

# Terms of Service

PLEASE READ THE FOLLOWING TERMS OF SERVICE AGREEMENT CAREFULLY. BY ACCESSING OR USING OUR SITE AND OUR SERVICES, YOU HEREBY AGREE TO BE BOUND BY THE TERMS AND ALL TERMS ARE INCORPORATED HEREIN BY REFERENCE. IT IS THE RESPONSIBILITY OF YOU AS THE CUSTOMER, TO READ THE TERMS AND CONDITIONS BEFORE PROCEEDING TO USE THIS SITE. IF YOU DO NOT EXPRESSLY AGREE TO ALL OF THE TERMS AND CONDITIONS, THEN PLEASE DO NOT ACCESS OR USE OUR SITE OR OUR SERVICES.

THIS TERMS OF SERVICE AGREEMENT IS EFFECTIVE AS OF MARCH 1, 2025

## ACCEPTANCE OF TERMS

The following Terms of Service Agreement (the "TOS") is a legally binding agreement that shall govern the relationship with our users and others which may interact or interface with TutorUp, and our subsidiaries and affiliates, in association with the use of the TutorUp website, which includes TutorUp.com, (the "Site") and its Services, which shall be defined below.

## DESCRIPTION OF SERVICES OFFERED

The Site is a marketplace website which has the following description:

TutorUp provides its services to those seeking tutoring opportunities ("Tutors") and to those seeking tutors for their students ("Customers"). We help Tutors and Customers find one another, and facilitate the payments to Tutors by Customers through an online payment system (the "Services"). Lessons include tutoring services ("Tutoring Services") that are on line / virtual tutoring ("Virtual Tutoring").

As independent contractors hired by Customers, Tutors control the methods, materials and all aspects of the lessons.

Customers are responsible for selecting the right Tutor for their student's needs. In making hiring decisions, Customers should review and investigate each Tutor's self-reported credentials, education, and experience, as well as reviews from other teachers and other Customers. Importantly, all tutoring sessions should be supervised by a responsible adult.

Once an individual registers for our Services, through the process of creating an account, the User shall then be considered a "Customer."

Customers may purchase Tutoring Services as a **Package** with a specified number of minutes (a "Package") or Customers may purchase a monthly **Subscription** of Tutoring Services for a specific number of minutes each month of Tutoring Services (a "Subscription").

Pricing for a Package of Tutoring Services is set forth on the Customer account. Unused tutoring minutes left on a Customer account **expire after six months of inactivity**.

If a Customer selects a Subscription, Customer shall select the number of minutes of Tutoring Services desired per month. Pricing for a Subscription of Tutoring Services is set forth on the Customer account. Each month the Customer's account will be charged the fee for the Subscription and Tutoring Services based on the date of initial purchase.. Unused Tutoring Services in one month will roll over to the following month. Tutoring Services may be used by any child of a Customer and may be used for multiple Tutors. The Customer may cancel a Subscription at any time. Upon cancellation, the Customer has 30 days to use any Tutoring Services purchased. At the end of the thirty (30) days following cancellation of the Subscription, any unused Tutoring Services are forfeited unless the Subscription is renewed within an additional thirty (30) day grace period. In that case, the unused Tutoring Services are reccredited to the Customer's account.

The Customer may cancel a scheduled tutoring session at no cost if cancellation is made at least 24 hours before the appointed time. Cancellations made with less than 24 hours' notice, or if the student is a no-show with no notice, the parent will still be charged the full tutoring fee for that scheduled appointment.

By providing TutorUp with credit card information, the Customer hereby authorizes TutorUp to charge the Customer's credit card account for the requested Package or for the ongoing monthly Subscription charge until cancelled.

The Customer acknowledges and agrees that the Services provided and made available through TutorUp's website and applications, which may include some mobile applications and that those applications may be made available on various social media networking sites and numerous other platforms and downloadable programs, are the sole property of TutorUp. At its discretion, TutorUp may offer additional website Services and/or products, or update, modify or revise any current content and Services, and this Agreement shall apply to any and all additional Services and/or products and any and all updated, modified or revised Services unless otherwise stipulated.

