Products and automatically renew on August 1st of each year.

7.2. Termination for Cause. Either party may terminate this Agreement for cause if the other party materially breaches any provision of this Agreement and such breach, if capable of being cured, is not cured within thirty (30) days of receiving written notice of such breach from the other party.

7.3. Post-Termination Rights. Upon any termination of this Agreement, all licenses, rights, and permissions granted to Customer hereunder will immediately terminate. If this Agreement is terminated by Customer pursuant to Section 7.2, Scoir will promptly refund Customer any prepaid fees relating to Customer's access and use of the Services after the effective date of termination. Within thirty (30) days after the effective date of termination of this Agreement, Scoir shall delete and permanently erase from the Website all Customer Information that it is not legally required to maintain and, upon written request from Customer, provide Customer with written certification of such deletion. Except as provided in Section 9 of this Agreement, and to the extent permitted by law, Scoir shall not be liable for any costs, losses, damages, or liabilities arising out of or related to a lawful termination of this Agreement.

7.4. Surviving Provisions. Section 5 (Fees and Payments), Section 7.3 (Post-Termination Rights), Section 7.4 (Surviving Provisions), Section 8 (Proprietary Rights), Section 9 (Indemnification), Section 10 (Disclaimers; Limitation of Liability) and Sections 12.2, 12.3, 12.8, 12.9, 12.10 and 12.11 (General Provisions) will survive any termination or expiration of this Agreement.

## **8. PROPRIETARY RIGHTS**

8.1. Scoir Ownership. Scoir, or its licensors, owns all worldwide right, title, and interest (including all Intellectual Property Rights) in and to the Website, Services, Scoir Content, and software applications used to provide the Services. This Agreement does not convey any proprietary interest in or to any of Scoir's Intellectual Property Rights or rights of entitlement to the use thereof except as expressly set forth herein.

8.2. Customer Ownership. Customer owns all worldwide right, title, and interest (including all Intellectual Property Rights) in and to the Customer Information. Customer hereby grants Scoir a non-exclusive, limited right to use, copy, transmit, store, and back-up Customer Information for the sole purpose of providing the Services to Customer.

8.3. User Feedback. Any feedback, comments and suggestions Customer or its Invitees may provide for improvements to the Services shall be deemed to have been given voluntarily and Scoir will be free to use, disclose, reproduce, license or otherwise distribute, and exploit such feedback as Scoir sees fit, entirely without obligation or restriction of any kind.

## **9. INDEMNIFICATION**

9.1. Indemnification. Scoir shall indemnify, defend, protect, and hold harmless Customer, its Affiliates, trustees, officers, directors, and employees, from and against any and all damages awarded by a court, arbitration, or settlement, including associated penalties, fines, and expenses arising out of or incurred by the Customer as a result of (A) the gross negligence or willful misconduct of Scoir, its employees, or agents; (B) Scoir's breach of this Agreement or applicable law; or (C) any actual or threatened claim alleging that the licensing, use, or other exploitation of the Services by Customer in accordance with the rights granted hereunder constitutes, under applicable laws of any jurisdiction within the United States of America, an infringement, dilution, or unauthorized use of any patent, copyright, trademark, or trade secret of any third-party. In the event that (i) some or all of the Services is held by a court of competent jurisdiction to infringe; (ii) an injunction is obtained against use of any material portion of the Services; or (iii) Customer believes in its good faith judgment that the Services is infringing, then Scoir shall promptly, at its sole option and expense, (a) procure for Customer the right to continue to use the infringing Services; (b) replace or modify the infringing Services to make its use non-infringing while being capable of performing essentially the same functions; or (c) require Customer to return or remove the infringing Services and cancel all rights thereto. If Scoir implements option (iii) above, then Customer may, at its option, terminate this Agreement, with immediate effect upon written notice to Scoir, and Scoir shall promptly refund Customer all prepaid fees relating to Customer's access to and use of the Services after the effective date of termination. Notwithstanding the foregoing, Customer may participate at its own expense in any claim to which it is a party.

9.2. Exclusions. Notwithstanding the foregoing, Scoir will have no obligation under this Section 9 or otherwise with respect to any infringement claim based upon (i) any use of the Services not in accordance with this Agreement; (ii) any use of the Services in combination with other products, equipment, software or data not supplied or approved by Scoir where the cause of the infringement is the use of the Services in combination with any such products, equipment, software or data; or (iii) any modification of the Services by any person other than Scoir or its authorized agents.

9.3. Obligations. Scoir's indemnifying obligations set forth above are expressly conditioned upon each of the following: (i) Customer will promptly notify Scoir in writing of any threatened or actual claim; (ii) Scoir will have sole control of the defense and settlement, if any, of any claim giving rise to the indemnity obligations herein; provided, however, that no settlement will be binding against Customer without Customer's prior written consent; and (iii) Customer will cooperate with Scoir to facilitate the defense and settlement, if any, of any claim.

9.4. Exclusive Remedy. This Section 9 states the entire liability of Scoir and the sole and exclusive remedy of Customer and any of its Affiliates, officers, directors, and employees for infringement claims and actions related hereto.

## **10. DISCLAIMERS; LIMITATION OF LIABILITY**

10.1. Disclaimer of Warranties. Customer's use of the Services is entirely at Customer's own risk. The Services are provided "AS IS" and on an "AS AVAILABLE" basis. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SCOIR DISCLAIMS ALL REPRESENTATIONS, WARRANTIES, AND CONDITIONS, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING THOSE OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT, OR THE ACCURACY, RELIABILITY, QUALITY OF ANY CONTENT, DATA, OR INFORMATION MADE AVAILABLE VIA THE SUBSCRIPTION SERVICES. EACH PARTY DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING PROVIDERS. SCOIR DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICES WILL BE COMPLETELY SECURE, FREE FROM BUGS, VIRUSES, INTERRUPTION, ERRORS, THEFT OR DESTRUCTION.

10.2. No Indirect Damages. TO THE EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOSS OF PROFITS, REVENUE, GOODWILL, OR BUSINESS OPPORTUNITY, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

10.3. Limitation of Liability. EXCEPT FOR CUSTOMER'S LIABILITY FOR THE PAYMENT OF FEES, SCOIR'S INDEMNIFICATION OBLIGATIONS IN SECTION 9, AND EITHER PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR VIOLATION OF INTELLECTUAL PROPERTY RIGHTS, IF, NOTWITHSTANDING THE OTHER TERMS OF THIS AGREEMENT, EITHER PARTY OR ITS AFFILIATES IS DETERMINED TO HAVE ANY LIABILITY TO THE OTHER PARTY, ITS AFFILIATES OR ANY THIRD PARTY, THE PARTIES AGREE THAT, TO THE EXTENT PERMITTED BY LAW, THE AGGREGATE LIABILITY OF A PARTY AND ITS AFFILIATES WILL BE LIMITED TO A SUM EQUAL TO THE GREATER OF (A) TOTAL AMOUNTS PAID OR PAYABLE BY CUSTOMER FOR THE SUBSCRIPTION SERVICES IN THE TWELVE-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO A CLAIM AND (B) ONE HUNDRED U.S. DOLLARS. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY BUT WILL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS SET FORTH HEREIN.

10.4. Third Party Products. TO THE EXTENT PERMITTED BY LAW, SCOIR AND ITS AFFILIATES DISCLAIM ALL LIABILITY WITH RESPECT TO THIRD-PARTY PRODUCTS MADE AVAILABLE THROUGH THE SUBSCRIPTION SERVICES. OUR LICENSORS SHALL HAVE NO LIABILITY OF ANY KIND UNDER THIS AGREEMENT.

10.5. Agreement to Liability Limit. CUSTOMER UNDERSTANDS AND AGREES THAT ABSENT ITS AGREEMENT TO THIS LIMITATION OF LIABILITY, SCOIR WOULD NOT PROVIDE THE SUBSCRIPTION SERVICES TO CUSTOMER.

10.6. Exceptions. EXCLUSIONS AND LIMITATIONS SET FORTH IN THIS SECTION 10 WILL NOT APPLY TO CLAIMS AND DAMAGES RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

## **11. REGULATORY ACKNOWLEDGEMENTS**

11.1. Contract for Services. This Agreement is a contract for the provision of services and not a contract for the sale of goods. The provisions of the Uniform Commercial Code, the Uniform Computer Information Transaction Act, or any substantially similar legislation as may be enacted, shall not apply to this Agreement. If Customer is located outside of the territory of the United States, the parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not govern this Agreement or the rights and obligations of the parties under this Agreement.

11.2. Debarment and Suspension. Scoir represents that that it is not on the U.S. government's Denied Parties List, the Unverified List, the Entities List, the Specially Designated Nationals and Blocked Parties List, and that neither it nor any of its officers is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency, as further defined in Executive Order 12549 and FAR 52.109-5.

11.3. HIPAA; FISMA; GLBA. Customer acknowledges that the Services are not intended to comply with industry-specific regulations such as the Health Insurance Portability and Accountability Act (HIPAA), the Federal Information Security Management Act (FISMA), or the Gramm-Leach-Bliley Act (GLBA). Customer agrees that it will not use the Services in a manner that would violate such laws.

