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## Terms

These terms are a legal agreement (“Agreement”) between Freckle Education Inc. (“Freckle”) and You for the use of the Freckle services and website. By using the Freckle services and website, You accept these terms. If You do not accept them, do not use the Freckle services and website. You are bound by these terms even if You do not read all the terms. These terms replace all previous terms.

Freckle may modify this Agreement from time to time. Any amended terms shall automatically take effect 10 days after they are posted on this Website. Your use of the Services following the effective date of any modifications to this Agreement will constitute your acceptance of the agreement, as

modified. You agree that notice on the Website of modifications is adequate notice.

## 1.0 Definitions

1.1 "Application" means any mobile app provided by Freckle, as part of the Services.

1.2 "Authorized Users" is defined in Section 3.3 .

1.3 "Class Codes" are codes issued by Freckle to provide access to Authorized Users.

1.4 "Personal Information" means information about an identifiable individual, but excludes business contact information.

1.5 "Qualifying Educational Institution" means a preschool, K-12 school or post-secondary institution.

1.6 "Services" means services provided by Freckle in connection with the Website and Application,

including services of data upload, download, hosting and syncing through Freckle's servers or third-party data hosting services selected by Freckle.

1.7 "Website" means the Freckle site through which Freckle provides Services.

1.8 "Login Credentials" means usernames, passwords and other forms of identification used to authenticate an Authorized User with the Services and Website.

## 2.0 Limited License

2.1 Freckle grants You a limited, revocable, non-exclusive, non-transferable license to access and use the Services for your own individual use subject to the terms of this Agreement.

## 3.0 Services

3.1 Account. Access to certain functionality and Services requires a valid account from Freckle and is subject to payment of the

applicable license fee(s). Some features may be available on a trial basis to qualified users, as set forth below. You are responsible for maintaining the confidentiality of your account information, password and login, including logins distributed to Authorized Users. You are responsible for all uses of your account. You agree to immediately notify Freckle of any unauthorized use of your account. A limited use trial account (i.e. free account) permits use of the Website and Services by individual teachers for themselves and their students within Qualifying Educational Institutions. If You are not an active teacher or instructor, but would like to try Freckle, please contact [team@freckle.com](mailto:team@freckle.com) to discuss our other trial options. If you are an active teacher or instructor, but do not belong to a Qualifying Educational Institution, please contact [team@freckle.com](mailto:team@freckle.com) to discuss our other trial options.

**3.2 Fees.** Freckle will invoice for all chargeable Services and timely payment must be made for access to the Services. Upon notice to You, Freckle reserves the right to change its price list for certain Services and

to institute new charges at any time, which may be sent by email or posted on the Website. If You continue to use those Services after such notification, that use constitutes your consenting to the new or increased charges. This Agreement does not include the provision by Freckle of any upgrades, updates, consulting services, customization or training. Such additional services may be available through separate agreements with Freckle.

3.3 Educational Users. The Website and Services are designed for use by educators and parents/legal guardians in Qualifying Educational Institutions. Representatives of a school board, educational institution or teachers in Qualifying Educational Institutions will only grant Class Codes to (i) personnel who are current employees of the organization; (ii) students who are currently enrolled and (in the case of minor students) who have been given permission by a parent/legal guardian, and (iii) parents/legal guardians of such minor students (collectively "Authorized Users"). As a representative of a school board, educational institution or as a

teacher in a Qualifying Educational Institution, you represent and warrant that: you have permission from your school board or educational institution to enter into this Agreement and to use the Services as part of your curriculum; you are over the age of majority; and you are entering this Agreement on behalf of your school board or educational institution; and you have authority to bind such entity to the terms of this Agreement.

3.4 Student Users. The Website and Services are also designed for use by student users at a Qualifying Educational Institution. Minor students agree that they have obtained consent from a parent/legal guardian for their use of the Website and Services in connection with educational uses. By using the Website and Services, if you are a minor, you represent that you have obtained consent from your parent/legal guardian who has read and agrees to this Agreement on your behalf. If you do not obtain such consent, then you are not authorized to use the Website or Services.

