BROKEN ARROW PUBLIC SCHOOLS

Educating Today — *Leading Tomorrow*

Date: June 5, 2024

Contract/Agreement Vendor:

Codelicious   Jill Perdue
Name of Vendor & Contact Person

jperdue@codelicious.com
Vendor Email Address

Provides Computer Science Curriculum to 6th, 7th, 8th, and 9th grade students of Broken Arrow Public Schools
Describe Contract (Technology, program, consultant-prof Development, etc.)

Please use Summary below to fully explain the contract purchase, any titles, and details for the Board of Education to review.

Internal Renewal

BAPS Middle School and BAFA Students
Reason/Audience to benefit

June 24, 2024
BOE Date

NO COST
Amount of agreement

Person Submitting Contract/Agreement for Review: Tony Sappington

PLEASE SEND THROUGH APPROPRIATE APPROVAL ROUTING BEFORE SENDING TO BOARD CLERK

Principal &/or Director or Administrator: *Tony S...*

Does this Contract/Agreement utilize technology? (YES/NO)
If yes, Technology Admin: _____

Cabinet Team Member: *Karl Dyson*

Funding Source: 11/333
Fund/Project

OCAS Coding

☑ **Consent**

☐ **Action**

Accept and approve the RENEWAL agreement between Broken Arrow Public Schools and Codelicious. Codelicious provides Computer Science Curriculum to sixth, seventh, eighth, and ninth grade students of Broken Arrow Public Schools. Codelicious Computer Science Curriculum includes coding, unplugged, digital citizenship and STEM career lessons as well as hardware integrations. This is year three (3) of a seven (7) year agreement. The cost of $121,500.00 was paid the 22/23 school year with State Textbook funds./ T. Sappington

Summary *This area must be complete with full explanation of contract*

The Contract/Agreement should be received at least 2 weeks prior to a Board Meeting to ensure placement on the Agenda. The Contract Committee meets most Tuesdays at 8:00a.m. All Contracts/Agreements, regardless the amount, must be first approved by the Contract Committee and then presented to the Board of Education for approval and signature. The item will be placed on Electronic School Board for the board agenda by Janet Brown. By following this process, the liability of entering into an agreement is placed with the district rather than an individual.

Broken Arrow Public Schools 2022-2029

Broken Arrow Public Schools
701 South Main Street
Broken Arrow, OK 74012
United States

Kim Rogers
Director's Secretary
krogers@baschools.org
+1 (918) 259-7726

Steve Allen
School Board President
sallen@baschools.org

Sharon James
Executive Director of Secondary
Education
sjames@baschools.org
(918) 259-5710

Comments from Jill Perdue

We are excited that you want to bring computer science to your students! The proposal below contains your pricing information and details of the Codelicious **Master Subscription Agreement**. Please review each section and let us know by 8/30/22 if you have any questions, modifications or additional needs.

Product Offering

The school/district will be granted access to the following course(s). Each user will be required to agree to the terms of use for the curriculum when they access their seat for the license. There is a link to the **Terms of Use Agreement** at the end of this proposal. Product Details include:

Introduction to Computer Science Applications
License Dates: August 24, 2022 - June 30, 2029
Grades: 6
Instructional Cadence: 3 days a week, 45 minutes a day, 27 weeks
Number of Educators: 5
Pillars of Engagement: Coding, Unplugged, STEM Careers and Digital Citizenship
Technology (Provided by School): Chromebooks

Computer Science Applications- JavaScript
License Dates: August 24, 2022 - June 30, 2029
Grades: 7
Instructional Cadence: 3 days a week, 45 minutes a day, 27 weeks
Number of Educators: 5
Pillars of Engagement: Coding, Unplugged, STEM Careers and Digital Citizenship
Technology (Provided by School): Chromebooks

Computer Science Applications- Java
License Dates: August 24, 2022 - June 30, 2029
Grades: 8
Instructional Cadence: 3 days a week 45 minutes a day, 27 weeks
Number of Educators: 5
Pillars of Engagement: Coding, Unplugged, STEM Careers and Digital Citizenship
Technology (Provided by School): Chromebooks

HS Computer Science-Python
License Dates: August 24, 2022 - June 30, 2029
Grades:9
Instructional Cadence: 3 days a week, 45 minutes a day, 27 weeks
Number of Educators: 2
Pillars of Engagement: Coding, Unplugged, STEM Careers and Digital Citizenship
Technology (Provided by School): Chromebooks & Computer Lab

Product Training

All Codelicious courses come with video-based training, included as part of the product offering. These videos are divided into 10-15 minute sessions focused on building familiarity with the product and platform. Live training can be purchased for an additional fee.

Codelicious offers live training via webinar or in-person meeting. This fee-based training cost is $500 per educator.

Training Type: Virtual
Training Date: TBD

Product Support

Codelicious will assign a technical support representative at the time of product delivery. Support will be available during all working hours. Fee for product support is waived if payment is received by August 30, 2022.

To Be Provided by School/District

Classroom technology (computers, laptops, iPads, etc) will be provided by the school.

In addition to technology, some of the unplugged projects will require optional, miscellaneous classroom items such as plain paper, rubber bands, pencils, and other items. The school will provide these items along with any photocopies of supplemental materials as needed.

Terms of Payment

Annual payment in full to be collected by 8/3/22.

