

## **Clever Services Agreement**

This Services Agreement (the “Agreement”), effective as of the last date of signature on the signature page (the “Effective Date”), is by and between Clever, Inc., a Delaware corporation with offices located at 1263 Mission Street, San Francisco, CA (“Clever”, “our”, or “we”) and the school district or school listed on the signature page below (“you”, “your”, or “School”). The parties agree as follows:

This Agreement applies to you and the related entities and organizations that sign up to use the Services, including but not limited to administrators who access the Services (as defined in Section 1 below) on your behalf, as well as all non-School visitors, users, and others, including students, teachers, and their parents, who use the Services (such individuals and Schools, collectively, “Users” or “you”). You represent and warrant that you are an authorized representative of the School with the authority to bind the School to this Agreement and that you agree to this Agreement on the School’s behalf.

### **SECTION 1. WHAT ARE CLEVER’S SERVICES AND WHO CAN USE THEM?**

Clever provides Schools with both data integration and single sign-on functionality, making it easier for Schools to choose, deploy, and control third party software applications (“Developers”) used by their teachers and students via Clever’s websites and subdomains (the “Service”).

Subject to the terms and conditions of this Agreement, we grant you a non-exclusive, limited, non-transferable, freely revocable license to use the Services during the Term (as defined in Section 3). We reserve all rights not expressly granted to you in the Services and the Clever Content (as defined below). We may terminate this license at any time for any or no reason.

#### **i) DETAILS ABOUT THE CLEVER SERVICES**

Your Clever account gives you access to the services and functionality we make available from time to time and at our discretion, which may include single sign-on capability for certain third-party Applications using your Clever account.

#### **ii) RESTRICTED USES**

By using the Services, you agree not to do any of these things: (i) copy, distribute, or disclose any part of the Services in any medium, including but not limited to by any automated or non-automated “scraping”; (ii) use any automated system, including but not limited to “robots,” “spiders,” “offline readers,” etc., to access the Services in a manner that sends more request messages to the Clever servers than a human can reasonably produce in the same period of time by using a conventional online web browser; (iii) transmit spam, chain letters, or other unsolicited email; (iv) attempt to interfere with, compromise the system integrity or security or decipher any transmissions to or from the servers running the Services; (v) take any action that imposes, or may impose an unreasonable or disproportionately large load on our infrastructure; (vi) upload invalid data, viruses, worms, or other software agents through the Services; (vii) collect or harvest any third-party personally identifiable information, including account names or Student Data (as defined below), from the Services; (viii) use the Services for any commercial solicitation purposes; (ix) impersonate another person or otherwise misrepresenting your affiliation with a person or entity, conducting fraud, hiding or attempting to hide your identity; (x) interfere with the proper working of the Services; (xi) access any content on the Services through any technology or means other than those provided or authorized by the Services; or (xii) bypass the measures we use to prevent or restrict access to the Services, including but not limited to features that prevent or restrict use or copying of any content or enforce limitations on use of the Services or related content.

We continually update our Services to offer the best possible product. While we plan to continue to offer and improve our Services, we may, without prior notice, change, cancel, create usage limits for, or permanently or temporarily stop offering or allowing you access to the Services generally (“Service Changes”). While we’ll try to give you advance notice of Service Changes that will adversely affect you, this might not be practical or possible and we retain the right to make Service Changes without notice and liability for any reason. If this Agreement ends you continue to be bound by it in any interactions you may have with the Services.

You are fully responsible for your interactions with other Users, and we have no liability for your interactions with any other Users, or for any User’s actions or inactions with respect to you.

### **SECTION 2. RIGHTS IN OUR CONTENT**

“Student Data” is any information (in any format) that is directly related to any identifiable current or former student that is maintained by a School, and may include “educational records” as defined by the Family Educational Rights and Privacy Act

(“FERPA”). While we may need to access Student Data to provide the Services to you, between us, you own the Student Data and remain responsible for it. We handle Student Data in accordance with the Student Data Terms attached hereto as Exhibit A and our Privacy Policy attached hereto as Exhibit B.

“Intellectual Property Rights” means all worldwide patent rights, copyright rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now exist or hereafter come into existence, and all related applications and registrations, renewals and extensions.