### 3.5 Other User Restrictions.

(a) If You are accessing the Services as a publisher, You acknowledge and agree that the content you contribute to the Services as a publisher will be considered to be under Section 4.0 of this Agreement.

(b) If You are accessing the Services as a parent/legal guardian user, You will only use the Class Code(s) provided to You by your child or her/his teacher(s). You will not use any Class Code to obtain information about anyone other than the child for whom the Class Code is provided. You understand that your acceptance of this Agreement indicates that You agree to these terms both on your own behalf, and on the behalf of your child who uses the Website. Minor students cannot use the Website and Services without a parent/legal guardian first accepting this Agreement on their behalf. (c) If you are accessing the Services, You will only use the Login Credentials that were assigned to You in order to authenticate and access the Services and the Website. You will

not seek to obtain another user's Login Credentials, and you will not use another user's Login Credentials to authenticate with the Services or Website.

3.6 Intellectual Property. Freckle and its third-party licensors own any and all intellectual property rights and all right, title and interest in and to the Website (including free, public or beta portions of the Website), the Application and any desktop interface or documentation which accompanies or interfaces with the Website or Application. Freckle owns all right, title and interest in and to the trade-marks Freckle Education® and other associated marks adopted by Freckle from time to time.

3.7 Trial Period, Public or Beta Usage. Any free, trial, public or beta portions of the Website or Services are still subject to these terms, and in respect of those free, trial, public or beta portions of the Website, you bear the entire risk of use; such portions of the Website or Services may be changed, suspended, blocked by Freckle at any time without notice to You.

## 4.0 User Content

4.1 User Content. The Services permit You to organize, upload and download content (including documents, images, and various digital content) through the Freckle servers. You represent and warrant that (a) You own or have all valid rights to such content that You organize, upload or download through the Services including any Personal Information; and (b) such content will not infringe or breach any third-party rights including privacy rights. You are solely responsible for any content or data that You organize, upload or download through the Services, including any consequences of making it available in connection with Your use of the Services. If you provide access to your content to others, they may copy it, modify it or re-distribute it. Please consider carefully what you choose to share through the Services. Freckle has no responsibility for the activities of others.

4.2 User Postings. You hereby grant each user of the Services a non-exclusive license to access the

content that you upload through the Services, and to distribute and display such content in compliance with the terms of this Agreement. Furthermore, You acknowledge and agree that, with your permission, Freckle also retains the right to distribute and display any such content. We do not claim any ownership rights to your content, and nothing in this Agreement will be deemed to restrict any rights that you may have to use and exploit your content.

#### 4.3 Monitoring & Take-Down.

Freckle does not monitor or screen Your content nor does it claim any interest or ownership in such content. However, Freckle reserves the right to suspend, block or remove any user content from the Services at any time, for any reason (including, but not limited to, receipt of third-party claims or allegations relating to such content or breach of this agreement or any other agreement with Freckle by You or Authorized Users).

4.4 Archiving & Security. You are responsible for archiving and data back-up for Your own purposes. You

are responsible for security and encryption of any confidential or sensitive content or data.

## 5.0 Personal Information

5.1 Privacy Policy. Use of the Services is governed by the Freckle Privacy Policy, which is incorporated herein by reference. By using the Website and Services, You agree to the terms of the Privacy Policy. Freckle abides by applicable provincial and federal Personal Information protection laws with respect to the handling of Personal Information. Freckle does not collect, use or disclose any Personal Information in connection with the Services, other than as described in this agreement or the Freckle Privacy Policy.

5.2 Confidentiality. All data and content organized, uploaded and download by You through the device is resident on the device until deleted by You. Freckle does not collect or retain any user-generated

content or any uploads or downloads by You through the Services.

#### 5.3 Collection of User Information.

Freckle collects limited Personal Information from administrative personnel at the school board, educational institution or teachers who have contracted with Freckle, only as needed for the operation and management of the Services.