Products & Services

Item & Description	SKU	Quantity	Unit Price	Total
Introduction to Computer Science Applications Computer Science Applications JavaScript	CSA-JS	30	$3,500.00	$105,000.00 for 6 years
Computer Science Applications - JavaScript	HS-JS	30	$3,500.00	$105,000.00 for 6 years
Computer Science Applications Java Computer Science Applications Java	CSA-Java	30	$3,500.00	$105,000.00 for 6 years
HS Codelicious Computer Science - Python	HS-Python	6	$5,000.00	$30,000.00 for 6 years

Subtotals

One-time subtotal	$345,000.00

Other Fees

Threshold Discount for middle school of $3500 per Building per Year	−$210,000.00

Additional 10% for paying multi-year discount upfront $135,000 X .10 = $121,500   −$13,500.00
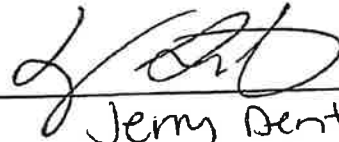
Total $121,500.00

Purchase Terms

Coder Kids, LLC, d/b/a Codelicious will provide the above product and support services to Licensed School(s) indicated above. Each user will be required to agree to the terms of use for the curriculum when they access their seat for the license.

All agreements are subject to the terms and conditions of the MSA. Users will also agree to Codelicious's Terms of Use and Privacy Policy.

This contract adopts and incorporates by reference the terms and conditions of the Master Subscription Agreement dated ("MSA") between Coder Kids INC, a Delaware corporation doing business as Codelicious ("Codelicious") and the undersigned ("Educational Institution"). Except as provided herein, capitalized terms not defined herein will have the meanings provided in the MSA.

Jerry Denton   8-8-2022
VP-BOE

Jill Perdue
jperdue@codelicious.com

Questions? Contact me

Jill Perdue
Account Executive
jperdue@codelicious.com

Codelicious
PO Box 3462
Carmel, IN 46082

TITLE	Broken Arrow Public Schools 2022-2029
FILE NAME	redir
DOCUMENT ID	257e5020ed709277551bf3a4f3211d10fb3d154c
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Pending signature

This document was signed on app.hubspot.com

Document History

⟳ **SENT**	**08 / 02 / 2022** 16:23:46 UTC	Sent for signature to Steve Allen (sallen@baschools.org) and Jill Perdue (jperdue@codelicious.com) from esign@hubspot.com IP: 54.174.54.212
◎ **VIEWED**	**08 / 02 / 2022** 16:24:06 UTC	Viewed by Jill Perdue (jperdue@codelicious.com) IP: 23.118.149.114
↙ **SIGNED**	**08 / 02 / 2022** 16:24:44 UTC	Signed by Jill Perdue (jperdue@codelicious.com) IP: 23.118.149.114
⊖ **INCOMPLETE**	**08 / 02 / 2022** 16:24:44 UTC	This document has not been fully executed by all signers.

<u>CODELICIOUS</u>
<u>MASTER SUBSCRIPTION AGREEMENT</u>

This Master Subscription Agreement is between Coder Kids INC doing business as Codelicious ("Codelicious") and the educational institution named in a corresponding Codelicious Statement of Work (the "Educational Institution"). This Master Subscription Agreement and any Statement of Work executed by a representative of Educational Institution together form the "Agreement" between the parties. The Agreement is effective from the Educational Institution's representative's execution of the Statement of Work (the "Effective Date"). In consideration of the mutual promises and covenants, and on the terms and conditions contained herein, the parties agree as follows:

1.   **SERVICES.**

1.1.   <u>Services</u>. During the Term, and subject to Educational Institution's compliance with the terms and conditions of this Agreement, Codelicious shall use commercially reasonable efforts to provide Educational Institution and its authorized individual end users ("Authorized Users") with the services described in each executed Statement of Work(the "Services") in accordance with the terms hereof, including to host, manage, operate and maintain Codelicious's software, and all new versions, updates, revisions, improvements and modifications of the foregoing, that Codelicious agrees to provide remote access to and use of as part of the Services hereunder (the "Subscription Software") by Educational Institution and its Authorized Users, 24 hours per day, seven days per week every day of the year, except for:

A.   Scheduled Downtime as provided in Section 4.3;

B.   Service downtime or degradation due to a Force Majeure Event;

C.   any other circumstances beyond Codelicious's reasonable control, including Educational Institution's or any Authorized User's use of material or information, in any form or medium, including any software, documents, data, content, specifications, products, equipment or components of or relating to the Services that are not proprietary to Codelicious ("Third Party Materials"), misuse of the Subscription Software, or use of the Services other than in compliance with the express terms of this Agreement and the Specifications; and

D.   any suspension or termination of Educational Institution's or any Authorized Users' access to or use of the Subscription Software as permitted by this Agreement.

1.2.   <u>Service and System Control</u>. Except as otherwise expressly provided in this Agreement, as between the parties:

A.   Codelicious has and will retain sole control over the operation, provision, maintenance and management of the (a) Services, (b) Documentation (defined below), (c) the information technology infrastructure used by or on behalf of Codelicious in performing the Services, including all computers, software, hardware, databases, electronic systems and networks, whether operated directly by Codelicious or through the use of third-party services ("Codelicious Systems"), and (d) any and all other Codelicious information, data, documents, materials, works and other content, devices, methods, processes, software and other technologies and inventions provided or used by Codelicious in connection with the Services or which otherwise comprise or relate to the Services or Codelicious Systems (collectively the "Codelicious Materials"). This includes Codelicious' sole control over: (i) information, data and other content that is derived by or through the Services from processing Educational Institution Data (defined below) and is sufficiently different such that such Educational Institution Data cannot be reverse engineered or otherwise identified from the inspection, analysis or further processing of such information, data or content ("Aggregated Statistics"); (ii) selection, deployment, modification and replacement of the Subscription Software; and (iii) performance of Service support, maintenance, upgrades, corrections and repairs. "Educational Institution Data" means, other than Aggregated Statistics, personally identifiable information, data and other content, in any form or medium, that is collected, downloaded or otherwise received, directly or indirectly from Educational Institution or an Authorized User by or through the Services. The Educational Institution controls Educational Institution Data.