Except for Student Data, the Services and all materials made available to you in connection with them, including, but not limited to, software, images, text, graphics, illustrations, logos, patents, trademarks, service marks, copyrights, photographs, audio, videos, music, and any content belonging to other Users (the “Clever Content”), and all related Intellectual Property Rights, are the exclusive property of Clever and its licensors. Except as specified in this Agreement, nothing may be deemed to create a license in or under any such Intellectual Property Rights, and you agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit or create derivative works from any Clever Content. *To be clear: any use of the Clever Content for a purpose not expressly permitted by this Agreement is strictly prohibited.*

If you send us ideas or comments about our Services, you agree that we may freely use or reference those ideas and comments and we do not owe you any payment or have any other obligation of any kind for such ideas or comments.

### **SECTION 3. TERM AND TERMINATION**

The term of this Agreement shall commence on the Effective Date and continue for one year (the “Initial Term”), and thereafter the term shall automatically renew for additional one-year renewal terms (each a “Renewal Term”), unless terminated in accordance with this Agreement. The Initial Term and any Renewal Terms are collectively referred to herein as the “Term.”

Either party may terminate this Agreement as of the end of the Initial Term or the then-current Renewal Term by giving written notice to the other party at least 90 days’ prior to the end of the Initial Term or the then-current Renewal Term. In the event that either party materially defaults in the performance of any of its duties or obligations under this Agreement and does not substantially cure such default within 30 days’ after written notice thereof, the non-defaulting party may terminate this Agreement immediately upon written notice to the defaulting party. Upon termination of this Agreement for any reason, all rights and licenses granted by Clever hereunder will immediately cease, and in connection therewith, you will immediately cease to use the Services.

All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, ownership, confidentiality obligations, warranty disclaimers, and limitations of liability.

### **SECTION 4. GENERAL LEGAL TERMS**

#### **i) CLEVER DATA**

Certain parts of the Services may allow you to obtain or access analytics or other data or information associated with your account (“Clever Data”). Clever Data is licensed to you for your use on a limited basis, and is governed solely by the terms of this Agreement and available for distribution only at our sole discretion. Clever owns the account you use to access the Services along with any rights of access or rights to data stored by or on behalf of Clever on Clever servers (except with respect to any Student Data that we may be storing for you), including but not limited to any data representing any or all of your Clever Data. Clever has the right to manage, control and even eliminate Clever Data, except that Clever may only use Student Data as specifically permitted by this Agreement.

**YOU UNDERSTAND AND AGREE THAT ANY DATA, ACCOUNT HISTORY AND ACCOUNT CONTENT RESIDING ON CLEVER’S SERVERS MAY BE DELETED AT ANY TIME FOR ANY REASON IN CLEVER’S SOLE DISCRETION, WITH OR WITHOUT NOTICE AND WITH NO LIABILITY OF ANY KIND. WE DO NOT PROVIDE OR GUARANTEE, AND EXPRESSLY DISCLAIM, ANY VALUE, CASH OR OTHERWISE, ATTRIBUTED TO ANY DATA RESIDING ON CLEVER’S SERVERS.**

You should be absolutely sure to keep secure copies of Student Data in your student information system (“SIS”) or in other secure storage. You should not rely on us to provide copies of or access to your Student Data.

#### **ii) PRIVACY AND SECURITY**

We take very seriously the privacy of our users, including schools, teachers, parents, and students. By using the Services you consent to the collection, use and disclosure of your information (including but not limited to Student Data) as set forth in our Privacy

Policy and the Student Data Terms, and to have your information (including but not limited to Student Data) collected, used, transferred to and processed in the United States pursuant to our Privacy Policy.

By using the Services, you authorize us to access your SIS or receive Student Data or other information via SIS, Secure File Transfer Protocol (“SFTP”), or any other secure transfer method to provide you software integration services.

**iii) THIRD-PARTY SERVICES**

Our website may contain links to third-party websites, services (including but not limited to third-party Applications), or other materials or information that are not owned or controlled by us. Keep in mind that we do not endorse or assume any responsibility for any third-party sites, information, materials, products, or services (including but not limited to third-party Applications). If you access a third party website or Application from the Services, you understand that you do so at your own risk, and you understand that this Agreement, including the Student Data Terms and our Privacy Policy do not apply to your use of those sites or services—those sites and services have their own applicable terms and policies. Additionally, your dealings with Developers found on the Services, including payment and any other terms (such as warranties or privacy policies) are only between you and such Developers. We are not responsible for any loss or damage of any sort relating to your dealings with such Developers.