#### 5.4 Collection of Student

Information. Freckle collects limited Personal Information from minor students, only as needed for the operation and management of the Services, and only where that student's school board, educational institution or teacher has contracted with Freckle to do so. We first require the school board, educational institution or teacher to obtain the consent of parents/legal guardians prior to collecting such information. If you are a minor student, do not send any Personal Information about yourself or other students to Freckle, other than what is requested upon signing up for the Services. In the event that we

discover we have the Personal Information of a student without consent of a parent/legal guardian, or information in excess of what we request upon sign-up, we will permanently destroy that information as quickly as possible. If you believe a student may have provided us Personal Information without consent of a parent/legal guardian, or information in excess of what we request upon sign-up, please contact us at [team@freckle.com](mailto:team@freckle.com).

## 6.0 Restrictions

6.1 Restrictions. You shall not, and shall not authorize any third party to:

(a) make copies of the Website;

(b) modify, decompile, disassemble, translate into another computer language, create derivative works, access the source code, hack, decrypt, rename files, or otherwise reverse engineer the Website

(c) permit use of the Application or Services by anyone other than Authorized Users;

(d) use any Class Codes other than the Class Codes assigned by the school board, educational institution or teacher;

(e) distribute Class Codes to third-parties, or permit any third-party to use the Services other than Authorized Users;

(f) incorporate any portion of the Website or Services into any products which will be sold, licensed or transferred to a third party;

(g) distribute, sell, lease, transfer, assign, trade, rent, lease, lend or publish the Website or license, sublicense or cross-license it or any part thereof and/ or copies thereof to others;

(h) use the Services to upload, post or otherwise transmit any materials that are harmful, fraudulent, threatening, abusive, harassing, tortious, defamatory, vulgar,

profane, pornographic, obscene, libelous, offensive, or otherwise objectionable; or that promote discrimination, bigotry, racism, hatred, harassment or harm against an individual or group; or that promote illegal or harmful activities or substances; or that have the effect of harassing or stalking any person, or otherwise offend the acceptable use standards set by Freckle;

(i)upload, post or otherwise transmit any content through the Services that (i) would negatively affect the functioning of the system, including without limitation any harmful, disruptive or destructive files or computer programs or (ii) would impose an unreasonable or disproportionately large load on this system's infrastructure;

(j)use the Services or any part thereof in violation of any law or regulation, or for any purpose other than as expressly permitted in this Agreement;

(k)distribute screen shots of the Website without Freckle's approval.

6.2 Acceptable Use: The Services may be used only for authorized purposes by users who have agreed to this Agreement. You must also abide by our acceptable use standards, and any acceptable use policy published by us from time to time. You may not:

(a) use the output of the Services for any purpose other than as required in connection with your personal, non-commercial use;

(b) engage in linking or framing of any portion of our Website;

(c) aggregate, scrape, harvest or duplicate any portion of our Website, including any personal or contact information, or use such personal or contact information for any secondary marketing purposes or unsolicited mass e-mail, or any purpose inconsistent with the purposes of the Services;

(d) corrupt, falsify or distort any content on the Website.

6.3 Circumvention Prohibited. You specifically agree not to, in any way access (or attempt to access) a third party database by any unauthorized or automated means, other than through the servers and interface that is provided by Freckle through the Website.

## 7.0 Limitation of Liability & Disclaimer of Warranty

7.1 Disclaimer. The Website and Services are provided "AS IS" without warranties, conditions or representations of any kind, and Freckle expressly disclaims, to the fullest extent permitted by applicable law, any warranty or condition, express or implied, statutory or otherwise, whether arising from trade or course of dealing, including, without limitation, any warranty or condition that the Website and Services (i) shall correspond with a particular description, (ii) are of merchantable quality, (iii) are fit for Your particular purpose, (iv) are durable for a reasonable period of time, (v) do not and will not infringe any patent, trade-mark, trade-

secret or other intellectual property or other proprietary rights of any third party, (vi) are bug or error free, or (vii) are accessible through all devices. You acknowledge that entry, conversion and storage of data is subject to human and machine error and Freckle is not responsible for such errors. Freckle is not responsible for third-party hardware or software, or for cell, wi-fi or other service providers. Freckle does not warrant that the Website will be compatible with all platforms which may now or in the future be used.