TutorUp hereby reserves the right to cancel and cease offering any of the aforementioned Services and/or products. The Customer, acknowledges, accepts and agrees that TutorUp shall not be liable for any such updates, modifications, revisions, suspensions or discontinuance of any of the Services and/or products. Your continued use of the Services provided, after such posting of any updates, changes, and/or modifications shall constitute your acceptance of such updates, changes and/or modifications, and as such, frequent review of this Agreement and any and all applicable terms and policies should be made by you to ensure you are aware of all terms and policies currently in effect. Should you not agree to the updated, revised or modified terms, you must stop using the provided Services forthwith.

In addition, TutorUp uses Stripe for payment processing services. By using the Stripe payment processing services you agree to the Stripe Payment Services Agreement available at <https://stripe.com/legal/ssa>

Furthermore, the Customer understands, acknowledges and agrees that the Services offered shall be provided "AS IS" and as such TutorUp shall not assume any responsibility or obligation for the timeliness, missed delivery, deletion and/or any failure to store user content, communication or personalization settings.

## **1. REGISTRATION**

To register and become a "Customer" of the Site, you must be at least 18 years of age to enter into and form a legally binding contract. In addition, you must be in good standing and not an individual that has been previously barred from receiving TutorUp's Services under TutorUp's policies or under the laws and statutes of the United States or other applicable jurisdictions.

When you register, TutorUp may collect information such as your name, e-mail address, mailing address and telephone number. From Customers, we also may collect user-submitted information related to minors in their custody ("Students"), such as their grade level, subjects they are looking for tutoring services in, and other information. A Customer can edit the account information at any time online. Once you register with TutorUp and sign in to our Services, you are no longer anonymous to us.

Furthermore, the Customer hereby acknowledges, understands and agrees to:

furnish factual, correct, current and complete information with regards to yourself as may be requested by the data registration process, and maintain and promptly update your registration and profile information in an effort to maintain accuracy and completeness at all times.

If anyone knowingly provides any information of a false, untrue, inaccurate or incomplete nature, TutorUp will have sufficient grounds and rights to suspend or terminate the customer in violation of this aspect of the Agreement, and as such refuse any and all current or future use of TutorUp's Services, or any portion thereof.

## **2. PRIVACY POLICY**

Every Customer's registration data and various other personal information are strictly protected by the TutorUp Online Privacy Policy (see the full Privacy Policy at [TutorUp.com/privacy-policy](https://TutorUp.com/privacy-policy)). As a Customer, you herein consent to the collection and use of the information provided, including the transfer of information within the United States and/or other countries for storage, processing or use by TutorUp and/or our subsidiaries and affiliates.

## **3. CUSTOMER ACCOUNT, USERNAME, PASSWORD AND SECURITY**

When you set up an account, you are the sole authorized user of your account. You shall be responsible for maintaining the secrecy and confidentiality of your password and for all activities that transpire on or within your account. It is your responsibility for any act or omission of any user(s) with access to your account information that, if undertaken by you, would be deemed a violation of the TOS. It shall be your responsibility to notify TutorUp immediately if you notice any unauthorized access or use of your account or password or any other breach of security. TutorUp shall not be held liable for any loss and/or damage arising from any failure to comply with this term and/or condition of the TOS.

## **4. CONDUCT**

As a Customer, you herein acknowledge, understand and agree that all information, text, software, data, photographs, music, video, messages, tags or any other content, whether it is publicly or privately posted and/or transmitted, is the expressed sole responsibility of the individual from whom the content originated. In short, this means that you are solely responsible for any and all content posted, uploaded, emailed, transmitted or otherwise made available by way of the TutorUp Services, and as such, we do not guarantee the accuracy, integrity or quality of such content. It is expressly understood that by use of our Services, you may be exposed to content including, but not limited to, any errors or omissions in any content posted, and/or any loss or damage of any kind incurred as a result of the use of any content posted, emailed, transmitted or otherwise made available by TutorUp.

By using the Site, you represent and warrant that you currently meet and will continue to meet the following eligibility conditions ("Eligibility Conditions") for as long as you use the Site: (a) you have and will at all times comply with all laws and regulations; and (b) you have the right, authority and capacity to enter into these Terms and to abide by all of the terms and conditions in these Terms.