**iv) INDEMNITY**

You agree to defend, indemnify and hold harmless Clever and its subsidiaries, agents, licensors, managers, and other affiliated companies, and their employees, contractors, agents, officers and directors, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney’s fees) arising from: (i) your use of and access to the Services, including any data or content transmitted or received by you; (ii) your violation of any term of this Agreement, including but not limited to your breach of any of the representations and warranties above; (iii) your violation of any third-party right, including but not limited to any right of privacy or intellectual property rights; (iv) your violation of any applicable law, rule or regulation, including but not limited to COPPA; (v) any content or information that is submitted via your account; or (vi) any other party’s access and use of the Services with your unique username, password or other appropriate security code.

**v) WARRANTY DISCLAIMER**

THE SERVICES IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. USE OF THE SERVICES IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES IS PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, CLEVER, ITS SUBSIDIARIES, ITS AFFILIATES, AND ITS LICENSORS DO NOT WARRANT THAT THE CONTENT IS ACCURATE, RELIABLE OR CORRECT; THAT THE SERVICES WILL MEET YOUR REQUIREMENTS; THAT THE SERVICES WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE SERVICES IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DOWNLOADED AT YOUR OWN RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD OR YOUR USE OF THE SERVICES.

WE DO NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICES ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE SERVICES OR ANY HYPERLINKED WEBSITE OR SERVICES (INCLUDING WITHOUT LIMITATION APPLICATIONS), AND WE WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES (INCLUDING WITHOUT LIMITATION DEVELOPERS). FEDERAL LAW, SOME STATES, PROVINCES AND OTHER JURISDICTIONS DO NOT ALLOW EXCLUSIONS AND LIMITATIONS OF CERTAIN IMPLIED WARRANTIES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

**vi) LIMITATION OF LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL CLEVER, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES, THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THIS SERVICES. UNDER NO CIRCUMSTANCES WILL CLEVER BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICES OR YOUR ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CLEVER ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT; (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO OR USE OF OUR SERVICES; (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN; (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICES; (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH OUR SERVICES BY ANY THIRD PARTY; (VI) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH THE SERVICES; AND/OR (VII) SCHOOL CONTENT OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY. IN NO EVENT SHALL CLEVER, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS, OR LICENSORS BE LIABLE TO YOU FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT EXCEEDING THE AMOUNT YOU PAID TO CLEVER HEREUNDER OR \$100.00, WHICHEVER IS GREATER.

THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF CLEVER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. THIS AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE. THE DISCLAIMERS, EXCLUSIONS, AND LIMITATIONS OF LIABILITY UNDER THIS AGREEMENT WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

The Services are controlled and operated from US-based facilities, and we make no representations that they're appropriate or available for use in other locations. If you access or use the Services from other jurisdictions, you understand that you're entirely responsible for compliance with all applicable United States and local laws and regulations, including but not limited to export and import regulations. You may not use the Services if you are a resident of a country embargoed by the United States, or are a foreign person or entity blocked or denied by the United States government.

**vii) GOVERNING LAW**

You agree that: (i) the Services will be deemed solely based in California; and (ii) the Services will be deemed passive services that do not give rise to personal jurisdiction over us, either specific or general, in jurisdictions other than California. This Agreement will be governed by the laws of the State of California, without respect to its conflict of laws principles. The application of the United Nations Convention on Contracts for the International Sale of Goods does not apply. You agree to submit to the personal jurisdiction of the federal and state courts located in Santa Clara County, California for any actions related to this Agreement.

**viii) MISCELLANEOUS**

This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by us in accordance with the terms of our Privacy Policy and the Student Data Terms. This Agreement, together with any amendments and any additional agreements you may enter into with Clever in connection with the Services including all exhibits other agreements referenced herein, constitute the entire agreement between you and Clever concerning the Services. If any provision of this Agreement is deemed invalid by a court of competent jurisdiction, the invalidity of such provision will not affect the validity of the remaining provisions of this Agreement, which will remain in full force and effect. No waiver of any term of this Agreement will be deemed a further or continuing waiver of such term or any other term, and Clever's failure to assert any right or provision under this Agreement will not constitute a waiver of such right or provision. If access to the Services is licensed to the United States government or any agency thereof, then the Services will be deemed to be "commercial computer software" and "commercial computer software documentation," pursuant to DFARS Section 227.7202 and FAR Section 12.212, respectively, as applicable. Any use, reproduction, release, performance, display, or disclosure of the Services and any accompanying documentation by the U.S. Government will be governed solely by this Agreement and is prohibited except to the extent expressly permitted by this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized representatives to sign this Agreement as set forth below.

**School:**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**Clever**

DocuSigned by:

*Matt Pasternack*

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By: \_\_\_\_\_

Name: Matt Pasternack

Title: VP Sales

Date: 2/12/2016

## **Exhibit A**

### **Student Data Terms**

Capitalized terms that are not defined below in this Exhibit A have the definitions given to them in the Agreement.

#### **SECTION 1. KEEPING YOUR STUDENT DATA CONFIDENTIAL AND COMPLYING WITH APPLICABLE LAWS**

We treat your Student Data as confidential and do not knowingly share it with third parties other than as described in Section 2(B) to this Exhibit A and in the Agreement and our Privacy Policy, attached to the Agreement as Exhibit B.

Both parties agree to uphold their responsibilities under the Family Educational Rights and Privacy Act (“FERPA”), the Protection of Pupil Rights Amendment (“PPRA”), and the Children’s Online Privacy and Protection Act (“COPPA”). We provide the Services as an outsourced institutional function under FERPA 34 CFR Part 99.31(a)(1). The Children’s Online Privacy and Protection Act (“COPPA”) requires that online service providers obtain clear and verifiable parental consent before collecting personal information from children under 13. You represent and warrant that you have received consent from parents, or have the authority to provide consent on behalf of parents, for us to collect information from students before allowing children under 13 to access our Services. We recommend that all Schools provide appropriate disclosures to students and parents regarding their use of service providers such as Clever and that they provide a copy of our Privacy Policy to parents and guardians.

#### **SECTION 2. AUTHORIZATION TO ACCESS YOUR STUDENT DATA**

##### **A. OUR ACCESS**

You authorize us to access Student Data and will provide a way for us access the information stored in your SIS. We will access and process Student Data only in order to provide the Services. As between us, you own all right, title and interest to all Student Data, you are (and other Schools are) solely responsible for any and all Student Data, whether provided by you, students, or others, and we do not own, control, or license Student Data, except to provide the Services.

##### **B. THIRD PARTY ACCESS**

You may designate one or more third-party Developers to securely access Student Data via our API. We will not send Student Data to a Developer unless explicitly authorized by you. You acknowledge that we are not responsible for the data practices of third party Developers, and that, as between us, you are solely responsible for the consequences of providing or transmitting Student Data to such Developers, or authorizing those Developers to access Student Data through the Services. At any time, you can revoke any Developer’s ongoing access to Student Data via the API by contacting us at [support@clever.com](mailto:support@clever.com).

We provide access to Student Data only to those employees and certain trusted service providers who have a legitimate need to access such information in connection with providing the Services to you. Of course, anyone involved in the handling of Student Data will treat such data as strictly confidential and shall not redisclose such data except as necessary in order to provide the Services. We will maintain access log(s) that record all disclosures of or access to Student Data within our possession and will provide copies of those access log(s) to you on your request.

##### **C. OTHER ACCESS**

Student Data is controlled by Schools, and we cannot permit anyone else to delete or control Student Data or to transfer such content, or allow access to Student Data by parents or legal guardians; as such, we refer any data access requests to the applicable School.