7.2 Allocation of Risk. Freckle shall not be liable for any monetary damages whatsoever with respect to Your use of the Website and Services hereunder (or use by Your Authorized Users), nor shall Freckle be liable for any indirect, incidental, consequential, special, punitive or exemplary damages arising out of this Agreement, even if Freckle is advised of the possibility of such damages. The entire risk as to the results and performance of the Website and Services is assumed by You and You agree to implement and adopt reasonable measures to examine and confirm results prior to

use, to save data, and limit exposure to errors and failures in data.

7.3 Limitation of Liability. The total liability of Freckle, whether under the express or implied terms of this Agreement, in tort (including negligence or other duty of care) or at common law, for any loss or damage including but not limited to any data loss or corruption, suffered by You or any Authorized Users or third parties, whether direct, indirect or special, or any other similar damage that may arise or does arise from use of the Website and Services or any breach of this Agreement by Freckle, shall in no event exceed the amount paid by You to Freckle for the Services. These limitations of liability shall survive failure of any exclusive remedies provided in the agreement.

## 8.0 Indemnity

8.1 Indemnity. You indemnify, hold harmless and defend Freckle against any and all third-party claims (including all associated legal fees and disbursements actually

incurred) against Freckle arising out of a breach by You of the obligations under this Agreement, or the use or misuse of the Website or Services by You (or Your Authorized Users).

## 9.0 Term & Termination

### 9.1 Termination Rights.

(a) By Us: Freckle reserves the right to terminate this Agreement and your use and access to the Services at any time for any reason, with or without notice. Without limiting the foregoing, in the event You breach this Agreement or any other agreement with us, and such breach is not remedied or cured within 10 days of written notice, Freckle may suspend or terminate this Agreement and your access to the Website and Services. If your employer, school board or educational institution under which you access the Website and Services is in breach of any agreement with us, or the subscription term has expired, we

may suspend or terminate this Agreement and your access to the Services.

(b) By You: You may shut down your account and cease use of the Services at any time. We require reasonable written notice from you, to implement our standard security and data-handling policies. You are responsible for backing-up, saving, downloading or deleting any of your content and Personal Information, as you wish, prior to the termination of your account. After termination, we reserve the right to delete any content or Personal Information remaining on our servers.

(c) By Your Employer / School Board / Educational Institution: Your employer, school board or educational institution may shut down or suspend your account access as part of their management of the relationship with You or in the event of termination or expiry of your employment or enrolment.

## 10.0 Governing Law & Disputes

10.1 Governing Law. This Agreement is governed by the laws of the State of California without regard to its conflict of laws rules.

10.2 Arbitration Agreement. You agree that all disputes arising out of or in connection with this Agreement, or in respect of any legal relationship associated with or derived from this Agreement, (i) any and all disputes between you and the Company shall be fully and finally resolved by binding arbitration, (ii) you are waiving any and all rights to a jury trial but all court remedies will be available in arbitration, (iii) all disputes shall be resolved by a neutral arbitrator who shall issue a written opinion, and (iv) the arbitration shall provide for adequate discovery

10.3 Exception from Arbitration Agreement: Either party may obtain injunctive relief (preliminary or permanent) and orders to compel arbitration or enforce arbitral awards in any court of competent jurisdiction.

## 11.0 General Terms

11.1 Assignment. You will not assign, transfer, encumber or otherwise dispose of any or all of the rights granted to You under this Agreement without the prior written consent of Freckle. Freckle may assign this Agreement to a third-party.

11.2 Enurement. Subject to the limitations in this Agreement, this Agreement operates for the benefit of and is binding on the parties and their respective successors and permitted assigns.