B.   Educational Institution has and will retain sole control over the operation, maintenance and management of, and all access to and use of, Educational Institution's information technology infrastructure, including computers, software, hardware, databases, electronic systems and networks, whether operated directly by Educational Institution or through the use of third-party services (the "Educational Institution Systems"), and sole responsibility for all access to and use of the Services and Codelicious Materials by any other individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association or other entity ("Person") by or through the Educational Institution Systems or any other means controlled by Educational Institution or any Authorized User.   Educational Institution will maintain all Educational Institution Systems in compliance with any federal, state, or local law or regulation, and industry best practices.

1.3.   Changes.

A.   Codelicious reserves the right, in its sole discretion, to make any changes to the Services and Codelicious Materials that it deems necessary or useful to: (a) maintain or enhance (i) the quality or delivery of Codelicious's services to its

Educational Institutions, including in connection with changes in or additional to applicable educational standards, (ii) the competitive strength of or market for Codelicious's services, including any technological or product updates available in the market, or (iii) the Services' cost efficiency or performance; or (b) to comply with applicable Law.

B.   Educational Institution may request additional Services, including additional Subscription Software or features, extension of the provision of any Subscription Software, and increases in the number of Authorized Users for any Services pursuant to an executed Statement of Work.

1.4.   Suspension or Termination of Services. Without effecting its other rights or remedies which may be available to it, Codelicious may, directly or indirectly, suspend, terminate or otherwise deny Educational Institution's, any Authorized User's or any other Person's access to or use of all or any part of the Services or Codelicious Materials, without incurring any resulting obligation or liability, if: (a) Codelicious receives a judicial or other governmental demand or order, subpoena or law enforcement request that expressly or by reasonable implication requires Codelicious to do so; or (b) Codelicious believes, in its reasonable discretion, that: (i) Educational Institution or any Authorized User has failed to comply with, any term of this Agreement, or accessed or used the Services beyond the scope of the rights granted or for a purpose not authorized under this Agreement or in any manner that does not comply with any instruction or requirement of the Specifications; (ii) Educational Institution or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading or unlawful activities; or (iii) this Agreement expires or is terminated.

2.   **AUTHORIZATION; USE RESTRICTIONS.**

Authorization. During the Term, and subject to Educational Institution's payment of the Fees and compliance with all other terms and conditions of this Agreement, Codelicious hereby authorizes Educational Institution to access and use the Services and such Codelicious Materials solely for the purpose of teaching and learning computer programming and coding (the "Permitted Use") and will make available to Educational Institution's designated end users (each an "Authorized User") a unique login to the Subscription Software for the Term, subject to (i) the provision by such Authorized User of certain reasonable identifying information (which may include his or her own user name, electronic mail address, identification number, and/or password) for purposes of verifying an identity and authorization to access and use the Services ("Access Credentials") and (ii) each Authorized User's agreement to and continued compliance with Codelicious's Terms of Use Agreement. This authorization is non-exclusive and non-transferable.

2.1.   Reservation of Rights. Nothing in this Agreement grants any right, title or interest in or to any registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret,

database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world ("Intellectual Property Rights") in or relating to, the Services, Subscription Software, Codelicious Materials or Third Party Materials, whether expressly, by implication, estoppel or otherwise. All right, title and interest in and to the Services, Subscription Software, Codelicious Materials and the Third Party Materials are and will remain with Codelicious and the respective rights holders in the Third Party Materials.

2.2. **Authorization Limitations and Restrictions**. Educational Institution shall ·be responsible for any unauthorized use of the Subscription Software that Educational Institution or any of its employees or agents have knowingly caused or knowingly tolerated. Codelicious and/or its third party licensors reserve title, ownership, and all rights to the Subscription Software (and any manuals, instructions or other documents or materials Codelicious provides or makes available to Educational Institution in any form or medium and which describe the functionality, components, features or requirements of the Services or Codelicious Materials (the "Documentation")), except for the limited user rights expressly granted herein.

2.3. **Use Restrictions**. Educational Institution shall not, and shall not permit any Authorized User or other Person to, access or use the Services or Codelicious Materials except as expressly permitted by this Agreement and, in the case of Third-Party Materials, the applicable third-party license agreement. Without limiting the generality of the foregoing, Educational Institution shall not, except as this Agreement expressly permits:

A. copy, modify, or create derivative works of the Subscription Software or Codelicious Materials, in whole or in part;

B. rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available all or any part of the Services, including the Subscription Software or Codelicious Materials;

C. "mirror" any material contained in or provided in connection with the Services, including the Subscription Software or Codelicious Materials;

D. reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services, including the Subscription Software or Codelicious Materials;

E. remove any proprietary notices from the Services, Subscription Software or Codelicious Materials;

F. use the Services, Subscription Software, or Codelicious Materials in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law or regulation ("Law"); or

G.   otherwise access or use the Services, Subscription Software, or Codelicious Materials beyond the scope of the authorization granted hereunder.

3.   EDUCATIONAL INSTITUTION OBLIGATIONS.

3.1.   <u>Educational Institution Systems and Cooperation</u>. Educational Institution shall at all times during the Term: (a) set up, maintain and operate in good repair all Educational Institution Systems on or through which the Services are accessed or used; (b) provide Codelicious and its personnel with such access to Educational Institution's premises and Educational Institution Systems as is necessary for Codelicious to perform the Services; and (c) provide all cooperation and assistance as Codelicious may reasonably request to enable Codelicious to exercise its rights and perform its obligations pursuant to this Agreement.

3.2.   <u>Effect of Educational Institution Failure or Delay</u>. Codelicious is not responsible or liable for any delay or failure of performance caused in whole or in part by Educational Institution's delay in performing, or failure to perform, any of its obligations under this Agreement (each, a "Educational Institution Failure").

3.3.   <u>Corrective Action and Notice</u>. If Educational Institution becomes aware of any actual or threatened activity prohibited by this Agreement, Educational Institution shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Services and Codelicious Materials and permanently erasing from their systems and destroying any data to which any of them have gained unauthorized access); and (b) notify Codelicious of any such actual or threatened activity.

4.   SUPPORT.

The Services include Codelicious's standard Educational Institution support services ("Support Services"), including new Authorized User login creation, basic troubleshooting and technical support, but specifically excluding issues arising from (i) Educational Institution's or its Authorized User's violation of this Agreement or (ii) Third Party Materials.

5.   SECURITY.

5.1.   <u>Codelicious Systems and Security Obligations</u>. Codelicious will employ commercially reasonable physical, administrative and technical controls, screening and security procedures and/or other security measures to protect Educational Institution Data. Codelicious may change it security practices and procedures in its sole discretion and without notice to Educational Institution.

5.2.   Educational Institution Control and Responsibility. Educational Institution has and will retain sole responsibility for: (a) all Educational Institution Data, including its content and use; (b) all information, instructions and materials provided by or on behalf of Educational Institution or any Authorized User in connection with the Services; (c) Educational Institution's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems) and networks, whether operated directly by Educational Institution or through the use of third-party services ("Educational Institution Systems"); (d) the security and use of Educational Institution's and its Authorized Users' Access Credentials; and (e) all access to and use of the Services and Codelicious Materials directly or indirectly by or through the Educational Institution Systems or its or its Authorized Users' Access Credentials, with or without Educational Institution's knowledge or consent, including all results obtained from, and all conclusions, decisions and actions based on, such access or use.

5.3.   Access and Security. Authorized Users may be required to establish a login to the Subscription Software and provide certain personal information to Codelicious to establish Access Credentials.   Educational Institution will employ commercially reasonable physical, administrative and technical controls, screening and security procedures and/or other safeguards reasonably necessary to: (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to or use of the Subscription Software; and (b) control the content and use of Educational Institution Data, including the uploading or other provision of Educational Institution Data for processing by the Subscription Software. Processing of Educational Institution Data may include collecting, receiving, inputting, uploading, downloading, recording, reproducing, storing, organizing, compiling, combining, logging, cataloging, cross-referencing, managing, maintaining, copying, adapting, altering, translating or making other derivative works or improvements from, processing, retrieving, using, displaying, disseminating, or otherwise providing or making available, or erasing.

6.   **FEES.**

6.1.   Fees. Educational Institution shall pay Codelicious the fees as set forth in its Codelicious Statement of Work and any resulting invoices ("Fees"), or otherwise as consistent with laws applicable to Educational Institution with respect to payment of vendors.

6.2.   Taxes. Educational Institution is responsible for payment of all applicable value added, sales, use, and other taxes and all applicable export and import fees, custom duties, and similar charges (other than taxes based on Codelicious's net income) arising from the payment of fees hereunder.

6.3.   Payment. Educational Institution shall pay all Fees within 30 days of receipt of an applicable invoice, unless otherwise stated in the Statement of Work or a resulting invoice.

6.4.   Late Fees. If Educational Institution does not pay any fee or expense when due, such late payments shall bear interest at the rate of 1.5% per month, or, if lower, the maximum rate allowed by law. Educational Institution shall reimburse Codelicious for any costs incurred (including reasonable attorney fees) in the collection of Educational Institution's past-due Fees. If such payment failure continues for 5 days following written notice thereof, Codelicious may suspend performance of the Services until all past due amounts and interest thereon have been paid, without incurring any obligation or liability to Educational Institution or any other Person by reason of such suspension.

7.   **INTELLECTUAL PROPERTY RIGHTS.**

7.1.   Services and Codelicious Materials. All right, title and interest in and to the Services, Subscription Software, and Codelicious Materials, including all Intellectual Property Rights therein, are and will remain with Codelicious and the respective rights holders in the Third-Party Materials. Educational Institution has no right, license or authorization with respect to any of the Services or Codelicious Materials (including Third-Party Materials) except as expressly set forth herein or the applicable third-party license, in each case subject to the terms of this Agreement. All other rights in and to the Services and Codelicious Materials (including Third-Party Materials) are expressly reserved by Codelicious and the respective third-party licensors. In furtherance of the foregoing, Educational Institution hereby unconditionally and irrevocably grants to Codelicious an assignment of all right, title and interest in and to the Aggregated Statistics, including all Intellectual Property Rights relating thereto.

7.2.   Consent to Use Educational Institution Data. Educational Institution hereby irrevocably grants all such rights and permissions in or relating to Educational Institution Data to Codelicious as are necessary or useful: (a) to create Aggregated Statistics; (b) to perform, enhance or improve the Services; and (c) to enforce this Agreement and exercise its rights and perform its obligations hereunder; provided, however all Educational Institution Data and information collected from Authorized Users in connection with access to or use of the Services will be governed by Codelicious's Privacy Policy.

8.   **TERM AND TERMINATION.**

8.1.   Term. The term of the Agreement commences as of the Effective Date and will continue in effect consistent with the License Dates set forth in the Statement of Work, unless terminated earlier pursuant any of the Agreement's express provisions, (the "Term").

8.2.   Termination. In addition to any other express termination right set forth elsewhere in this Agreement:

A.   Codelicious may terminate this Agreement, effective on written notice to Educational Institution, if Educational Institution fails to pay any amount when

due hereunder, and such failure continues more than 15 days after Codelicious's delivery of written notice thereof;

B.   Either party may terminate this Agreement, effective on written notice to the other party, if the other party materially breaches this Agreement, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured 30 days after the non-breaching party provides the breaching party with written notice of such breach; and

C.   Either party may terminate this Agreement, effective immediately upon written notice to the other party, if the other party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency Law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

8.3.   Effect of Expiration or Termination. Upon any expiration or termination of this Agreement, except as expressly otherwise provided in this Agreement:

A.   If terminated by Educational Institution when any Statement of Work is then in effect and not pursuant to Section 8.3B above, Codelicious may, in its sole discretion, elect to continue to provide those Services pursuant to the terms of this Agreement, and Educational Institution will continue to be bound by the same, until the expiration of such Statement of Work;

B.   All rights, licenses, consents and authorizations granted by either party to the other hereunder will immediately terminate;

C.   Educational Institution shall immediately cease all use of any Services or Codelicious Materials; and

D.   Codelicious may disable all Educational Institution and Authorized User access to the Services, including the Subscription Software and Codelicious Materials.

8.4.   Surviving Terms. The provisions, rights and obligations of the parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement.

9.   REPRESENTATIONS.

9.1.   Mutual Representations. Each party represents and warrants to the other party that:

A.   it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;

B.   it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses, consents and authorizations it grants or is required to grant under this Agreement;

C.   the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and

D.   when executed and delivered by both parties, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

9.2.   Additional Codelicious Representations. Codelicious represents and warrants to Educational Institution that Codelicious will perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and will devote adequate resources to meet its obligations under this Agreement.

9.3.   Additional Educational Institution Representations. Educational Institution represents and warrants to Codelicious that Educational Institution owns or otherwise has and will have the necessary rights and consents in and relating to the Educational Institution Data so that, as received by Codelicious and processed in accordance with this Agreement, they do not and will not infringe, misappropriate or otherwise violate any Intellectual Property Rights, or any privacy or other rights of any third party or violate any applicable Law.

10.   **WARRANTY DISCLAIMER.** While Codelicious uses commercially reasonable efforts to assure the inclusion of accurate and up-to-date information is provided in connection with the Services, it makes no warranties or representations as to such information's accuracy. Codelicious assumes no liability or responsibility for any typographical, data input errors, calculation errors or other errors, defects, or omissions associated with the Services. ALL SERVICES AND CODELICIOUS MATERIALS ARE PROVIDED "AS IS" AND CODELICIOUS HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, AND CODELICIOUS SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, CODELICIOUS MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES OR CODELICIOUS MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET

EDUCATIONAL INSTITUTION'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES (EXCEPT IF AND TO THE EXTENT EXPRESSLY SET FORTH IN THE SPECIFICATIONS), OR BE SECURE, ACCURATE, COMPLETE, OR ERROR FREE.

ALL THIRD-PARTY MATERIALS PROVIDED BY CODELICIOUS ARE PROVIDED "AS IS."ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD PARTY MATERIALS PROVIDED BY EDUCATIONAL INSTITUTION IS STRICTLY BETWEEN EDUCATIONAL INSTITUTION AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD-PARTY MATERIALS.

11.   **DISCLAIMER OF LIABILITY.** UNDER NO CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, WILL CODELICIOUS BE LIABLE FOR (1) ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA OR PROFIT, ARISING OUT OF THE USE, OR THE INABILITY TO USE, THE SERVICES OR CODELICIOUS MATERIALS, OR ANY ERROR IN OR DEFICIENCY OF THE SAME, EVEN IF CODELICIOUS OR ITS AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR (2) ANY COSTS ARISING FROM THE USER'S OR OTHER THIRD PARTY USER'S USE OF THE SERVICES OR CODELICIOUS MATERIALS WHICH RESULTS IN THE NEED FOR SERVICING, REPAIR, OR CORRECTION OF ANY EQUIPMENT OR DATA OWNED BY THE USER OR ANY THIRD-PARTY. Codelicious and its employees, officers, directors, members, managers, agents, affiliates, subsidiaries, and independent contractors shall not be liable for any claims, causes of action, costs, expenses, damages, or other liabilities of any nature which may arise from or be asserted against the Company as a result of any dispute between it and any Authorized Users, arising directly or indirectly from the Services or any other dealings between the Educational Institution or an Authorized User and any Third Party Materials provider.

CODELICIOUS HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION OR RECOVERY OF EDUCATIONAL INSTITUTION DATA, AND EDUCATIONAL INSTITUTION IS URGED TO CREATE AND REGULARLY MAINTAIN ITS OWN BACKUPS OF THE SAME.

12.   **INDEMNIFICATION; MITIGATION.**

12.1.   Indemnification. Educational Institution shall indemnify, defend and hold harmless Codelicious and its officers, directors, employees, agents, successors and assigns (each, a "Codelicious Indemnitee") from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder, incurred by such Codelicious Indemnitee in connection with any Action by a third party that arises out of or relates to any:

A.   Educational Institution Data, including any processing of Educational Institution Data by or on behalf of Codelicious in accordance with this Agreement;

B.   any other materials or information (including any documents, data, specifications, software, content,technology, and third party materials) provided by or on behalf of Educational Institution or any Authorized User, including Codelicious's compliance with any specifications or directions provided by or on behalf of Educational Institution or any Authorized User to the extent prepared without any contribution by Codelicious;

C.   allegation of facts that, if true, would constitute Educational Institution's breach of any of its representations, warranties, covenants or obligations under this Agreement; or

D.   gross negligence or more culpable act or omission (including recklessness or willful misconduct) by Educational Institution, any Authorized User, or any third party on behalf of Educational Institution or any Authorized User, in connection with this Agreement.

12.2.   Mitigation. If any of the Services or Codelicious Materials are, or in Codelicious's opinion are likely to be, claimed to infringe, misappropriate or otherwise violate any third-party Intellectual Property Right, or if Educational Institution's or any Authorized User's use of the Services or Codelicious Materials is enjoined or threatened to be enjoined, Codelicious may, at its option either (1) procure for Educational Institution the right to continue use of the Services and Codelicious Material materially as contemplated by this Agreement; (2) provide a modification to the Services and/or Codelicious Material so that its use becomes non-infringing, while providing materially equivalent functionality and performance; (3) replace the Services and/or Codelicious Material with a non-infringing version which is materially equivalent in functionality and performance; or, if none of remedies (1)-(3) are possible, then (4) terminate this Agreement with respect to all or part of the Services and Codelicious Materials, and require Educational Institution to immediately cease any use of the Services and Codelicious Materials or any specified part or feature thereof, and, subject to Educational Institution's compliance with its post-termination obligations set forth herein, refund Educational Institution a pro rata portion of Fees paid for the terminated Services.

12.3.   THIS SECTION 12 SETS FORTH EDUCATIONAL INSTITUTION'S SOLE REMEDIES AND CODELICIOUS'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED OR ALLEGED CLAIMS THAT THIS AGREEMENT OR ANY SUBJECT MATTER HEREOF (INCLUDING THE SERVICES AND CODELICIOUS MATERIALS) INFRINGES, MISAPPROPRIATES OR OTHERWISE VIOLATES ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHT.

13.   **LIMITATION OF REMEDIES AND DAMAGES.**

13.1.   EXCEPT FOR LOSSES ARISING OUT OF OR RELATING TO A PARTY'S GROSS NEGLIGENCE OR MORE CULPABLE CONDUCT, IN NO EVENT (A) WILL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, OR (B) WILL CODELICIOUS'S LIABILITY,

(INCLUDING CONTRACTUAL INDEMNIFICATION OBLIGATIONS) EXCEED THE AMOUNT ACTUALLY PAID BY EDUCATIONAL INSTITUTION TO CODELICIOUS AS A FEE UNDER THIS AGREEMENT IN THE ONE YEAR PERIOD IMMEDIATELY PRECEDING THE DATE UPON WHICH THE CLAIM FIRST ARISES.

14. MISCELLANEOUS.

14.1. <u>Publicity</u>. Neither party shall issue a press release or other form of publicity concerning the existence of the Agreement or the Services without obtaining the prior written approval of the other party. In addition, Codelicious shall not use Educational Institution's name, logo, trademarks, service marks or brand in any sales effort, publication, press release, marketing campaign, website, whitepaper, etc. or any other form without the prior written approval of Educational Institution's chief information officer or equivalent.

14.2. <u>Force Majeure</u>. Except for Educational Institution's payment obligations, neither party will incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the reasonable control and without the negligence of the parties.

14.3. <u>Notices</u>. All notices delivered under the Agreement shall be in writing and deemed given upon receipt when delivered personally or upon confirmation of receipt following delivery of (i) overnight courier service, or (ii) registered or certified mail, return receipt requested, postage prepaid, sent to the address indicated below the signature block on this Agreement, or at such other address of which one party is notified by the other in writing.

14.4. <u>No Third-party Beneficiaries</u>. This Agreement is for the sole benefit of the parties hereto and their respective permitted successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

14.5. <u>No Partnership</u>. The parties will at all times be independent contractors and will so represent themselves to all third parties. Neither party has granted to the other, the right to bind it in any manner whatsoever and neither party shall hold itself out as entitled to do the same. Nothing herein will be deemed to empower either party to be the agent or legal representative of the other or to constitute the parties as partners, co-owners, or joint venturers.

14.6. <u>Assignment</u>. Educational Institution may not transfer, assign, or delegate its rights or duties under this Agreement unless Codelicious grants its prior written consent, which shall not unreasonably be withheld. Any assignment by a party in violation of the foregoing shall be void. Subject to this section, the provisions of the Agreement shall be

binding upon and inure to the benefit of the parties, their successors, and permitted assigns.

14.7. **Headings.** The headings used in this Agreement are for reference purposes only and shall not affect the construction or interpretation of this Agreement.

14.8. **Waiver; Amendments.** No waiver or modification of this Agreement or of any covenant, condition, or provision herein obtained shall be valid unless in writing and duly executed by the party to be charged therewith. The failure of a party to enforce or exercise any term of this Agreement does not constitute a waiver of such term and shall in no way affect that party's right to later enforce or exercise it.

14.9. **Severability.** In the event any of the provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the same shall be deemed severable, and as never having been contained herein, and this agreement shall then be construed and enforced in accordance with the remaining provisions hereof.

14.10. **Attorneys' Fees.** In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either party hereto against the other party arising out of or related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing party.

14.11. **Entire Agreement; Counterparts.** This Agreement, and any Statement of Work issued hereunder represents the entire agreement between the parties relating to the subject matter hereof. Users of the Services are further subject to Codelicious' Privacy Policy and Terms of Use. This Agreement may be signed in counterparts.

CODELICIOUS
TERMS OF USE AGREEMENT

Subject to the terms of these Terms of Use, the Codelicious Master Subscription Agreement, and the Codelicious Services Agreement (collectively the "Agreement"), Coder Kids INC, a Delaware corporation doing business as Codelicious ("Codelicious"), hereby authorizes you (a "User") to use the Codelicious software programs, operating information, content, and materials, including any written or other supplemental materials provided by Codelicious in connection with the same (the "Software") solely for the purpose of teaching and learning computer programming and coding (the "Permitted Use").

User acknowledges and agrees that your respective access to and use of the Software is conditioned on the compliance of certain third parties through which Codelicious has agreed to license the Software, such as a school, university, or vocational training provider (an "Educational Institution") with which User may be associated. User's rights under the Agreement are conditioned upon the Educational Institution's compliance with the Agreement. If you are accessing or using the Software on behalf of a company or entity, such company or entity is the "User" and you hereby represent that you have the authority to agree to the Agreement on such company's or entity's behalf.

By installing, accessing, or using the Software, User acknowledges User has read, understood, and agrees to be bound by the Agreement. If you do not agree to be bound by the Agreement, including limiting your use of the Software to the Permitted Use, you may not install, access, or use the Software.

1. **Access and Use.**
   a. **Software.** Subject to the terms and conditions of the Agreement, Codelicious hereby grants the User a personal, non-exclusive, non-transferable right to access and use the Software during the Term.

   b. **Use Restrictions.** The User shall not use the Software for any purposes beyond the scope of the Permitted Use (as offered by the Educational Institution, if applicable) and the access granted in the Agreement, and shall not, at any time, directly or indirectly: (i) copy, modify, or create derivative works of the Software, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Software; (iii) "mirror" any material contained in or provide in connection with the Software; (iv) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the Software; (v) remove any proprietary notices from the Software, including software; or (vi) use the Software in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law or regulation.

   c. **Reservation of Rights.** Codelicious reserves all rights not expressly granted to the User in the Agreement. Except for the limited rights expressly granted under the Agreement, nothing in the Agreement grants, by implication, waiver, estoppel, or otherwise, to the User or any third party any intellectual property rights or other right, title, or interest in or to the Software.

   d. **Suspension.** Notwithstanding anything to the contrary in the Agreement, Codelicious may temporarily suspend the User's access to any portion or all of the Software if: (i) Codelicious reasonably determines that (A) there is a threat or attack on any of the Software; (B) The User's use of the Software disrupts or poses a security risk to other users, Codelicious, or to any third

party; (C) the User is in breach of the Agreement; or (D) Codelicious's provision of the Software to the User is prohibited by applicable law. Codelicious will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that User may incur as a result of a suspension of access to the Software.

e. **Aggregated Statistics.** Notwithstanding anything to the contrary in the Agreement, Codelicious may monitor the User's access to and use of the Software and collect and compile information in an aggregate and anonymized manner, including statistical and performance information related to the provision and operation of the Software ("Aggregated Statistics"). As between Codelicious and the User, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by Codelicious.

f. **Collection and Use of Information.** All information collected by Codelicious through or in connection with the Software is subject to Codelicious's Privacy Policy, which is hereby incorporated into and made a part of the Agreement.

2. **User Responsibilities.**
   a. **Login.** The User may be required to create a unique password protected and identifying account via the Software as a condition to accessing and using the Software (a "Login").

   b. **Access Materials.** The User shall be responsible for providing, at its expense, all communication lines, hardware, other software, services and other materials and technology necessary for the User to access the Software. Codelicious shall have no responsibility for any failure of such items or any failure or limitation of the internet or other computer hardware or software.

3. **Term and Termination.** This Agreement continues in force and effect during the User's use of the Software; provided, Codelicious may terminate the Agreement, in its sole discretion, in the event (i) the User breaches the Agreement, (ii) if applicable, the Educational Institution is in breach of the Agreement; or (iii) Codelicious determines it necessary, beneficial, or useful, in its sole discretion, to do so, to comply with applicable law or otherwise. Upon any expiration or termination of the Agreement, the User must immediately cease all use of the Software. Codelicious will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that User may incur as a result of any termination of the Agreement.

4. **Intellectual Property.** As between the User and Codelicious, all intellectual property of every kind and nature in all materials, courses, coursework, and codes provided under or as a part of the Software, including, without limitation, all copyrights, trademarks, and patents of or related to the Software and any enhancements and/or modifications to such materials, courses, coursework, and/or codes made by a User, (the "Intellectual Property") are or shall be owned and held by Codelicious, and, to the extent necessary, are hereby assigned to Codelicious by the User. None of the Intellectual Property may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including, but not limited to, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of Codelicious, which may be withheld, conditioned, or delayed in Codelicious's sole discretion. Permission is granted to display, copy, distribute and download the Intellectual Property for the Permitted Use and in connection with the Software, provided the User does not modify the Intellectual Property and that the User retains all copyright and other proprietary

notices contained in the Intellectual Property. This permission terminates automatically if the User breaches any terms or conditions of the Agreement or if Codelicious revokes the license to the User. Upon termination of the Agreement or the license hereunder, the User must immediately cease use of the Software and destroy any downloaded or printed Intellectual Property.

Without limitation, the Software, including all derivatives, improvements, and modifications thereof, is subject to Codelicious's copyright protection.

5. **Confidentiality.** "Confidential Information" shall mean any confidential or proprietary information disclosed to a User or Educational Institution by Codelicious through or in connection with the use of the Software, including, but not limited to, pricing terms, sourcing information, product plans, specifications, software designs and code, user names, passwords, and any related information, materials, or documents. Confidential information shall not include information which: (a) is or becomes generally available to the public through no wrongful act of the User; (b) was in the User's possession prior to the time it was acquired from Codelicious and which was not directly or indirectly acquired from Codelicious; (c) is independently made available as a matter of right to the User by a third party lawfully in possession thereof, and who was not, to the User's knowledge, under an obligation to Codelicious not to disclose it, or (d) is independently developed by or for the User by persons not having exposure to Codelicious's confidential information. The User agrees: (x) not to disclose, directly or indirectly, to any third party any portion of the Confidential Information; (y) to take reasonably necessary precautions to protect the confidentiality of the Confidential Information received hereunder and exercise at least the same degree of care in safeguarding the Confidential Information as the User would with its own confidential information; and (z) to promptly notify Codelicious in writing upon learning of any unauthorized use or disclosure of the Confidential Information.

6. **Warranty Disclaimer, Liability Disclaimer, and Indemnification.**

    a. **Disclaimer of Warranty.** While Codelicious uses commercially reasonable efforts to assure the inclusion of accurate and up-to-date information on the Intellectual Property, and Software, Codelicious makes no warranties or representations as to such information's accuracy. Codelicious assumes no liability or responsibility for any typographical, data input errors, calculation errors or other errors, defects, or omissions associated with the Intellectual Property or Software. THE COMPANY PROVIDES THE SOFTWARE AND INTELLECTUAL PROPERTY AS IS, WHERE IS, AS AVAILABLE, AND WITH ALL FAULTS, WITHOUT ANY WARRANTY OR REPRESENTATION OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY. THE COMPANY SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE COMPANY DOES NOT WARRANT (1) THAT THE SOFTWARE WILL BE CONTINUOUS, UNINTERRUPTED OR SECURE, AND NOTIFIES THE USER THAT OPERATION OF THE SOFTWARE MAY BE INTERFERED WITH BY NUMEROUS FACTORS OUTSIDE OF THE COMPANY'S CONTROL, (2) THAT THE SOFTWARE WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, (3) THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED, OR (4) THAT THE CONTENT WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

    SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF OR LIMITATIONS ON IMPLIED WARRANTIES OR THE LIMITATIONS ON THE APPLICABLE STATUTORY RIGHTS OF A CONSUMER,

SO SOME OR ALL OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO A SPECIFIC USER.

b. **Disclaimer of Liability.** UNDER NO CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, WILL THE COMPANY BE LIABLE FOR (1) ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA OR PROFIT, ARISING OUT OF THE USE, OR THE INABILITY TO USE, THE INFORMATION, INTELLECTUAL PROPERTY, OR MATERIALS ON THE COMPANY'S SOFTWARE, OR ANY ERROR IN OR DEFICIENCY OF THE SOFTWARE EVEN IF THE COMPANY OR A COMPANY AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR (2) ANY COSTS ARISING FROM THE USER'S OR OTHER THIRD PARTY USER'S USE OF INTELLECTUAL PROPERTY AND/OR MATERIALS FROM THE SOFTWARE WHICH RESULTS IN THE NEED FOR SERVICING, REPAIR, OR CORRECTION OF ANY EQUIPMENT OR DATA OWNED BY THE USER OR ANY THIRD-PARTY. Codelicious and its employees, officers, directors, members, managers, agents, affiliates, subsidiaries, and independent contractors shall not be liable to the User for any claims, causes of action, costs, expenses, damages, or other liabilities of any nature which may arise from or be asserted against Codelicious as a result of any dispute between Users, arising directly or indirectly from the Software or any other dealings between the User and any third party.

c. **Indemnification.** The User shall indemnify, defend and hold Codelicious and its employees, officers, directors, members, managers, agents, affiliates, subsidiaries and independent contractors harmless from and against any and all liability, loss, injury, claims, including User Claims, costs, expenses, damages, attorneys' fees, court costs, litigation expenses and related expenses ("Liabilities") which may be brought or asserted against Codelicious by a person, company, or entity, including, but not limited to, other Users or third parties, which Liabilities are based upon or arise, directly or indirectly, from (1) any performance or non-performance by the User under the Agreement or (2) any reliance upon or use by a User or any third party of any information or data provided or transmitted by the User through or during use of the Software.

7. **Relationship of Parties.** The User agrees that no joint venture, partnership, employment, or agency relationship exists between the User and Codelicious as a result of the Agreement or the User's use of the Software.

8. **Arbitration.** Any and all claims or disputes under the Agreement including, without limitation, disputes as to the existence, validity, interpretation, enforcement, breach, or termination of the Agreement and the enforceability of this Arbitration provision shall be resolved exclusively and finally by binding arbitration under the Code of Procedure of The National Arbitration Forum (the "Code") in effect at the time the claim is filed. The Code is available at http://www.arb-forum.com. Notwithstanding any choice of law provision included in the Agreement, this arbitration agreement is subject to the Federal Arbitration Act (9 U.S.C. §§ 1-16). Each party shall bear its own cost of any legal representation, discovery, or research required to complete arbitration.

9. **Miscellaneous.**
   a. **Amendments.** Codelicious may amend, modify, or restate the Agreement by the posting of the amended, modified, or restated agreement on Codelicious's website and notice to the User.

Thereafter, the Users continued access to or use of the Software will be deemed acceptance of the amended, modified, or restated agreement.

b. **Waiver.** No failure to exercise, and no delay in exercising, on the part of Codelicious of any right or any power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power hereunder preclude further exercise of that or any other right hereunder.

c. **Severability.** If any provision of the Agreement is illegal or unenforceable under applicable law, the remainder of the provision will be amended to achieve as closely as possible the effect of the original term and all other provisions of the Agreement will continue in full force and effect.

d. **Headings.** The headings used in the Agreement are for reference purposes only and shall not affect the construction or interpretation of the Agreement.

e. **Surviving Provisions.** The provisions of the Agreement which by their nature call for a continuing obligation upon a party beyond the term of the Agreement, shall indefinitely survive the termination of the Agreement.

f. **Authority.** The User, or the representative accepting the Agreement on behalf of the User, represents that such person or entity has full and complete authority to enter into and bind the User to the Agreement.

g. **Entire Agreement.** This Agreement embodies the entire agreement relating to the subject matter hereof and supersedes any previous agreements or understandings in effect.