Furthermore, you herein agree not to make use of TutorUp's Services for the purpose of:

- uploading, posting, emailing, transmitting, or otherwise making available any content that shall be deemed unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, or invasive of another's privacy or which is hateful, and/or racially, ethnically, or otherwise objectionable;
- causing harm to minors in any manner whatsoever;
- impersonating any individual or entity, including, but not limited to, any TutorUp officials, forum leaders, guides or hosts or falsely stating or otherwise misrepresenting any affiliation with an individual or entity;

- forging captions, headings or titles or otherwise offering any content that you personally have no right to pursuant to any law nor having any contractual or fiduciary relationship with;
- uploading, posting, emailing, transmitting or otherwise offering any such content that may infringe upon any patent, copyright, trademark, or any other proprietary or intellectual rights of any other party;
- uploading, posting, emailing, transmitting or otherwise offering any content that you do not personally have any right to offer pursuant to any law or in accordance with any contractual or fiduciary relationship;
- uploading, posting, emailing, transmitting, or otherwise offering any unsolicited or unauthorized advertising, promotional flyers, "junk mail," "spam," or any other form of solicitation, except in any such areas that may have been designated for such purpose;
- uploading, posting, emailing, transmitting, or otherwise offering any source that may contain a software virus or other computer code, any files and/or programs which have been designed to interfere, destroy and/or limit the operation of any computer software, hardware, or telecommunication equipment;
- disrupting the normal flow of communication, or otherwise acting in any manner that would negatively affect another Customer's ability to participate in any real time interactions;
- interfering with or disrupting any TutorUp's Services, servers and/or networks that may be connected or related to our website, including, but not limited to, the use of any device software and/or routine to bypass the robot exclusion headers;
- "stalking" or with the intent to otherwise harass another individual; and/or
- collecting or storing of any personal data relating to any other customer or user in connection with the prohibited conduct and/or activities which have been set forth in the aforementioned paragraphs.

TutorUp herein reserves the right to pre-screen, refuse and/or delete any content currently available through our Services. In addition, we reserve the right to remove and/or delete any such content that would violate the TOS or which would otherwise be considered offensive to other visitors, users and/or customers.

TutorUp herein reserves the right to access, preserve and/or disclose customer account information and/or content if it is requested to do so by law or in good faith belief that any such action is deemed reasonably necessary for:

- compliance with any legal process;
- enforcement of the TOS;
- responding to any claim that therein contained content is in violation of the rights of any third party;
- responding to requests for customer service; or

- protecting the rights, property or the personal safety of TutorUp, its visitors and Customers, including the general public.

TutorUp herein reserves the right to include the use of security components that may permit digital information or material to be protected, and that such use of information and/or material is subject to usage guidelines and regulations established by TutorUp or any other content providers supplying content services to TutorUp. You are hereby prohibited from making any attempt to override or circumvent any of the embedded usage rules in our Services. Furthermore, unauthorized reproduction, publication, distribution, or exhibition of any information or materials supplied by our Services, despite whether done so in whole or in part, is expressly prohibited.

## **5. INTERSTATE COMMUNICATION**

Upon registration, you hereby acknowledge that by using TutorUp.com to send electronic communications, which would include, but are not limited to, email, searches, instant messages, uploading of files, photos and/or videos, you will be causing communications to be sent through our computer network. Therefore, through your use, and thus your agreement with this TOS, you are acknowledging that the use of this Service shall result in interstate transmissions.

## **6. CONTENT PLACED OR MADE AVAILABLE FOR COMPANY SERVICES**

TutorUp shall not claim ownership of any content submitted by any Customer, but may make such content available for inclusion on TutorUp's Services. Therefore, you hereby grant and allow for TutorUp the below listed worldwide, royalty-free and non-exclusive licenses, as applicable:

The content submitted or made available for inclusion on the publicly accessible areas of TutorUp's sites, the license provided to permit to use, distribute, reproduce, modify, adapt, publicly perform and/or publicly display said content on TutorUp's Services is for the sole purpose of providing and promoting the specific area to which this content was placed and/or made available for viewing. This license shall be available indefinitely.

Photos, audio, video and/or graphics submitted or made available for inclusion on the publicly accessible areas of TutorUp's sites, the license provided to permit to use, distribute, reproduce, modify, adapt, publicly perform and/or publicly display said content on our network Services are for the sole purpose of providing and promoting the specific area in which this content was placed and/or made available for viewing. This license shall be available indefinitely.

For any other content submitted or made available for inclusion on the publicly accessible areas of TutorUp's sites, the continuous, binding and completely sub-licensable license which is meant to permit to use, distribute, reproduce, modify, adapt, publish, translate, publicly perform and/or publicly display said content, whether in whole or in part, and the incorporation of any such content into other works in any arrangement or medium current used or later developed.