11.4. Covered Telecommunications Equipment or Services. Scoir shall not provide “covered telecommunications equipment or services” (as defined in FAR 52.204-25) to Customer in the performance of this Agreement. Scoir represents that: (i) it does not use covered telecommunications equipment or services; and (ii) it does not knowingly use any equipment, system, or service that uses covered telecommunications equipment or services.

11.5. IRCA Compliance. Scoir represents that it does not and shall not knowingly utilize, directly or indirectly, the services of an illegal immigrant in the United States in the performance of this Agreement; and that it shall comply with the requirements of the U.S. Immigration Reform and Control Act, 8 U.S.C. § 1324a, as amended, and its successors, if any, regarding the screening, hiring, and employment of all labor forces used in connection with its provision of the Services.

11.6. OFAC; Prohibited Transactions. Neither Scoir nor any of its Affiliates nor, to the knowledge of Scoir, any director, officer, agent, employee, or person acting on behalf of Scoir or any of its Affiliates, is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department; and Scoir will, at all times during the continuance of this Agreement, comply with the Iranian Transactions and Sanctions Regulation, 31 CFR § 560.201, et seq.

11.7. Equal Opportunity. Scoir represents that, in compliance with Titles VI and VII of the Civil Rights Act of 1964, Executive Order 13988, and other federal laws and regulations, it does not and, during the continuance of this Agreement, shall not discriminate on the basis of race, ethnicity, national origin, sex, gender, sexual orientation, gender identity, age, religion, disability, or veteran status in any of its policies, practices, or procedures.

## 12. GENERAL PROVISIONS

12.1. Publicity. Customer hereby grants Scoir the limited right to display, in accordance with Customer’s published trademark usage guidelines (if any), Customer’s name and logo on Scoir’s digital properties. Customer may limit or withdraw this permission at any time by completing and submitting a “Publicity Restrictions” form located at <https://www.scoir.com/publicity-restrictions>. Scoir hereby grants Customer permission to display, in accordance with Scoir’s published trademark usage guidelines, Scoir’s name, logo, and links to the Website on Customer websites and other materials as Customer may reasonably deem appropriate to promote the Services. The rights granted under this Section 12.1 shall expire upon termination of this Agreement.

12.2. Governing Law and Jurisdiction. This Agreement shall be interpreted, governed, and construed in accordance with the laws of the state where Customer is principally located; provided, however, that, if Customer is principally located outside the United States of America, then this Agreement shall be interpreted, governed, and construed in accordance with the laws of the State of Delaware. The parties hereby agree, to the extent not barred by immunity, that any dispute must be heard by any state court located within the capital city or principal city of such state, and the Parties hereby consent to the personal jurisdiction and exclusive venue of such courts.

12.3. Compliance with Laws. Each of Scoir and Customer shall comply with all applicable U.S. federal, state, and local laws and regulations and nothing in this Agreement shall (i) require or be construed to require either party to violate such provisions of law, or (ii) subject either party to liability or render either party in breach of this Agreement for adhering to such provisions of law. If this Agreement or either party’s performance under it causes, creates, or involves a violation of law, rule, order, or regulation, or threatens to do so, or interferes with Customer’s non-profit status, rights, or privileges, then Customer may terminate this Agreement without liability.

12.4. Relationship of the Parties. Scoir is an independent contractor to Customer. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

12.5. No Agency. For the avoidance of doubt, each of Scoir and Customer are entering into this Agreement as principals and not as agent for any other company. Subject to any permitted Assignment under Section 12.7, the obligations owed by Scoir under this Agreement shall be owed to Customer solely by Scoir and the obligations owed by Customer under this Agreement shall be owed solely to Scoir.

12.6. No Third-Party Beneficiaries. There are no third-party beneficiaries under this Agreement.

12.7. Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party’s prior written consent (not to be unreasonably withheld); provided, however, that either party may, with no less than fourteen (14) days prior written notice to the other party, assign this Agreement in its entirety without the other party’s consent in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all its assets. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

12.8. Notice. Except for the service of legal documents required to be delivered in physical form, the parties agree to use email to satisfy required or permitted written approvals, notices, and consents under this Agreement. Scoir will provide all notices to Customer by sending an email to Customer’s identified account owner. Customer shall provide all notices to Scoir by sending an email to [legal-notices@scoir.com](mailto:legal-notices@scoir.com). Email notices will be treated as received when sent.

12.9. Waiver. No delay or omission of a party to exercise any right hereunder shall be construed as a waiver of any such right. Each party



may exercise its rights granted herein at any time.

12.10. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the parties, it shall, as to such jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

12.11. Entire Agreement. This Agreement, including all schedules and Order Forms and lawful modifications hereto, constitutes the entire agreement between Customer and Scoir regarding Customer's use of Services and it supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. Any provision of this Agreement may be waived only with the signed written consent of both parties. Neither failure nor delay on the part of any party in exercising any right, power, or privilege hereunder shall operate as a waiver of such right, nor shall any single or partial exercise of any such right, power, or privilege preclude any further exercise thereof or the exercise of any other right, power, or privilege.

12.12. Public Inspection of Agreement. Scoir acknowledges and agrees that this Agreement and all documents Scoir provides Customer as required herein, may, if and to the extent deemed public records under applicable law, be public records and may at all times be subject to public inspection.

12.13. Electronic Signatures. Each of the parties consents to the use of electronic signatures as valid execution and delivery of this Agreement and any other document relating thereto.

12.14. Authority. Each party represents to the other that it has full power and authority to enter into this Agreement and that it is binding upon such party and enforceable in accordance with its terms. Customer further represents that it has the authority to procure its Affiliates' compliance with the terms of this Agreement.

*[Remainder of page intentionally left blank.]*



## SCHEDULE 1

### PRODUCTS AND PRODUCT-SPECIFIC TERMS

This Schedule 1 to the College Terms of Service identifies the Products to which Customer may subscribe pursuant to an Order Form and the additional terms and conditions that apply to Customer's subscription and use of such Products. The Products covered herein are:

- (a) Documents (*Free Product*)
- (b) Visits (*Free Product*)
- (c) CRM Match (*Free Product*)
- (d) Premium Presence
- (e) Outreach Messaging
- (f) Applications

#### 1. DOCUMENTS

1.1. Product Description. "Documents" enables Customer to streamline the application process for students and their counselors by electronically receiving application-related Student Records, such as transcripts, letters of recommendation, secondary school reports, and early decision agreements, from a local educational agency or institution.

1.2. FERPA Compliance. In the event that a local educational agency or institution uploads or inputs into the Website any Student Records protected by The Family Educational Rights and Privacy Act of 1974 ("FERPA"), Scoir shall ensure, where applicable, that such local educational agency or institution designates Scoir as a "School Official" pursuant to 34 CFR §99.31(a)(1)(i)(B) and that, in providing the Services, Scoir has a "legitimate educational interest" pursuant to 34 CFR §99.7(a)(3)(iii). In such capacity, Scoir will comply with all applicable FERPA requirements, including, but not limited to, all limitations on the re-disclosure of "education records" as defined in FERPA.

1.3. Confidentiality of Student Records. If Customer subscribes to Documents as part of its Services, Customer acknowledges that the disclosure of Student Records, including all Personally Identifiable Information contained therein, is related to a User's application for enrollment pursuant to 34 CFR §99.31(a)(2). Customer represents that Customer and, if Customer provides any third-party access to Student Records, each of its designees will comply fully with the provisions of 34 CFR §99, to the extent applicable, in storing and safeguarding all Student Records it receives via the Services.

#### 2. VISITS

2.1. Product Description. "Visits" enables Customer to identify high schools with students demonstrating interest in their institution, to communicate with registered visit attendees and their high school counselors, and to plan and schedule both in-person and virtual visits to high schools.

2.2. Compliance with Laws and Regulations. Customer acknowledges that its subscription to Visits and its use thereof may subject it and its Invitees to laws and regulations concerning safe interactions with minors. Customer further acknowledges that it and the educational agencies or institutions with which it may schedule a visit shall be wholly responsible for requiring Customer's compliance with any such laws and regulations.

#### 3. CRM MATCH

3.1. Product Description. "CRM Match" enables Customer to match electronic records, and synchronize non-Personally Identifiable Information, of student Users with information contained in Customer's customer relationship management system (sometimes referred to as an enrollment management system or information management system). CRM Match allows Customer to, among other things, quantify the number of "stealth students," identify "first source" attribution of student prospects, and track "channel conversion" performance metrics.

(a) As used above, the term "stealth students" means those student Users who have expressed an interest in Customer via the Website but who are not associated with a record in Customer's own customer relationship management system; the term "first source" means the channel that first identifies a student prospect to Customer; and the term "channel conversion" means those data that measure the progression of a prospect from the moment of inquiry to the commitment of enrollment.

3.2. Required Integrations. CRM Match requires Customer to utilize and maintain a working bi-directional technological integration between the Website and its customer relationship management system. Scoir has no obligations or liability to Customer for software developed or employed by Customer to enable such bi-directional integration.