#### **SECTION 3. HOW WE USE YOUR STUDENT DATA**

##### **A. IN GENERAL**

By submitting Student Data or other information to us, whether via the Services or otherwise, you expressly grant, and you represent and warrant that you have all rights necessary to grant, to us a non-exclusive, royalty-free, worldwide license during the term of the Agreement to use, transmit, distribute, modify, reproduce, display, and store the Student Data only for the purposes of: (i) providing the Services as contemplated in the Agreement, and (ii) enforcing our rights under the Agreement. Subject to the Paragraph B below, we will not use the Student Data for any purpose except as explicitly authorized by the Agreement. *For clarity and without limitation, we will not use Student Data to engage in targeted advertising.*

## **B. ANONYMIZED DATA**

You agree that we may collect and use data derived from Student Data, including data about any Users' access and use of the Services, that has been anonymized, aggregated, or otherwise de-identified such that the data cannot reasonably identify a particular student, User, or School. We may use such data to operate, analyze, improve or market our Services. If we share or publicly disclose information (e.g., in marketing materials) that is derived from Student Data, that data will be aggregated or anonymized to reasonably avoid identification of a specific School or individual student. For example, we may (i) track the number of School administrators on an anonymized aggregate basis as part of our marketing efforts to publicize the total number of Users of the Services, and (ii) analyze aggregated usage patterns for product development efforts. You further agree that we may use, store, transmit, distribute, modify, copy, display, sublicense, and create derivative works of the anonymized, aggregated Student Data even after this Agreement has expired or been terminated.

## **SECTION 4. DELETING STUDENT DATA AND TERMINATING YOUR ACCESS TO THE SERVICES**

### **A. DELETING STUDENT DATA**

You may request in writing that we delete any of your Student Data (except as provided for the Section 3(B) above) in our possession at any time. We will comply with your request in a commercially reasonable time not to exceed ten (10) business days. If you grant access to Student Data to a Developer and subsequently need that data deleted, you need to request such deletion directly from that Developer.

### **B. TERMINATING YOUR ACCESS TO THE SERVICES**

Schools may, at any time and for any or no reason, terminate the Agreement by providing written notice to [support@clever.com](mailto:support@clever.com), except that provisions that by their nature should survive termination will survive termination, such as provisions relating to warranty disclaimers, limitations of liability, indemnities, and governing law.

Within seventy-two (72) hours of our receipt of such notice of termination or earlier if commercially reasonable to do so, we will cease accessing your SIS. We will automatically delete or de-identify all Student Data within seventy-two (72) hours of our receipt of the termination notice, except for Student Data residing on backups or internal logs which will be removed within sixty (60) days, and will provide notice to the School when Student Data has been deleted and/or anonymized as described in Section 3(B) above. As noted above, Student Data that has previously been made available to Developers may still be in Developers' possession notwithstanding the School's termination of the Agreement, and the Developer's subsequent use or deletion will be governed by any agreements between School and Developers. We may terminate the Agreement in accordance with the Agreement.

## **SECTION 5. PRIVACY AND SECURITY**

We care deeply about the privacy and security of Student Data. We maintain strict administrative, technical, and physical safeguards to protect Student Data stored in our servers, which are located in the United States. We limit access to Student Data only to those employees or service providers who have a legitimate need to access such data in the performance of their duties, and we provide employee training on privacy and data security laws and best practices. If there is any disclosure or access to any personally identifiable Student Data by an unauthorized party, we will promptly notify any affected Schools and will use reasonable efforts to cooperate with their investigations of the incident. If the incident triggers any third party notice requirements under applicable laws, you agree that, as the owner of the Student Data, you may be responsible for the timing, content, cost, and method of any required notice and compliance with those laws. However, at the request of the School and when permissible under applicable law, Clever agrees to bear responsibility for the timing, content and method of such required notice on behalf of the Schools. In all instances, Clever will indemnify Schools for all reasonable costs associated with compliance with such notice requirements arising from a breach of the Clever Service. For clarity and without limitation, Clever will not indemnify for any notification costs arising from a breach of a third party application whose service is accessed through the Clever Service.

## **SECTION 6. QUESTIONS**

We here at Clever hope that you will have the best possible experience when using our Services. If you have any questions or concerns about our Services or anything in the Agreement, please don't hesitate to contact us at [support@clever.com](mailto:support@clever.com) and we'll do our best to promptly respond to you.

## Exhibit B

### Privacy Policy

Clever understands that privacy is tremendously important to our online visitors to our website (“Website Visitors”), to Schools, and to students whose information we may access on behalf of a School (“Students”). Clever provides a platform that enables Schools to securely provision Student accounts with the third-party applications that they use. As we describe below, Schools decide which data are integrated with Clever, and Schools are responsible for determining whether data is ever shared with applications through Clever. This privacy policy applies to our website <https://clever.com>, including all sub-domain and pages, and to the Clever platform (our “Service”) and describes the steps we take to protect your data. Capitalized terms that are not defined below in this Exhibit B have the definitions given to them in the Agreement.

***We strive to be transparent in our data collection and use practices. This is the type of personal information we may collect.***

#### 1. HOW WE COLLECT AND USE INFORMATION

We collect the following types of information:

**Information about Schools:** We ask for certain information when a School administrator registers a School with Clever, or if the administrator corresponds with us online, including a name, school name, school district, school email address and/or account name and password, phone number, message content, and information relating to the School’s information systems. We may also retain information provided by a School if the School sends us a message, posts content to our website or through our Service, or responds to emails or surveys. Once a School begins using the Clever Service, we will keep records of activities related to the Service. We use this information to operate, maintain, and provide to the features and functionality of the Service, to analyze our Service offerings and functionality, and to communicate with our Schools and website visitors.

**Student Data:** Clever may have access to personally identifiable information about students (“Student Data”) in the course of providing its services to a School. We consider Student Data to be confidential and do not use such data for any purpose other than to provide the services on the School’s behalf. In many instances, Clever receives Student Data only from the School and never interacts with the Student directly. In some instances, depending on the level of Clever’s Service selected by the School, the Schools may allow Students to log into the Clever Service to access third party applications that have been authorized by the School. In that instance, the School provides each student with login credentials and confirms that it has obtained appropriate parental consents, as needed, before the student is permitted to access the Service. Clever has access to Student Data only as requested by the School and only for the purposes of performing Services on the School’s behalf. If you are a Student or parent, please contact your School if you have questions about the School’s use of technology service providers like Clever. If a Student contacts Clever with a question about our Service, we will collect personal information from that Student only as necessary to respond to the Student’s request and direct the Student to contact the Student’s School, and we will then delete or anonymize the personal data of the Student after providing our response.

See the section titled ["How We Share Your Information"](#) below for more information on the limited ways in which we share School and Student Data. See the section titled ["Children’s Privacy"](#) below for more information on how we collect and use the personal information of children under 13.

**Information collected through technology:** We automatically collect certain types of usage information when visitors view our website or use our service. We may send one or more cookies — a small text file containing a string of alphanumeric characters — to your computer that uniquely identifies your browser and lets Clever help you log in faster and enhance your navigation through the site. A cookie may also convey information to us about how you use the Service (e.g., the pages you view, the links you click and other actions you take on the Service), and allow us to track your usage of the Service over time. We may collect log file information from your browser or mobile device each time you access the Service. Log file information may include anonymous information such as your web request, Internet Protocol (“IP”) address, browser type, information about your mobile device, number of clicks and how you interact with links on the Service, pages viewed, and other such information. We may employ clear gifs (also known as web beacons) which are used to anonymously track the online usage patterns of our Users. In addition, we may also use clear gifs in HTML-based emails sent to our Schools to track which emails are opened and which links are clicked by recipients. The information allows for more accurate reporting and improvement of the Service. We may also collect analytics data, or use third-party analytics tools, to help us measure traffic and usage trends for the Service. We do not allow third party advertising networks to collect information about the users of our Site or Service.

We use or may use the data collected through cookies, log files, device identifiers, and clear gifs information to: (a) remember information so that a user will not have to re-enter it during subsequent visits; (b) provide custom, personalized content and information; (c) to provide and monitor the effectiveness of our Service; (d) monitor aggregate metrics such as total number of

visitors, traffic, and usage on our website and our Service; (e) diagnose or fix technology problems; and (f) help users efficiently access information after signing in.

***Student privacy is very important to us. Student Data is used only for educational purposes at the discretion of the School.***

## 2. HOW WE SHARE YOUR INFORMATION

Clever only shares personal information in a few limited circumstances, described below. We do not rent or sell information for marketing purposes.

Who we may share information with:

- We may share information with those that provide us with technology services (e.g. web hosting and analytics services), but strictly for the purpose of carrying out their work for us.
- We may be required to share information with law enforcement or other third parties when compelled to do so by court order or other legal process, to comply with statutes or regulations, to enforce the Agreement, or if we believe in good faith that the disclosure is necessary to protect the rights, property or personal safety of our users.

In the event of a change of control: If we sell, divest or transfer our business, we will not transfer personal information of our customers unless the new owner intends to maintain and provide the Service as a going concern, and provided that the new owner has agreed to data privacy standards no less stringent than our own. In such case we will provide you with notice and an opportunity to opt-out of the transfer of personally identifiable Student Data.

How Student Data is shared: In addition to the actions described above, Clever may facilitate the sharing of Student Data with third parties, though only when instructed and authorized to do so on behalf of the School. Some elements of our Service enable Schools to interact with parents, students, teachers and third party applications, for the benefit of the student's education. Clever does not facilitate the sharing of any Student Data with third parties on the Service except on behalf of the School after the School has authorized a third party or application to access Student Data through the Service. Please remember that this Privacy Policy applies to the Clever Services, and not other services or third party applications, which may have their own privacy policies. Schools should carefully read the privacy practices of each third party application before agreeing to engage with the application through the Service.

***We store our data in the United States and we take strong measures to keep data safe and secure.***

## 3. HOW WE STORE AND PROTECT YOUR INFORMATION

Storage and processing: Any information collected through the Service is stored and processed in the United States. If you use our Service outside of the United States, you consent to have your data transferred to the United States.

Keeping information safe: Clever maintains strict administrative, technical and physical procedures to protect information stored in our servers, which are located in the United States. Access to information is limited (through user/password credentials and two factor authentication) to those employees who require it to perform their job functions. We use industry-standard Secure Socket Layer (SSL) encryption technology to safeguard the account registration process and sign-up information. Other security safeguards include but are not limited to data encryption, firewalls, and physical access controls to building and files.

***Questions about data? Here are your options.***

## 4. YOUR CHOICES ABOUT YOUR INFORMATION

Account information and settings: Schools may update account information and modify Services by signing into the administrator account. Schools and other website visitors can opt-out of receiving promotional email from us by clicking on the "unsubscribe" feature at the bottom of each email. Sorry, you cannot unsubscribe from Service-related messaging.

If you have any questions about reviewing or modifying account information, contact us directly at [support@clever.com](mailto:support@clever.com).

Access to Student Data: Student Data is provided and controlled by the Schools. If you have any questions about reviewing, modifying, or deleting personal information of a student, please contact your School directly.

Deleting or disabling cookies: You may be able to disallow cookies to be set on your browser. Please look for instructions on how to delete or disable cookies and other tracking/recording tools on your browser's technical settings. You may not be able to delete or disable cookies on certain mobile devices and/or certain browsers. For more information on cookies, visit [www.allaboutcookies.org](http://www.allaboutcookies.org). Remember, disabling cookies may disable many of the features available on the Service, so we recommend you leave cookies enabled.

How long we keep User Content: Following termination or deactivation of a School account, Clever may retain profile information and content for a commercially reasonable time for backup, archival, or audit purposes, but any and all Student Data associated with the School will be deleted promptly. We may maintain anonymized or aggregated data, including usage data, for analytics purposes. If you have any questions about data retention or deletion, please contact [support@clever.com](mailto:support@clever.com).

***We do not collect any information from students without consent.***

#### 5. CHILDREN'S PRIVACY

Clever does not knowingly collect any information from children under the age of 13 unless the School has obtained appropriate parental consent for the student to use the Service. Please contact us at [urgent@clever.com](mailto:urgent@clever.com) if you believe we have inadvertently collected personal information of a child under 13 without proper parental consents so that we may delete such data as soon as possible.

#### 6. LINKS TO OTHER WEB SITES AND SERVICES

We are not responsible for the practices employed by websites, applications or services linked to or from our Service. We recommend that the School review the privacy policies of other applications before authorizing a third party to access data through the Service.

#### 7. HOW TO CONTACT US

If you have any questions about this Privacy Policy or the Service, please contact us at [support@clever.com](mailto:support@clever.com).

#### 8. CHANGES TO OUR PRIVACY POLICY

Clever may modify or update this Privacy Policy from time to time. If we change the policy in a material manner, for example if we seek to use personal information in a materially different way than we had previously, we will provide at least 30 days notice to you so that you have sufficient time to evaluate the change in practice. Of course, you can always opt-out by deleting your account before the changes take effect.