Those areas which may be deemed "publicly accessible" areas of TutorUp's sites are those such areas of our network properties which are meant to be available to the general public, and which would include message boards and groups that are openly available to both users and members. However, those areas which are not open to the public, and thus available to customers only, would include our mail system and instant messaging.

## **7. CONTRIBUTIONS TO COMPANY WEBSITE**

TutorUp provides an area for our Customers to contribute feedback to our website. When you submit ideas, documents, suggestions and/or proposals ("Contributions") to our site, you acknowledge and agree that:

- your contributions do not contain any type of confidential or proprietary information;
- TutorUp shall not be liable or under any obligation to ensure or maintain confidentiality, expressed or implied, related to any Contributions;
- TutorUp shall be entitled to make use of and/or disclose any such Contributions in any such manner as TutorUp sees fit;
- the contributor's Contributions shall automatically become the sole property of TutorUp; and
- TutorUp is under no obligation to either compensate or provide any form of reimbursement in any manner or nature.

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## **8. INDEMNITY**

All Customers herein agree to insure and hold TutorUp, our subsidiaries, affiliates, agents, employees, officers, partners and/or licensors blameless or not liable for any claim or demand, which may include, but is not limited to, reasonable attorney fees made by any third party which may arise from any content a Customer of TutorUp's site may submit, post, modify, transmit or otherwise make available through TutorUp's Services, the use of TutorUp Services or your connection with these Services, your violations of the Terms of Service and/or your violation of any such rights of another person.

## **9. COMMERCIAL REUSE OF SERVICES**

The Customer herein agrees not to replicate, duplicate, copy, trade, sell, resell nor exploit for any commercial reason any part, use of, or access to TutorUp's sites.

## **10. USE AND STORAGE GENERAL PRACTICES**

You herein acknowledge that TutorUp may set up any such practices and/or limits regarding the use of TutorUp's Services, without limitation of the maximum number of days that any email, message posting or any other uploaded content shall be retained by TutorUp nor the maximum number of email messages that may be sent and/or received by any Customer, the maximum volume or size of any email message that may be sent from or may be received by an account on TutorUp's Service, the maximum disk space allowable that shall be allocated on TutorUp's servers on the Customer's behalf, and/or the maximum number of times and/or duration that any Customer may access TutorUp's Services in a given period of time. In addition, you also agree that TutorUp has absolutely no responsibility or liability for the removal or failure to maintain storage of any messages and/or other communications or content maintained or transmitted by TutorUp's Services. You also herein acknowledge that TutorUp reserves the right to delete or remove any account that is no longer active for an extended period of time. Furthermore, TutorUp shall reserve the right to modify, alter and/or update these general practices and limits at TutorUp's discretion.

Any messenger service, which may include any web-based versions, shall allow you and the individuals with whom you communicate with the ability to save your conversations in your account located on TutorUp's servers. In this manner, you will be able to access and search your message history from any computer with internet access. You also acknowledge that others have the option to use and save conversations with you in their own personal account on TutorUp.com. It is your agreement to this TOS which establishes your consent to allow TutorUp to store any and all communications on its servers.

## **11. MODIFICATIONS**

TutorUp shall reserve the right at any time it may deem fit, to modify, alter and or discontinue, whether temporarily or permanently, our service, or any part thereof, with or without prior notice. In addition, we

shall not be held liable to you or to any third party for any such alteration, modification, suspension and/or discontinuance of our Services, or any part thereof.

## 12. TERMINATION

As a Customer of TutorUp.com, you may cancel or terminate your account, associated email address and/or access to TutorUp's Services by submitting a cancellation or termination request to [support@TutorUp.com](mailto:support@TutorUp.com).

As a Customer, you agree that TutorUp may, without any prior written notice, immediately suspend, terminate, discontinue and/or limit your account, any email associated with your account, and access to any of TutorUp's Services. The cause for such termination, discontinuance, suspension and/or limitation of access shall include, but is not limited to:

- any breach or violation of our TOS or any other incorporated agreement, regulation and/or guideline;
- by way of requests from law enforcement or any other governmental agencies;
- the discontinuance, alteration and/or material modification to TutorUp's Services, or any part thereof;
- unexpected technical or security issues and/or problems;
- any extended periods of inactivity;
- any engagement by you in any fraudulent or illegal activities; and/or
- the nonpayment of any associated fees that may be owed by you in connection with your TutorUp.com account Services.

Furthermore, you herein agree that any and all terminations, suspensions, discontinuances, and or limitations of access for cause shall be made at TutorUp's sole discretion, for any reason or no reason, with or without notice, at any time, and that we shall not be liable to you or any other third party with regards to the termination of your account, associated email address and/or access to any of our Services.

The termination of your account with TutorUp.com shall include any and/or all of the following:

- the removal of any access to all or part of the Services offered within TutorUp.com;
- the deletion of your password and any and all related information, files, and any such content that may be associated with or inside your account, or any part thereof; and
- the barring of any further use of all or part of our Services.
- The forfeiture of any remaining tutoring minutes that had been purchased

## 13. ADVERTISERS

Any correspondence or business dealings with, or the participation in any promotions of, advertisers located on or through TutorUp's Services, which may include the payment and/or delivery of such related goods and/or Services, and any such other term, condition, warranty and/or representation associated with such dealings, are and shall be solely between you and any such advertiser. Moreover, you herein agree that TutorUp shall not be held responsible or liable for any loss or damage of any nature or manner incurred as a direct result of any such dealings or as a result of the presence of such advertisers on our website.

## **14. LINKS**

Either TutorUp or any third parties may provide links to other websites and/or resources. Thus, you acknowledge and agree that TutorUp is not responsible for the availability of any such external sites or resources, and as such, TutorUp does not endorse nor is TutorUp responsible or liable for any content, products, advertising or any other materials, on or available from such third party sites or resources. Furthermore, you acknowledge and agree that TutorUp shall not be responsible or liable, directly or indirectly, for any such damage or loss which may be a result of, caused or allegedly to be caused by or in connection with the use of or the reliance on any such content, goods or Services made available on or through any such site or resource.

## **15. PROPRIETARY RIGHTS**

You do hereby acknowledge and agree that TutorUp's Services and any essential software that may be used in connection with our Services ("Software") shall contain proprietary and confidential material that is protected by applicable intellectual property rights and other laws. Furthermore, you herein acknowledge and agree that any content which may be contained in any advertisements or information presented by and through our Services or by advertisers is protected by copyrights, trademarks, patents or other proprietary rights and laws. Therefore, except for that which is expressly permitted by applicable law or as authorized by TutorUp or such applicable licensor, you agree not to alter, modify, lease, rent, loan, sell, distribute, transmit, broadcast, publicly perform and/or create any plagiaristic works which are based on TutorUp Services (e.g. Content or Software), in whole or part.

TutorUp herein has granted you personal, non-transferable and non-exclusive rights and/or license to make use of the object code or our Software on a single computer, as long as you do not, and shall not, allow any third party to duplicate, alter, modify, create or plagiarize work from, reverse engineer, reverse assemble or otherwise make an attempt to locate or discern any source code, sell, assign, sublicense, grant a security interest in and/or otherwise transfer any such right in the Software. Furthermore, you do herein agree not to alter or change the Software in any manner, nature or form, and as such, not to use any modified versions of the Software, including and without limitation, for the purpose of obtaining unauthorized access to our Services. Lastly, you also agree not to access or attempt to access TutorUp's Services through any means other than through the interface which is provided by TutorUp for use in accessing TutorUp's Services.

## **16. WARRANTY DISCLAIMERS**

YOU HEREIN EXPRESSLY ACKNOWLEDGE AND AGREE THAT:

THE USE OF TUTORUP SERVICES AND SOFTWARE ARE AT THE SOLE RISK BY YOU. TUTORUP'S SERVICES AND SOFTWARE SHALL BE PROVIDED ON AN "AS IS" AND/OR "AS AVAILABLE" BASIS. TUTORUP AND ITS SUBSIDIARIES, AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES OF ANY KIND WHETHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

TUTORUP AND ITS SUBSIDIARIES, OFFICERS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS MAKE NO SUCH WARRANTIES THAT (i) TUTORUP'S SERVICES OR SOFTWARE WILL MEET YOUR REQUIREMENTS; (ii) TUTORUP'S SERVICES OR SOFTWARE SHALL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; (iii) THAT SUCH RESULTS WHICH MAY BE OBTAINED FROM THE USE OF THE TUTORUP'S SERVICES OR SOFTWARE WILL BE ACCURATE OR RELIABLE; (iv) QUALITY OF ANY PRODUCTS, SERVICES, ANY INFORMATION OR OTHER MATERIAL WHICH MAY BE PURCHASED OR OBTAINED BY YOU THROUGH TUTORUP'S SERVICES OR SOFTWARE WILL MEET YOUR EXPECTATIONS; AND (v) THAT ANY SUCH ERRORS CONTAINED IN THE SOFTWARE SHALL BE CORRECTED.



ANY INFORMATION OR MATERIAL DOWNLOADED OR OTHERWISE OBTAINED BY WAY OF TUTORUP'S SERVICES OR SOFTWARE SHALL BE ACCESSED BY YOUR SOLE DISCRETION AND SOLE RISK, AND AS SUCH YOU SHALL BE SOLELY RESPONSIBLE FOR AND HEREBY WAIVE ANY AND ALL CLAIMS AND CAUSES OF ACTION WITH RESPECT TO ANY DAMAGE TO YOUR COMPUTER AND/OR INTERNET ACCESS, DOWNLOADING AND/OR DISPLAYING, OR FOR ANY LOSS OF DATA THAT COULD RESULT FROM THE DOWNLOAD OF ANY SUCH INFORMATION OR MATERIAL.

NO ADVICE AND/OR INFORMATION, DESPITE WHETHER WRITTEN OR ORAL, THAT MAY BE OBTAINED BY YOU FROM TUTORUP OR BY WAY OF OR FROM OUR SERVICES OR SOFTWARE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TOS.

A SMALL PERCENTAGE OF SOME USERS MAY EXPERIENCE SOME DEGREE OF EPILEPTIC SEIZURE WHEN EXPOSED TO CERTAIN LIGHT PATTERNS OR BACKGROUNDS THAT MAY BE CONTAINED ON A COMPUTER SCREEN OR WHILE USING OUR SERVICES. CERTAIN CONDITIONS MAY INDUCE A PREVIOUSLY UNKNOWN CONDITION OR UNDETECTED EPILEPTIC SYMPTOM IN USERS WHO HAVE SHOWN NO HISTORY OF ANY PRIOR SEIZURE OR EPILEPSY. SHOULD YOU, ANYONE YOU KNOW OR ANYONE IN YOUR FAMILY HAVE AN EPILEPTIC CONDITION, PLEASE CONSULT A PHYSICIAN IF YOU EXPERIENCE ANY OF THE FOLLOWING SYMPTOMS WHILE USING OUR SERVICES: DIZZINESS, ALTERED VISION, EYE OR MUSCLE TWITCHES, LOSS OF AWARENESS, DISORIENTATION, ANY INVOLUNTARY MOVEMENT, OR CONVULSIONS.

## **17. LIMITATION OF LIABILITY**

TUTORUP PROVIDES ITS SERVICE TO THOSE SEEKING TUTORING OPPORTUNITIES ("TUTORS") AND TO THOSE SEEKING TUTORS FOR THEMSELVES OR THEIR STUDENTS ("CUSTOMERS.") WE HELP TUTORS AND CUSTOMERS FIND ONE ANOTHER, AND FACILITATE THE PAYMENTS TO TUTORS BY CUSTOMERS THROUGH AN ONLINE PAYMENT SYSTEM.

YOU UNDERSTAND AND AGREE THAT TUTORUP HAS NO CONTROL OVER THE ACTS OR OMISSIONS OF ANY CUSTOMER AND THAT TUTORUP MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE QUALITY OF THE SERVICES PROVIDED BY ANY TUTOR. YOU UNDERSTAND AND AGREE THAT TUTORUP IS NOT RESPONSIBLE FOR THE PERFORMANCE OR CONDUCT, WHETHER ON OR OFF THE SITE, OF ANY TUTOR. AS SUCH, TUTORUP EXPRESSLY DISCLAIMS, AND EACH CUSTOMER EXPRESSLY RELEASES TUTORUP FROM, ANY AND ALL LIABILITY WHATSOEVER FOR ANY CONTROVERSIES, CLAIMS, SUITS, INJURIES AND/OR DAMAGES ARISING FROM AND/OR IN ANY WAY RELATED TO THE SITE, INCLUDING WITHOUT LIMITATION ANY ACTS AND/OR OMISSIONS OF TUTORS ON OR OFF THE SITE.

TO THE FULL EXTENT PERMITTED BY LAW, TUTORUP IS NOT LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF BUSINESS, REVENUE, PROFITS, GOODWILL, USE, DATA, ELECTRONICALLY TRANSMITTED ORDERS, OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF OR IN CONNECTION WITH THE SITE, EVEN IF TUTORUP HAS PREVIOUSLY BEEN ADVISED OF, OR REASONABLY COULD HAVE FORESEEN, THE POSSIBILITY OF SUCH DAMAGES, HOWEVER THEY ARISE, WHETHER IN BREACH OF CONTRACT OR IN TORT (INCLUDING NEGLIGENCE), INCLUDING WITHOUT LIMITATION DAMAGES DUE TO: (A) THE USE OF OR THE INABILITY TO USE THE SITE; (B) THE COST OR PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION, OR SERVICES PURCHASED OR OBTAINED, OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO, THROUGH OR FROM THE SITE; (C) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SITE, INCLUDING WITHOUT LIMITATION UNAUTHORIZED ACCESS TO OR ALTERATION OF TRANSMISSION OR DATA, MALICIOUS OR CRIMINAL BEHAVIOR, OR FALSE OR FRAUDULENT TRANSACTIONS; OR (D) CONTENT OR INFORMATION USERS MAY DOWNLOAD, USE, MODIFY, OR DISTRIBUTE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES,

THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. IN NO EVENT SHALL TUTORUP'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO, NEGLIGENCE) OR OTHERWISE, EXCEED (A) THE AMOUNT PAID BY YOU TO TUTORUP, OR (B) \$100 (WHICHEVER IS LESS).

YOU AND TUTORUP AGREE THAT THE WARRANTY DISCLAIMERS AND LIMITATIONS OF LIABILITY IN THESE TERMS ARE MATERIAL, BARGAINED-FOR BASES OF THIS AGREEMENT, AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT IN DETERMINING THE CONSIDERATION TO BE GIVEN BY EACH PARTY UNDER THIS AGREEMENT AND IN THE DECISION BY EACH PARTY TO ENTER INTO THIS AGREEMENT. YOU AND TUTORUP AGREE THAT THE WARRANTY DISCLAIMERS AND LIMITATIONS OF LIABILITY IN THESE TERMS ARE FAIR AND REASONABLE.

IF YOU ARE DISSATISFIED WITH THE SITE OR THE SERVICES OR DO NOT AGREE TO ANY PROVISIONS OF THESE TERMS, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SITE, EXCEPT AS MAY BE PROVIDED FOR IN THIS SECTION 17.

## **18. RELEASE**

In the event you have a dispute, you agree to release TutorUp (and its officers, directors, employees, agents, parent subsidiaries, affiliates, co-branders, partners and any other third parties) from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected or unsuspected, disclosed and undisclosed, arising out of or in any way connected to such dispute.

## **19. EXCLUSION AND LIMITATIONS**

THERE ARE SOME JURISDICTIONS WHICH DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OF EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. THEREFORE, SOME OF THE ABOVE LIMITATIONS OF SECTIONS WARRANTY DISCLAIMERS AND LIMITATION OF LIABILITY MAY NOT APPLY TO YOU.

## **20. THIRD PARTY BENEFICIARIES**

You herein acknowledge, understand and agree, unless otherwise expressly provided in this TOS, that there shall be no third-party beneficiaries to this agreement.

## **21. NOTICE**

TutorUp may furnish you with notices, including those with regards to any changes to the TOS, including but not limited to email, regular mail, MMS or SMS, text messaging, postings on TutorUp's Services, or other reasonable means currently known or any which may be herein after developed. Any such notices may not be received if you violate any aspects of the TOS by accessing TutorUp's Services in an unauthorized manner. Your acceptance of this TOS constitutes your agreement that you are deemed to have received any and all notices that would have been delivered had you accessed TutorUp's Services in an authorized manner.

## **22. TRADEMARK INFORMATION**

You herein acknowledge, understand and agree that all of the TutorUp trademarks, copyright, trade name, service marks, and other TutorUp logos and any brand features, and/or product and service names are trademarks and as such, are and shall remain the property of TutorUp. You herein agree not to display and/or use in any manner the TutorUp logo or marks without obtaining TutorUp's prior written consent.