11.3 No Waiver. No condoning, excusing or overlooking by any party of any default, breach or non-observance by any other party at any time regarding any terms of this Agreement operates as a waiver of that party's rights under this Agreement. No exercise of a specific right or remedy by any party precludes it from or prejudices it in exercising another right or pursuing another remedy or maintaining an action to which it may otherwise be entitled either at law or in equity.

11.4 Survival. All terms which require performance by the parties after the expiry or termination of this Agreement, will remain in force despite this Agreement's expiry or termination for any reason. The following terms shall survive termination: 3.5 , 6.0 , 7.0 , 8.0 and 10.0 .

11.5 Severability. Part or all of any section that is indefinite, invalid, illegal or otherwise voidable or unenforceable may be severed and the balance of this Agreement will continue in full force and effect.

11.6 Entire Agreement. The Agreement and any mobile app terms set forth the entire understanding between the parties related to the Website and Services, and replaces all prior versions.

11.7 Software & Hardware. You must provide your own computer hardware and software necessary to connect to the Services, including internet access and if applicable, a suitable mobile device, according to the optimal use standards and specifications we stipulate from time to time. The Services may

experience temporary downtime as we perform routine maintenance or updates.

11.8 Linked Sites. Links available on the Website may link to third-party websites not maintained or controlled by us and we provide these links for your convenience, and Freckle is not responsible for the contents of any linked site.

11.9 Changes. On release of any update or upgrade to the Website or Services, Freckle reserves the right to modify this Agreement and to impose new or additional terms or conditions on Your use of the Website or Services. The then-current terms (including any modifications and additional terms and conditions if applicable) will be presented to You and will be effective immediately upon Your acceptance of the terms and continued use of the Website or Services.

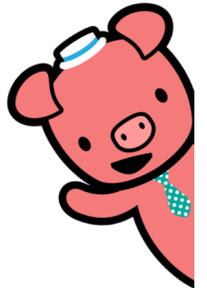
11.10 Language. It is the express will of the parties that this Agreement and all related documents be drawn up in English. C'est la volonté expresse des

parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

11.11 Electronic Acceptance. This Agreement may be agreed to by electronic acceptance.

11.12 Contact. If You have questions about these terms or wish to contact Freckle for any reason, please contact us at:  
Freckle Education Inc., 100 Bush St,  
Suite 700, San Francisco, CA 94104;  
Email [support@freckle.com](mailto:support@freckle.com).

Last Updated: March 30, 2018



## About

[About Freckle](#)

[Careers](#)

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## Support

Email: [support@freckle.com](mailto:support@freckle.com)

[Freckle Support Center](#)

[Privacy Policy](#)

[Terms of Service](#)

[GDPR](#)



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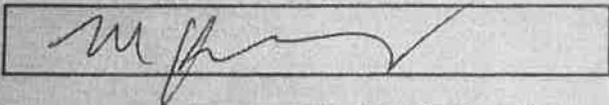
**EXHIBIT "E"**

**GENERAL OFFER OF PRIVACY TERMS**

**1. Offer of Terms**

Provider offers the same ~~privacy protections~~ found in this DPA between it and Atascadero USD and which is dated 07/01/2018 to any other LEA ("Subscribing LEA") to anywho accepts this General Offer though its signature below. This General Offer shall extend only to privacy protections and Provider's signature shall not necessarily bind Provider to other terms, such as price, term, or schedule of services, or to any other provision not addressed in this DPA. The Provider and the other LEA may also agree to change the data provided by LEA to the Provider to suit the unique needs of the LEA. The Provider may withdraw the General Offer in the event of: (1) a material change in the applicable privacy statutes; (2) a material change in the services and products listed in the Originating Service Agreement; or three (3) years after the date of Provider's signature to this Form. Provider shall notify the California Student Privacy Alliance in the event of any withdrawal so that this information may be transmitted to the Alliance's users.

Freckle Education (formerly Front Row)



Date: July 1, 2018

Printed Name: Maggi e Enny

Title/Position: Sr. Account Executive

**2. Subscribing LEA**

A Subscribing LEA, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing LEA and the Provider shall therefore be bound by the same terms of this DPA.

Date:

Printed Name:

Title/Position: