

# ADI Learning Hub Terms of Use

Last updated 7/25/2024

Please read these Terms of Use carefully. It is important to us that the ADI Learning Hub provides you with a helpful and reliable experience. To protect our rights and yours, these Terms govern all use of the ADI Learning Hub. If you do not agree to these Terms of Use, then please do not purchase a subscription, create an account, or use the services.

## 1. The Agreement

- 1.1. These Terms of Use ("Terms") for the ADI Learning Hub apply to all materials and the software provided or in connection with the ADI Learning Hub (collectively, the "Service").
- 1.2. As used herein "you" or "your" means a user of the Service.
- 1.3. You may access the Service through:
  - 1.3.1. [www.adilearninghub.com](http://www.adilearninghub.com) (the "Site");
  - 1.3.2. mobile applications associated with the Site; and
  - 1.3.3. any other website, app, or service that we link to this policy.
- 1.4. Your use of the Service is conditioned on your acceptance of the Terms.
- 1.5. ADI makes no warranty for use of these Services, which are provided "as-is" (see Section 12, 'Representation, Warranties, and Disclaimers').
- 1.6. Subject to these terms, you assume all risk for use of these Services, as we cannot guarantee the function of specific tools included in the Service, data quality, uptime, or other relative metrics.
- 1.7. Use of our Services for anything other than what is named in these Terms is prohibited.
- 1.8. Violation of our Privacy Policy while using the Service is prohibited.
- 1.9. By clicking "I accept" or "I agree" to these Terms or using, accessing, or registering for the "Site", or any other websites, applications, or online services that link to these Terms (collectively the "ADI Materials") in any way, you are agreeing to these Terms, which is a binding contract with Argument-Driven Inquiry, LLC (the "Company") for the benefit of itself and its affiliates.
- 1.10. Changes to Terms: These Terms may be updated periodically. Users will be notified of any significant changes via email or a notice on the website.

## 2. Types of Users

- 2.1. Users of the Service are classified into one of three categories:
  - 2.1.1. Educational Organization ("Organization");
  - 2.1.2. Individual Educator ("Freelance"); and,
  - 2.1.3. Student.
- 2.2. An **Educational Organization** may include, but is not limited to, a university, school district, a school, a non-profit organization, or public-benefit corporation with an educational mission.
- 2.3. There are five types of Organization Users in the Service:
  - 2.3.1. **Organization Administrators.** An organization administrator can include, without limitation, teachers, administrators, or other employees of an educational organization. An Organization Administrator manages the Service on behalf of an Educational Organization that has contracted with us to use the Service.

- 2.3.2. **Organization Teacher.** An Organization Teacher is assumed to be employed by, or associated with, an Educational Organization that has contracted with us to use the Service. An Organization Teacher is assigned an account in the Service by an Organization Administrator. An Organization Teacher is able to create classes, enroll students in a class, enroll teacher assistants in a class, assign investigations (which consists of a set of activities and assignments) to the students enrolled in each class, set activity and assignment prerequisites and due dates, make class announcements, send messages to students and teacher assistants, and remove or make edits to student comments, and assign a score to a student submission in the Service.
- 2.3.3. **Organization Teaching Assistant.** An Organization Teacher Assistant is assumed to be employed by, or associated with, an Educational Organization that has contracted with us to use the Service. Organization Teacher Assistants can be assigned an account by an Organization Administrator or an Organization Teacher. Organization Teacher Assistants can set activity and assignment prerequisites and due dates, make class announcements, send messages to students and the teacher, and remove or make edits to student comments in the Service.
- 2.3.4. **Organization Super Teacher Assistant.** An Organization Super Teacher Assistant is assumed to be employed by, or associated with, an Educational Organization that has contracted with us to use the Service. Organization Super Teacher Assistants can be assigned an account by an Organization Administrator or an Organization Teacher. Organization Super Teacher Assistants can enroll students in a class, set activity and assignment prerequisites and due dates, make class announcements, send messages to students and the teacher, remove, or make edits to student comments, and assign a score to a student submission in the Service.
- 2.3.5. **Organization Facilitator.** An organization facilitator is an individual who trains other individuals (such as Organization Teachers, Organization Teaching Assistants, and/or Organization Super Teaching Assistants) about the use of the Service. An Organization Facilitator is assumed to be employed by, or associated with, an Educational Organization that has contracted with us to use the Service. An Organization Facilitator is assigned an account in the Service by an Organization Administrator. Organizational Facilitators can create events, enroll organization teachers, teaching assistants, and super teaching assistants in an event, assign workshops (which consists of a set of activities and assignments) to the individuals enrolled in each event, set activity and assignment prerequisites and due dates, make event announcements, send messages to teachers, and remove or make edits to teacher comments, and assign a score to a teacher submission in the Service.
- 2.4. An **Individual Educator** is currently employed or affiliated with an educational organization (see 2.2) as an educator (such as a professor, adjunct faculty, teacher, teaching assistant, aid), administrator, or coach.
- 2.5. There are four types of Individual Educator Users in the Service:
- 2.5.1. **Freelance Teacher.** A Freelance Teacher is able to create classes, enroll students in a class, enroll teacher assistants in a class, assign investigations (which consists of a set of activities and assignments) to the students enrolled in each class, set activity and assignment prerequisites and due dates, make class announcements, send messages to students and teacher assistants, and remove or make edits to student comments, and assign a score to a student submission in the Service. Freelance Teachers contract with ADI directly to use the Service, instead of being assigned an account in the Service by an Organization Administrator.
- 2.5.2. **Freelance Teacher Assistant.** A Freelance Teacher can be assigned an account by a freelance Teacher. Freelance Teacher Assistants can set activity and assignment prerequisites and due dates, make class announcements, send messages to students and the teacher, and remove or make edits to student comments in the Service.
- 2.5.3. **Freelance Super Teacher Assistant.** A Freelance Super Teacher can be assigned an account by a Freelance Teacher. Freelance Super Teacher Assistants can enroll students in a class, set activity and assignment prerequisites and due dates, make class announcements, send messages to students

and the teacher, remove, or make edits to student comments, and assign a score to a student submission in the Service.

2.5.4. **Freelance Facilitator.** A freelance facilitator is an individual who trains Organization Teachers and/or Freelance Teachers about the use of the Service. Facilitators can create events, enroll teachers in an event, assign workshops (which consists of a set of activities and assignments) to the teachers enrolled in each event, set activity and assignment prerequisites and due dates, make event announcements, send messages to teachers, and remove or make edits to teacher comments, and assign a score to a teacher submission in the Service. Freelance Facilitators contract with ADI directly to use the Service.

2.6. A **Student** is an individual who is a member of an Educational Organization (such as a school or a club) and is enrolled in a course of study under the supervision of an Organization Teacher or a Freelance Teacher. A student is often, but not always, a minor. A student completes activities assigned by a teacher in the Service. Students can also send messages to a teacher or teacher assistant, make, or edit comments during activities, record videos, download content, and submit assignments in the Service. ADI does not intend for students and/or minors to sign up to the Service on their own; rather, Organization or Freelance User must invite them to create an account in the service.

2.7. Each type of user is given a different type of account in the Service. In some cases, a user may have more than one type of account (for example, an organization administrator and organization teacher).

2.8. A user can only access the Service one type of account at a time.

2.9. Furthermore, if you are an Organization or Freelance User, regardless of the nature of the educational organization you are employed by or affiliated with, you represent and warrant to us that you are authorized to:

2.9.1. agree to these Terms on behalf of your organization.

2.9.2. provide consent on behalf of your Student Users to use and access the Service.

2.10. Additionally, as an Organization or Freelance User you represent and warrant that ADI shall be considered a School Official, as defined by FERPA, with a legitimate educational interest, and performing services otherwise provided by the educator.

2.11. ADI reserves the right to change, add, or remove the types of user accounts offered and/or how they're named at any time.

### 3. Accounts

3.1. As a User, you will receive an authorized token to create an account with the Service.

3.2. You shall have sole responsibility for all activities relating to the subscription account (the "Account") and shall immediately inform ADI of any unauthorized use of the User's account.

3.3. The Service is made available under these Terms to Educational Organizations (see 2.2) or Individual Educators (see 2.4).

3.4. You must provide accurate and complete information and keep your Account information updated.

3.5. Individuals may only register for a Freelance Account (Teacher, Facilitator, Teaching Assistant, Super Teaching Assistant) if:

3.5.1. they are an adult (according to the rules of the country where they are located); and,

3.5.2. are currently employed by, or affiliated with, an Education Organization (see 2.2).

3.6. In addition, any Individual Educator using the Service must:

3.6.1. be employed by, or affiliated with, an educational organization at all times during the subscription period;

- 3.6.2. be able to verify employment or affiliation with an educational organization on request;
- 3.6.3. have authorization to provide access to students and provide consent on their behalf for purposes of COPPA; and,
- 3.6.4. notify us immediately at [howdy@argumentdriveninquiry.com](mailto:howdy@argumentdriveninquiry.com) if your employment or affiliation status with an educational organization changes for any reason.
- 3.7. Educational Organizations may only register for, and use, an Organization Account.
- 3.8. An organization account is to be used exclusively by the purchasing Institution, its employees or affiliates, and its students.
- 3.9. An organization will be given access to a specific number of educator accounts for use by the members (employees or affiliates) of the organization. Each account must be assigned to an individual within the purchasing organization using their organization-provided email address. Shared access to a single education by multiple members of the organization is not a permissible use and a violation of these Terms.

#### **4. Account Security and Passwords**

- 4.1. Passwords to any account cannot be shared.
- 4.2. You are responsible for maintaining the confidentiality of passwords associated with any account you use to access the Service.
- 4.3. You are responsible for all activities that occur under your account(s).
- 4.4. You are solely responsible for any consequences, losses, or damages that we may directly or indirectly incur or suffer due to any unauthorized activities conducted by you.
- 4.5. If you become aware of any unauthorized use of your password or of your account, you agree to notify ADI immediately at [howdy@argumentdriveninquiry.com](mailto:howdy@argumentdriveninquiry.com).

#### **5. Subscription Types**

- 5.1. The service has three types of subscriptions for users who are Freelance Teachers:
  - 5.1.1. Starter
  - 5.1.2. Pro
  - 5.1.3. Premium
- 5.2. The Service has two types of subscriptions for Educational Organizations (see 2.2):
  - 5.2.1. Pro
  - 5.2.2. Premium
- 5.3. ADI reserves the right to change, add, or remove the types of subscriptions offered and/or how they're named at any time.

#### **6. Subscription Payments**

- 6.1. Individual Subscriptions that are "Paid Accounts" (i.e., Pro and Premium):
  - 6.1.1. ADI offers you the option of upgrading your Individual account from a free (Starter) to a Paid Account (Pro or Premium) which enables additional features for a fee. If you choose to upgrade, your account will be converted to a Paid Account and will not be subject to the restrictions placed on Free Accounts as described at <https://adilearninghub.com/pricing>.
  - 6.1.2. We may change our subscription fee at any time, at our sole discretion, at the end of your subscription period as long as we notify you first by either emailing you to the address associated

with your account or by posting on our website.

6.1.3. ADI accepts credit cards and will automatically charge your payment instrument on file before upgrading your account, if available; or request the necessary information if we do not.

6.1.4. In the event we are not able to charge your payment instrument for applicable charges, we may suspend your account until due amounts are paid.

6.1.5. Additionally, if your ADI balance is not paid within seven (7) calendar days after ADI provides you with notification that your account is in arrears, ADI reserves the right to convert your Paid Account back to a free account.

#### 6.1.6. Billing for a Paid Account

6.1.6.1. The fees for your Paid Account will be billed from the date you convert to a Paid Account and each year thereafter unless and until you downgrade your subscription to a Free account (Starter) or cancel your account.

6.1.6.2. ADI will automatically bill your credit card on the calendar day corresponding to the commencement of your Paid Account and annually thereafter.

6.1.6.3. All fees and charges are prepaid and nonrefundable, and there are no refunds or credits for partially used periods.

6.1.6.4. If payment is not received from the credit card issuer, you agree to pay all amounts due upon demand.

6.1.6.5. You must provide current, complete, and accurate billing and credit card information, and you agree to pay all costs of collection, including attorney's fees and costs, on any outstanding balance.

6.1.6.6. In certain instances, the issuer of the credit card may charge a foreign transaction fee or related charges, which you shall be responsible to pay.

#### 6.1.7. Upgrading from a Pro Paid Account to a Premium Paid Account

6.1.7.1. ADI offers you the option of upgrading your Individual account from a Pro Paid Account to a Premium Paid Account which enables additional features for a fee. If you choose to upgrade, your account will be converted to a Premium Account and will not be subject to the restrictions placed on the Pro Paid Accounts as described at <https://adilearninghub.com/pricing>.

6.1.7.2. The fees for your Premium Paid Account will be billed from the date you convert from a Pro Paid Account and on each year thereafter unless and until you downgrade your subscription to Pro Paid Account or a Starter Free Account or cancel your account.

6.1.7.3. ADI will automatically bill your credit card on the calendar day corresponding to the commencement of your Premium Paid Account and annually thereafter.

#### 6.1.8. Downgrading from a Paid Account (Premium or Pro) to Free Account (Starter)

6.1.8.1. ADI offers you the option of downgrading your Individual account from a Premium or Pro Paid Account to a Starter Free Account. If you choose to downgrade, your account will be converted to a Starter Account and will be subject to the restrictions placed on the Starter Accounts as described at <https://adilearninghub.com/pricing>.

6.1.8.2. The downgrade will be effective upon expiration of your then-current subscription term.

6.1.8.3. You must downgrade your Premium or Pro Paid Account to a Starter Free Account before it renews to avoid billing of the next period's fees to your credit card.

6.1.8.4. Should you elect to downgrade your Premium or Pro Paid Account to a Starter Free Account,

please note that you will not be issued a refund for any previous payments.

#### 6.1.9. Downgrading a Premium Paid Account to a Pro Paid Account

6.1.9.1. ADI offers you the option of downgrading your Individual account from a Premium Paid Account to a Pro Paid Account. If you choose to downgrade, your account will be converted to a Pro Paid Account and will be subject to the restrictions placed on the Pro Paid Accounts as described at <https://adilearninghub.com/pricing>.

6.1.9.2. The downgrade will be effective upon expiration of your then-current subscription term.

6.1.9.3. You must downgrade your Premium Paid Account to a Pro Paid Account before it renews to avoid billing of the next period's fees to your credit card.

6.1.9.4. Should you elect to downgrade your Premium Paid Account to a Pro Paid Account, please note that you will not be issued a refund for any previous payments.

#### 6.1.10. Canceling a Paid Account

6.1.10.1. You may cancel your Paid Account at any time by contacting us at [howdy@argumentdriveninquiry.com](mailto:howdy@argumentdriveninquiry.com).

6.1.10.2. The cancellation will be effective upon expiration of your then-current subscription term.

6.1.10.3. Your Paid Account will continue until you cancel your Paid Account or we terminate it, according to the terms above.

6.1.10.4. You must cancel your Paid Account before it renews to avoid billing of the next period's fees to your credit card. Should you elect to cancel your Paid Account, please note that you will not be issued a refund for any previous payments.

6.1.11. If ADI has the legal obligation to pay or collect taxes for which you are responsible, including but not limited to, sales, use, transfer, privilege, excise, and all other taxes and duties that are levied or imposed by reason of ADI's performance under these Terms, the appropriate amount shall be invoiced to and paid by you, unless you provide us with a valid tax exemption certificate authorized by the appropriate taxing authority.

#### 6.2. Organization Accounts

6.2.1. Educational Organizations are charged directly for the use of the Service.

6.2.2. ADI accepts credit cards and certain other specified payment methods.

6.2.3. If a credit card is used to make a purchase for more than Five Thousand Dollars (\$5,000.00), an additional 3% fee may be assessed.

6.2.4. All fees and charges are prepaid and nonrefundable, and there are no refunds or credits for partially used periods.

6.2.5. If ADI has the legal obligation to pay or collect taxes for which you are responsible, including but not limited to, sales, use, transfer, privilege, excise, and all other taxes and duties that are levied or imposed by reason of ADI's performance under these Terms, the appropriate amount shall be invoiced to and paid by you, unless you provide us with a valid tax exemption certificate authorized by the appropriate taxing authority.

### 7. User Service

7.1. We will provide user service to help resolve any issues relating to your Account, our Services, and the other use of our software.

7.2. User service may include direct access and communication with an employee(s) of ADI or access to a website describing the use and functionalities of the Service.