## **23. COPYRIGHT OR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS NOTICE & PROCEDURES**

TutorUp will always respect the intellectual property of others, and TutorUp asks that all of TutorUp's Customers do the same. With regards to appropriate circumstances and at its sole discretion, TutorUp may disable and/or terminate the accounts of any Customer who violates the TOS and/or infringes the rights of others. If you feel that your work has been duplicated in such a way that would constitute copyright infringement, or if you believe your intellectual property rights have been otherwise violated, you should provide to us the following information:

- The electronic or the physical signature of the individual that is authorized on behalf of the owner of the copyright or other intellectual property interest;
- A description of the copyrighted work or other intellectual property that you believe has been infringed upon;
- A description of the location of the site which you allege has been infringing upon your work;
- Your physical address, telephone number, and email address;
- A statement, in which you state that the alleged and disputed use of your work is not authorized by the copyright owner, its agents or the law;
- And finally, a statement, made under penalty of perjury, that the aforementioned information in your notice is truthful and accurate, and that you are the copyright or intellectual property owner, representative or agent authorized to act on the copyright or intellectual property owner's behalf.

The TutorUp Agent for notice of claims of copyright or other intellectual property infringement can be contacted as follows:

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

## **24. CLOSED CAPTIONING**

TutorUp complies with all applicable Federal Communications Commission rules and regulations regarding the closed captioning of video content. For more information, please visit our website at TutorUp.com.

## **25. GENERAL INFORMATION ENTIRE AGREEMENT**

This TOS constitutes the entire agreement between you and TutorUp and shall govern the use of TutorUp's Services, superseding any prior version of this TOS between you and TutorUp with respect to TutorUp's Services. You may also be subject to additional terms and conditions that may apply when you use or purchase certain other TutorUp Services, affiliate services, third-party content or third-party software.

## **CHOICE OF LAW AND FORUM**

It is at the mutual agreement of both you and TutorUp with regard to the TOS that the relationship between the parties shall be governed by the laws of the State of Tennessee without regard to its

conflict of law provisions and that any and all claims, causes of action and/or disputes, arising out of or relating to the TOS, or the relationship between you and TutorUp, shall be filed within the federal or state courts having jurisdiction within Davidson County, Tennessee. You and TutorUp agree to submit to the jurisdiction of the courts as previously mentioned, and agree to waive any and all objections to the exercise of jurisdiction over the parties by such courts and to venue in such courts.

## **WAIVER AND SEVERABILITY OF TERMS**

At any time, should TutorUp fail to exercise or enforce any right or provision of the TOS, such failure shall not constitute a waiver of such right or provision. If any provision of this TOS is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the TOS remain in full force and effect.

## **NO RIGHT OF SURVIVORSHIP NON-TRANSFERABILITY**

You acknowledge, understand and agree that your account is non-transferable and any rights to your ID and/or contents within your account shall terminate upon your death. Upon receipt of a copy of a death certificate, your account may be terminated and all contents therein permanently deleted.

## **STATUTE OF LIMITATIONS**

You acknowledge, understand and agree that regardless of any statute or law to the contrary, any claim or action arising out of or related to the use of our Services or the TOS must be filed within 1 year after said claim or cause of action arose or shall be forever barred.

## **MEDICAL ACKNOWLEDGMENT AND RELEASE:**

The Customer acknowledges the health risks associated with using the Services, including but not limited to transient dizziness, lightheaded, fainting, nausea, muscle cramping, musculoskeletal injury, joint pains, sprains and strains, heart attack, stroke, or sudden death. The Customer agrees that if the Customer or the Student experience any of these or any other symptoms during use of the Services, The Customer or the Student will discontinue participation immediately and seek appropriate medical attention. THE CUSTOMER DOES HEREBY RELEASE AND FOREVER DISCHARGE THE RELEASED PARTIES FROM ANY CLAIM WHATSOEVER WHICH ARISES OR MAY HEREAFTER ARISE ON ACCOUNT OF ANY FIRST AID, TREATMENT, OR SERVICE RENDERED IN CONNECTION WITH MY PARTICIPATION IN THE SERVICES.

BY ACCESSING THE SERVICES OF TUTORUP YOU ARE DEEMED TO HAVE GIVEN A FULL RELEASE OF LIABILITY TO THE RELEASED PARTIES TO THE FULLEST EXTENT PERMITTED BY LAW.

## **27. VIOLATIONS**

Please report any and all violations of this TOS to TutorUp as follows:

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

## **28. Data Retention**

We will only retain your personal data as long as reasonably required for you to use the TutorUp Service and/or to provide you with the TutorUp Service unless a longer retention period is required or permitted by law (for example, for regulatory purposes).

You may download a PDF version of the  
**Tutorup Terms of Service** [here](#)