#### 4. PREMIUM PRESENCE

4.1. Product Description. "Premium Presence" enables Customer to attract prospective applicants with personalized and contextualized information about its institution. With Premium Presence, Customer creates or repurposes digital content and media, including, without limitation, the promotion of virtual information sessions, that is displayed to Users when they are exploring colleges based on a match between

each User's expressed preferences and personal attributes and the subject matter of such digital content and media.

4.2. Accuracy of Information. Digital content and media provided by Customer for Premium Presence is Public Information. Customer is solely responsible for the accuracy, quality, and legality of Public Information. Customer represents that the institutional information it publishes on the Website is, to its reasonable knowledge, accurate in all material respects at the time it is provided.

## 5. OUTREACH MESSAGING

5.1. Product Description. "Outreach Messaging" enables Customer to convert prospects into applicants with highly targeted and personalized in-app messages. With Outreach Messaging, Customer targets a cohort of student Users and/or their parents and guardians by utilizing a broad range of segmentation parameters and automated event-based triggers and then creates personalized messages that are delivered via the Website to such targeted cohort of Users at such time or upon taking such action as determined by Customer.

5.2. Acceptable Use. Customer agrees to use the Outreach Messaging services for lawful, appropriate, and legitimate purposes only. Customer must not use the Outreach Messaging services for posting or disseminating any material that is defamatory, libelous, intentionally misleading, or unrelated to the intended purpose of the Services.

## 6. APPLICATIONS

6.1. Product Description. "Applications" enables Customer to receive from student Users via the Website an electronic application for admission. Customer may choose to offer Applications via a managed service hosted and supported by Scoir ("**Application as a Service**") or via a technical integration between the Website and Customer's enrollment management system ("**Application Integration**").

(a) Application as a Service. Customer sets the application types it will accept via the Website as well as the rounds and dates for each application type. Customer configures the required, optional, and conditional data and information each User shall provide in an application form. A student User completes the application form configured by Customer and submits the fully completed application form ("**Completed Form**") to Customer via the Website.

(i) Application Fee Collection. If Customer charges each User a fee to submit a Completed Form (an "**Application Fee**"), Customer agrees that Scoir, or a third-party payment processor selected by Scoir, shall process and collect such Application Fee via the Website. Scoir shall remit, net of any processing fees chargeable thereon, to Customer on a quarterly basis all Application Fees that it collects on behalf of Customer for Completed Forms submitted via the Website.

(ii) PCI DSS Compliance. Throughout the Subscription Term, Scoir shall be compliant with, and, if applicable, enter into an agreement with a third-party provider of payment processing services that requires compliance with, the Payment Card Industry Data Security Standards ("**PCI DSS**") to the extent Scoir possesses or otherwise stores, processes, or transmits User payment data or other data subject to PCI DSS obligations.

(b) Application Integration. Customer sets the application types it will accept via the Website as well as the rounds and dates for each application type. Customer configures the data and information each User is required or able to provide in an application. A student User completes the application form configured by Customer and submits the application form to Customer via the Website ("**Initiated Form**"). Customer acknowledges that, depending on its preferences and policies, an Initiated Form might not be sufficient to complete a full application for admission. In such cases, the Website will redirect the User to Customer's website via single sign-on authentication and the User will then be prompted to provide any additional information required and submit a Completed Form utilizing Customer's own website.

(i) Required Integrations. Customer's subscription to and use of the Application Integration service requires Customer to utilize and maintain a working bi-directional technological integration between the Website and its institutional application platform or service.

(ii) Integration Support. To the extent commercially practicable, Scoir will provide Customer with remote systems integration assistance, such as mapping Product fields and values with its customer relationship management system and configuring application rounds.

6.2. FERPA Compliance. Scoir represents that all information that Scoir might transmit to Customer in an Initiated Form or Completed Form, including all Personally Identifiable Information contained therein, shall be related to a User's application for enrollment and provided to Customer in accordance with 34 CFR §99.31(a)(2).

6.3. Required Membership. Customer's subscription to and use of Applications requires Customer to be a current dues-paying member of the Coalition for College. For more information about Coalition for College and its membership eligibility requirements, please visit <http://www.coalitionforcollegeaccess.org/eligibility-criteria>.

6.4. Equal Treatment. Customer may not discriminate against or disadvantage any applicant based on the method by which such applicant submits an application for admission. Customer agrees to provide an easy-to-use, prominent reference to the Website in its application materials that describe or reference the various ways applications for admission to the Customer may be submitted. Nothing herein shall be construed to limit the ability of Customer to express opinions about various applications, application forms, or application providers.

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