7.3. The extent and nature of such user service may be determined by ADI in its sole and absolute discretion.

## **8. ADI Materials and Content Ownership and License**

### **8.1. ADI's Ownership of the Service.**

8.1.1. The Service (including past, present, and future versions) contains Content that is owned by or licensed to us. **Content** means all the text, graphics, user interfaces, visual interfaces, photographs, logos, sounds, music, artwork, activities, assessments, printables, pictures, video, animation, characters, audio clips, trademarks, trade names, service marks, computer code displayed on or available; the design, layout, look, appearance, structure, selection, coordination, expression, arrangement and graphics of such materials, all materials and other items relating to the Service; and any and all other forms of intellectual property.

8.1.2. ADI owns all legal rights, title, and interest in and to the Service or Content, including any intellectual property rights, whether those rights are registered or not, and wherever in the world those rights may exist, subject to the rights of third parties from whom ADI licenses Content.

8.1.3. Reproduction of the Service or Content outside the Services' functionality is prohibited.

### **8.2. Service and Content License.**

8.2.1. Subject to your strict compliance with these Terms, our Privacy Policy, any additional terms that may be mutually agreed, and your payment of any applicable subscription fees, we grant you a limited, non-exclusive, non-sublicensable, non-transferable, revocable, and non-assignable license and right to access, use, publicly perform, and display Service and Content.

8.2.2. The license does not give you any ownership or interest in any intellectual property of the Service or Content and you cannot otherwise use the Service or Content, without our express, prior, written consent.

8.2.3. ADI and/or our licensors hereby reserve all rights in and to the Services and Content (as the context may require) not expressly granted in these Terms.

8.2.4. Except as expressly permitted in these Terms or with ADI's prior express written consent, no part of the Service or Content may be used, copied, reproduced, distributed, uploaded, posted, publicly displayed, translated, transmitted, sold, licensed, or otherwise used for any reason whatsoever.

### **8.3. User-Generated Content.**

8.3.1. By using the Service, you may provide or create content and or other materials, information, ideas, concepts, and know-how ("User-generated Content").

8.3.2. Under no circumstances will ADI become liable for any payment to you for any information that you provide.

8.3.3. You, and not ADI, are solely responsible for any User-Generated Content you make available through your use of the Service.

8.3.4. ADI does not control the User-Generated Content hosted via the Service, nor does it guarantee the accuracy, integrity, or quality of such User-Generated Content.

8.3.5. Except as expressly set forth in these Terms, users shall retain all rights, including intellectual property rights, for User-Generated Content that they create with their free or paid account, unless they enter a publishing agreement with ADI.

8.3.6. You acknowledge that all posted User-Generated Content is stored on and made available through the Service by ADI's servers and not on your device.

8.3.7. You understand that all User-Generated Content is provided to you through the Service only on an "as-is" and "as-available" basis and ADI does not guarantee that the availability of the User-Generated Content will be uninterrupted or error free.

- 8.3.8. Although the user account owner is and remains the owner of any User-Generated Content, and data, including student content and data, submitted through the Service, you grant us a perpetual, irrevocable, worldwide, sub-licensable, royalty-free, and transferable right and license to use, reproduce, publish, display, modify, make derivative works of, transmit and copy your anonymized content and to additionally distribute and publicly perform your content in connection with the Service and ADI's (and its successor's) business, in any media formats and through any media channels for the purposes of delivering the services to you.
- 8.3.9. You grant ADI the irrevocable, perpetual, worldwide, sublicensable, transferrable, right to use your information solely on an aggregated and anonymized basis ("Aggregated Data").
- 8.3.10. ADI represents and warrants that it will not use student personal information for third party marketing.
- 8.3.11. You hereby grant to each user of the Service a non-exclusive license to access and view your anonymized User-Generated Content as permitted by the functionality of the Service and these Terms.
- 8.3.12. Notwithstanding 8.3.11, or anything else to the contrary, ADI will only make your content available to others if you choose to allow it. For the avoidance of doubt, such anonymized User-Generated Content shall not include any personally identifiable information.

#### 8.4. Content created by Third Parties.

- 8.4.1. The Service provides the ability for organization users to create their own content that can be shared with other organization users and students. You acknowledge and agree that ADI is not responsible and shall have no liability for the content created by other organization users. You hereby acknowledge that you may be exposed to content from other users that is inaccurate, offensive, obscene, indecent, or objectionable when using the Service, and further acknowledge that ADI does not have any obligation to monitor such content for any purpose. Furthermore, as a teacher and/or educator, you hereby acknowledge that you will review content that others may provide or share with you, prior to sharing or showing it to your students. However, we always reserve the right to determine whether content is appropriate and in compliance with these Terms and we may remove content at any time if such content is found to be in violation of these Terms and Conditions or is otherwise objectionable.
- 8.4.2. The Service provides the ability for student users to create their own content that can be shared with other students, their teachers, and/or a teaching assistant. You acknowledge and agree that ADI is not responsible and shall have no liability for the content created by student users. You hereby acknowledge that you may be exposed to content from student users that is inaccurate, offensive, obscene, indecent, or objectionable when using the Service, and further acknowledge that ADI does not have any obligation to monitor such content for any purpose. Furthermore, as a teacher and/or educator, you hereby acknowledge that you will review content that student users may provide or share with you and remove it if found to be in violation of these Terms and Conditions or is otherwise objectionable. We also always reserve the right to determine whether content created by student users is appropriate and in compliance with these Terms and we may remove content at any time if such content is found to be in violation of these Terms and Conditions or is otherwise objectionable.
- 8.4.3. Additionally, the Service may access third-party services through API's or links to third-party providers. You acknowledge and agree that ADI is not responsible and shall have no liability for such third-party sites and services, products or services made available through- them, or your use of or interaction with them. Whether the third-party content appears within our Services (such as in an embedded simulation), or you leave our Services to view the content on another website, the third party is in control of and independently produces, maintains, and monitors the content and third-party sites. When you interact with third-party content that is made available through the Services or navigate to such third-party sites, you become subject to the third party's Terms and privacy



policies. You should review the privacy policies of these third-party sites for their policies and practices regarding the collection and use of your information as their policies may differ from ours. We do not accept any responsibility or liability for the privacy practices of third parties.

8.4.4. ADI use and transfer to any other app of information received from Google APIs will adhere to the [Google API Services User Data Policy](#), including the Limited Use requirements.

## **9. Ownership of Suggestions Made by Users**

- 9.1. Any suggestion related to the Service or to the Content created by ADI that is submitted by a user is the property of ADI, including custom or new feature and content requests submitted by you, and is incorporated into the proprietary property will all rights being assigned to ADI.
- 9.2. You acknowledge that all ideas, work products, custom requests, feature improvements, product recommendations or any communication to ADI that results in the continued development of ADI's current Service or Content, as well as other products that are currently provided or sold by ADI, or the development of New Services, Content, or Products (other than user data), is the sole property of ADI and you waive any right to arbitration, to seek ownership, royalties, or other monetary or non-monetary considerations.
- 9.3. For the avoidance of doubt, you retain all right, title, and interest, in your user data, your own products or services, and your own trademarks and all intellectual property right therein.

## **10. Privacy and User Data**

- 10.1. For our policies on privacy and user data, please see our Privacy Policy.
- 10.2. You agree that you have the right to provide User Data to us for use in connection with the Service.
- 10.3. You agree that if you add students to the Service, it is your responsibility to communicate to the students and add a clear and conspicuous link to our privacy policy and make such disclosures as is required under Applicable Laws (see 10.9).
- 10.4. These Terms are subject to, and intended to comply with, all applicable local, state, and federal laws, rules, and regulations, including relating to:
  - 10.4.1. privacy, data security, consumer protection, email, and other communications; and
  - 10.4.2. the use, collection, retention, storage, security, disclosure, transfer, disposal, and other processing of Personal Information ("Applicable Laws"). "Personal Information" means any information that identifies, relates to, describes, or is reasonably capable of being associated with, a particular user or household.
- 10.5. Notwithstanding anything to the contrary in the ADI Privacy Policy, ADI shall not collect, retain, use, or disclose User Data for any commercial purpose other than for the specific purposes of performing the Services.
- 10.6. ADI agrees to reasonably cooperate with the you, at your expense, to assist you with ensuring its compliance with Applicable Laws, including to respond to requests for access, knowledge, deletion, or rectification.
- 10.7. If and to the extent you instruct ADI to delete your personal information in writing, ADI agrees to delete or de-identify such information within 30 days of receipt of the request.
- 10.8. ADI shall have no obligation to delete information that has been permanently de-identified or aggregated. ADI shall promptly delete or de-identify User Data when no longer reasonably needed to provide the Services.
- 10.9. You agree to follow all laws and regulations when using the Service including, but not limited to, the

Family Educational Rights and Privacy Act ("FERPA"), the Children's Online Privacy Protection Act ("COPPA"), and any applicable state laws regarding the education of minors.

- 10.10. If you represent an education organization, you warrant that you have the proper authority to designate and, as a result of, engaging with the Service do hereby designate ADI a "school official" within the meaning of FERPA. ADI will be under your direction with respect to the use and maintenance of personally identifiable information and education records, as those terms are defined by FERPA, and we may use personally identifiable information and education records only as set forth under these Terms.

## **11. Security Obligations**

- 11.1. We will maintain commercially appropriate administrative, physical, and technical safeguards to protect User Data (see sections 10 and 13), including all without limitation end-user-authorized data from learning management systems, user relationship management or billing management platforms but we cannot guarantee the security of our users' applications.
- 11.2. We reserve the right to terminate a user without notice if we suspect that they are at risk of a security breach.
- 11.3. While we cannot ensure that our users follow all the necessary security protocols, we strongly recommend that you adhere to the following minimum-security protocols:
- 11.3.1. Use of PCI compliant servers; and,
- 11.3.2. Encryption when communicating or storing access credentials to our Service.
- 11.4. It is your responsibility to maintain the security of your Account information, including your login username and password. You must notify us immediately of any breach of security or unauthorized use of your Account. You may never publish, distribute, or share your login username or password.
- 11.5. In the event of a security breach that may affect you or anyone on your Service, we'll notify you of the breach once we have determined, at our discretion, that it occurred and will provide a description of what happened and notify you, and that you'll promptly notify your affected users.

## **12. Representations, Warranties, and Disclaimers**

- 12.1. Representations and Warranties by you.
- 12.1.1. You represent and warrant that, in connection with these Terms:
- 12.1.1.1. your use of the Service will be in strict accordance with these Terms and with all applicable laws and regulations (including, without limitation, any local laws or regulations in your country, state, city, or other governmental area, regarding online conduct and acceptable content);
- 12.1.1.2. your User-Generated Content and your use of the Service will not infringe or misappropriate the intellectual property rights of any third party;
- 12.1.1.3. you will not and will not attempt to re-join or attempt to use the Service if ADI has banned or suspended you;
- 12.1.1.4. you will not and will not attempt to defraud ADI or another user;
- 12.1.1.5. that you, to the extent applicable, are duly organized, validly existing and in good standing under the laws of the jurisdiction of your incorporation or organization;
- 12.1.1.6. that the execution or performance of these Terms will not conflict with or violate any provision of any law applicable to you;
- 12.1.1.7. that by purchasing a subscription, creating an account, or otherwise using the Service you agree (and in the case of a school, district, or multi-seat license you agree on behalf of your accounts' users) to be bound by these Terms, that these terms will constitute a valid and

binding obligation on you (and in the case of a school, district, or multi-seat license you agree on behalf of your accounts' users), and will be enforceable against you in accordance with the terms herein;

- 12.1.1.8. you will comply with all applicable laws, statutes, regulations, or rules, without limitation, the Family Educational Rights and Privacy Act ("FERPA"), Children's Online Privacy Protection Act ("COPPA") and the Protection of Pupil Rights Amendment ("PPRA")(collectively "Laws"); and
- 12.1.1.9. you will not and will not attempt to use another user's account or allow another person to use your user account.
- 12.1.1.10. you use of the Service at your own discretion and risk.
- 12.1.1.11. you are solely responsible for any damage to your computer or other devices and for any loss of data that may result from the download of content from the Service.
- 12.1.1.12. that the content found on the Service may contain inaccuracies or errors.
- 12.1.1.13. You will not hold ADI liable for such inaccuracies or errors to fullest extent permitted by law.

## 12.2. Representations and Warranties by ADI.

- 12.2.1. ADI represents and warrants that it owns or has permission to provide the Service and any intellectual property rights inhering therein.

## 12.3. Disclaimers of Warranties by ADI

- 12.3.1. Except as expressly provided herein, the Service is provided on an "as is" basis, without any warranties of any kind, either express or implied, including without limitations, implied warranties of merchantability, fitness for a particular purpose, or non-infringement

### 12.3.2. ADI makes no warranty that:

- 12.3.2.1. the Service or the server that makes available the content and features associated with the Service is free of viruses or other harmful components;
- 12.3.2.2. that access to Service will be continuous or uninterrupted;
- 12.3.2.3. the features included in the Service will be error- or bug-free;
- 12.3.2.4. the content in the service will be error-free, complete, or accurate;
- 12.3.2.5. the results of using the service will meet the user's requirements;
- 12.3.2.6. the use of the Service will meet the user's expectations; and,
- 12.3.2.7. any end user data will be timely, accurate, or complete.

- 12.3.3. The foregoing disclaimers shall not apply to extent prohibited by applicable law.

## 13. Prohibited Uses of the Service

- 13.1. You are responsible for all of your and any third-party representatives' activity in connection with the Service.
- 13.2. You shall not (and shall not permit any other party to either (a) take any action or (b) upload, download, post, submit or otherwise distribute or facilitate distribution of any content on or through the Service, that:
  - 13.2.1. infringes any patent, trademark, trade secret, copyright, right of publicity or other right of any other person or entity or violate any law or contractual duty;
  - 13.2.2. is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive

of another's privacy, tortious, obscene, vulgar, pornographic, offensive, profane, contains or depicts nudity, contains or depicts sexual activity, or is otherwise inappropriate as determined by us in our sole discretion;

13.2.3. contains software viruses or any other computer codes, files, or programs that are designed or intended to disrupt, damage, limit or interfere with the proper function of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any system, data, password or other information of ours or of any third party;

13.2.4. impersonates any person or entity, including any of our employees or representatives; or

13.2.5. includes anyone's identification documents or sensitive financial information.

13.3. The Service may only be used by you. You will not resell or otherwise distribute the Service.

13.4. In accepting these Terms, you agree to use the Service for the purposes for which it is provided by us and not for competitive evaluation, spying, copying, or other nefarious purposes. You shall not (directly or indirectly):

13.4.1. decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Service (including without limitation any application), except to the limited extent applicable laws specifically prohibit such restriction,

13.4.2. modify, translate, or otherwise create derivative works of any part of the Service, or

13.4.3. copy, rent, lease, distribute, or otherwise transfer any of the rights that you receive hereunder. You shall abide by all applicable local, state, national and international laws and regulations.

13.4.4. take any action that imposes or may impose (as determined by us in our sole discretion) an unreasonable or disproportionately large load on our (or our third party providers') infrastructure;

13.4.5. interfere or attempt to interfere with the proper working of the Service or any activities conducted on the Service;

13.4.6. bypass, circumvent or attempt to bypass or circumvent any measures we may use to prevent or restrict access to the Service (or other accounts, computer systems or networks connected to the Service);

13.4.7. run any form of auto-responder or "spam" on the Service;

13.4.8. use manual or automated software, devices, or other processes to "crawl" or "spider" any page of the Site;

13.4.9. harvest or scrape any content from the Services; or (vii) otherwise take any action in violation of our guidelines and policies.

## **14. Suspicion**

14.1. We reserve the right to withhold our Services in their entirety or in part where we believe they are being used in violation of these Terms, any other ADI agreement, or pose a risk to the end-user or ADI itself.

## **15. Non-Disclosure of Confidential Information**

15.1. Confidential Information means any information disclosed by either party or its Representatives (as defined below) to the other party or its Representatives, either directly or indirectly, in writing, orally or by inspection of tangible objects (including without limitation documents, prototypes, samples, plant and equipment).

15.2. Confidential Information shall include without limitation technical data, trade secrets and know-how, including, but not limited to, research, product plans, products, services, suppliers, user lists and users, prices and costs, markets, software, developments, inventions, laboratory notebooks, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing,

licenses, finances, budgets and other business information, and the fact that the parties have entered into this agreement and are having any discussions with respect to a business relationship.

15.3. Confidential Information may also include information disclosed to a disclosing party by third parties.

15.4. Confidential Information shall not, however, include any information which:

15.4.1. was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party;

15.4.2. becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party or its Representatives;

15.4.3. is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party's files and records immediately prior to the time of disclosure;

15.4.4. is obtained by the receiving party or its Representatives from a third party without a breach of such third party's obligations of confidentiality; or

15.4.5. is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession.

15.5. The term "Representative" means, as to any person, such person's affiliates and its and their respective directors, managers, members, officers, partners, employees, agents, representatives, advisors, controlling persons, consultants. As used in this Agreement, the term "person" shall be interpreted broadly to include, without limitation, any corporation, limited liability company, partnership, other business entity or individual.

15.6. Each party, on behalf of itself and its Representatives, agrees not to use any Confidential Information of the other party for any purpose except to evaluate and engage in discussions concerning a potential business relationship or in the course of an existing business relationship between the parties.

15.7. Each party, on behalf of itself and its Representatives, agrees not to disclose any Confidential Information of the other party to third parties or to such party's Representatives, except such Representatives who receive the information with the disclosing party's approval (which approval shall not be unreasonably withheld) in order to assist the receiving party in evaluating or engaging in discussions concerning the contemplated business relationship.

15.8. Each party shall be responsible for any breach of this Agreement by its Representatives. Neither party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information, and which are provided to the party hereunder.

15.9. Either party may disclose Confidential Information of the other if required by law or by court or governmental order or process; provided that, to the extent legally permitted, such party must first give the disclosing party prompt written notice of such requirement to permit the disclosing party to seek a protective order or other appropriate relief.

15.10. In the event that such protective order or other remedy is not obtained, the receiving party or its Representatives shall disclose only that portion of the Confidential Information which the receiving party's or its Representative's counsel advises is legally required to be disclosed.

15.11. Each party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other party. Without limiting the foregoing, each party shall take at least those measures that it takes to protect its own most highly confidential information and shall ensure that its Representatives who have access to Confidential Information of the other party have signed a non-use and non-disclosure agreement in content substantially similar to the provisions hereof, prior to any disclosure of Confidential Information to such Representatives. Neither party shall make any copies of the Confidential Information of the other party

unless the same are previously approved in writing by the other party. Each party shall reproduce the other party's proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original.

## **16. References**

- 16.1. You agree to allow ADI to line-list you as a user, customer, and/or client.
- 16.2. If you represent an organization, you agree to allow ADI to use your standard logo for ADI's promotional and marketing.

## **17. Termination**

- 17.1. We may terminate or suspend your access to all or any part of the Service at any time, with or without cause, with or without notice, effective immediately.
- 17.2. If you wish to terminate your Account, you may do so by contacting [howdy@argumentdriveninquiry.com](mailto:howdy@argumentdriveninquiry.com).
- 17.3. Any fees paid hereunder are non-refundable (subject to our obligation to perform services in consideration for such fees).
- 17.4. All provisions of these Terms, which are reasonably intended to survive termination or expiration of the Terms shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.
- 17.5. In the event of termination, ADI will terminate access to its Services and provide a 15-day grace period of limited access to be used solely for migrating off the Service. Unless requested in writing prior to the grace period end date, at the end of this grace period all information associated with you will be removed indefinitely and all Services will end.

## **18. Limitation on Liability**

- 18.1. IN NO EVENT, EVEN IF ADI OR A ADI-AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WILL ADI OR ITS AFFILIATES, CONTRACTORS, EMPLOYEES, OFFICERS, DIRECTORS, AGENTS, OR THIRD PARTY PARTNERS, LICENSORS OR SERVICE PROVIDERS BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THESE TERMS AND CONDITIONS (INCLUDING YOUR INTERACTIONS WITH OTHER USERS) UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR:
  - 18.1.1. Any lost revenue;
  - 18.1.2. Any special, indirect, incidental, punitive, or consequential damages of any kind whatsoever, even if foreseeable
  - 18.1.3. Bugs, viruses, trojan horses, or the like (regardless of the source or origin);
  - 18.1.4. THE COST OF PROCUREMENT FOR SUBSTITUTE PRODUCTS OR SERVICES;
  - 18.1.5. INTERRUPTION OF USE OR LOSS OR CORRUPTION OF DATA;
  - 18.1.6. ANY AMOUNTS THAT EXCEED THE FEES PAID BY YOU TO ADI.
- 18.2. APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU, IN WHICH CASE ADI'S LIABILITY WILL BE LIMITED TO THE EXTENT PERMITTED BY LAW.

## **19. Indemnification**

- 19.1. You agree to indemnify and hold harmless ADI, its contractors, and its licensors, and their respective directors, officers, employees, and agents from and against any and all claims, losses, damages, liabilities, costs and expenses, including attorneys' fees (any of the foregoing, a "Claim"), arising out of or relating

to your use or misuse of the Service, including but not limited to your breach of these Terms or infringement, misappropriation or violation of the intellectual property or other rights of any other person or entity, provided that the foregoing does not obligate you to the extent the Claim arises out of ADI's willful misconduct or gross negligence.

- 19.2. ADI reserves the right, at our own expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us and you agree to cooperate with our defense of these Claim.

## **20. Arbitration Agreement**

- 20.1. The parties agree that any and all controversies, claims, or disputes between you and ADI arising out of, relating to, or resulting from these Terms, shall be subject to binding arbitration pursuant to the terms and conditions of this Arbitration Agreement, and not any court action (other than a small claims court action to the extent the claim qualifies).
- 20.2. The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement.
- 20.3. Arbitration will be conducted by a neutral arbitrator in accordance with the American Arbitration Association's ("AAA") rules and procedures (the "AAA Rules"), as modified by this Arbitration Agreement.
- 20.4. If there is any inconsistency between the AAA Rules and this Arbitration Agreement, the terms of this Arbitration Agreement will control unless the arbitrator determines that the application of the inconsistent Arbitration Agreement terms would not result in a fundamentally fair arbitration.
- 20.5. The arbitrator must also follow the provisions of these Terms as a court would, including without limitation, the limitation of liability provisions above. You may visit <http://www.adr.org> for information on the AAA and <http://www.adr.org/fileacase> for information on how to file a claim against ADI.
- 20.6. The arbitration shall be held in Travis County, Texas.
- 20.7. If the value of the relief sought is \$10,000 or less, you or ADI may elect to have the arbitration conducted by telephone or based solely on written submissions, which election shall be binding on each party, but subject to the arbitrator's discretion to require an in-person hearing if the circumstances warrant. Attendance at any in-person hearing may be made by telephone by either or both parties unless the arbitrator requires otherwise.
- 20.8. The arbitrator will decide the substance of all claims in accordance with the laws of the state of Texas, without regard to its conflicts of laws rules, and will honor all claims of privilege recognized by law.
- 20.9. The arbitrator shall not be bound by rulings in prior arbitrations involving different ADI Learning Hub users, but is bound by rulings in prior arbitrations involving you to the extent required by applicable law.
- 20.10. Payment of all filing, administration, and arbitrator fees (collectively, the "Arbitration Fees") will be governed by the AAA's Rules. Each party will be responsible for all other fees it incurs in connection with the arbitration, including without limitation, all attorney fees.
- 20.11. All aspects of the arbitration proceeding, and any ruling, decision or award by the arbitrator, will be strictly confidential for the benefit of all parties.
- 20.12. If a court decides that any term or provision of this Arbitration Agreement other than the Class Action Waiver (see 19.14) is invalid or unenforceable, the parties agree to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Arbitration Agreement shall be enforceable as so modified.
- 20.13. If a court decides that any of the provisions of the Class Action Waiver is invalid or unenforceable, then the entirety of this Arbitration Agreement shall be null and void. The remainder of these Terms will continue to apply.
- 20.14. Class Action Waiver

- 20.14.1. THE PARTIES AGREE THAT EACH PARTY MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR PROCEEDING.
- 20.14.2. UNLESS BOTH PARTIES AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S OR PARTY'S CLAIMS AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING.
- 20.14.3. ALSO, THE ARBITRATOR MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S).

## **21. Modification to Service**

- 21.1. We reserve the right, at our sole discretion, to change, suspend, or discontinue an aspect of the Service at any time by posting a notice on the Site or by sending you notice through the Service, via e-mail, as an account notification, or by another appropriate means of electronic communication.
- 21.2. We may also impose limits on certain features and services or restrict your access to parts or all of the Service without notice or liability. Your continued use of the Services following written notification of any changes constitutes acceptance of those changes.

## **22. Modification to Terms**

- 22.1. We may make modifications, deletions and/or additions to these Terms ("Changes") at any time. Changes will be effective:
- 22.1.1. thirty (30) days after ADI provides notice of the Changes, whether such notice is posted to ADI, is sent to the email address associated with your account, or otherwise; or
- 22.1.2. when you opt in or otherwise expressly agree to the Changes or a version of these Terms incorporating the Changes, whichever comes first.

## **23. Miscellaneous**

- 23.1. You will be responsible for internet connectivity needed to access the Service.
- 23.2. Use of the Service on a mobile device may require the usage of data provided by your wireless service carrier. You acknowledge and agree that you are solely responsible for data usage fees and any other fees that your wireless service carrier may charge in connection with your use of the Service.
- 23.3. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.
- 23.4. ADI shall not be liable for any failure to perform its obligations hereunder where such failure results from any cause beyond ADI's reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation (including "line-noise" interference).
- 23.5. If any provision of these Terms is found to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that these Terms shall otherwise remain in full force and effect and enforceable.
- 23.6. Either party may assign, delegate, or otherwise transfer these Terms, whether by operation of law or otherwise, to its affiliates or in connection with a merger or sale of all or substantially all of its stock or assets or otherwise.
- 23.7. Subject to the foregoing, this Terms shall be binding on a party's permitted successors and assigns.
- 23.8. Both parties agree that these Terms are the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of these Terms, and that all



modifications must be in a writing signed by both parties, except as otherwise provided herein.

23.9. No agency, partnership, joint venture, or employment is created as a result of these Terms and you do not have any authority of any kind to bind ADI in any respect whatsoever.

23.10. Under these Terms, you consent to receive communications from ADI electronically.

23.11. You may, under certain circumstances, share feedback or ideas with us regarding the Service. If you choose to share your feedback with us, you understand that:

23.11.1. we are not required to take any action based on your feedback; and,

23.11.2. if we do take action based on your feedback you will have no expectation of review, approval, payment, or consideration of any type for any such feedback or ideas and ADI Nearpod will be free to use and exploit the feedback or ideas in our sole and absolute discretion.

23.12. ADI empowers educators to choose how much student personal information students input into the Service. While some Service features may request student personal information, such as recording of a student's voice or a record of a student's thinking in response to assignment, it is ultimately in the Users discretion as to what information is actually provided.

23.13. Outside the US, if you are under the age of majority in your country of residence, you must review these Terms with your parent or guardian to make sure that you and your parent or guardian understand and agree to them.

23.14. This is the entire agreement between us relating to the subject matter herein and shall not be modified except in a writing, signed by both parties, or by a change to these Terms made by ADI as set forth above.