

LockDown Browser & StudyMate Campus License Agreement for K-12 Institutions

The following agreement outlines the terms and conditions of the LockDown Browser and StudyMate Campus License Agreement for K-12 Institutions. This agreement can be used for a free, 2-month pilot of LockDown Browser and StudyMate Campus, or for the purchase of a Site license. Licensee agrees to the terms of this Agreement and any changes to those terms, upon Institution's and/or its users' continued use of LockDown Browser and/or StudyMate Campus, which indicates acceptance of this Agreement.

Definitions

Institution: A not for profit K-12 School or District.

Licensor: Respondus, Inc., a corporation duly organized and existing under the laws of the state of Washington, USA, having its corporate headquarters in Redmond, Washington, being proprietor of assessment applications for the education market.

Licensee: An Institution that has obtained a license for LockDown Browser and StudyMate Campus* in accordance with the terms of this agreement.

Affiliates: Current employees, teachers, and students of the Licensee.

Software Product and Service: LockDown Browser is a customized browser that increases the security of online testing. StudyMate Campus is a service for creating self-assessments and learning games and sharing them with others. Both applications extend the features of a Learning Management System (LMS) and are only usable with a supported LMS as listed on the Ordering & Contact form.

Distribution Rights

The Licensee is permitted to provide access to or redistribute the Software Product and Service to Affiliates for the duration of this license.

Affiliates are permitted to use the Software Product and Service only for educational or academic purposes associated with the Licensee. Use of the Software Product and Service for other purposes (e.g., private consultant services, commercial pursuits) is prohibited. Licensee must not eliminate, bypass, or in any alter the copyright screen (also known as the "splash" screen) that may appear when the Software Product is first started.

Any use or redistribution of the Software Product and Service in a manner not explicitly stated in this agreement, or in a separate agreement, is strictly prohibited.

Termination

This agreement is effective until terminated. The Licensee may terminate this agreement at any time by notifying the Licensor of the termination. If the Licensee terminates its license prior to the end of the academic year (generally July 31), the Licensor will not refund or prorate the Licensee for its licensing fees, nor will it reduce or waive any licensing fees still owed to the Licensor. Upon termination of the license, the former Licensee must make a good faith effort to eliminate further use of the Software Product and Service by Affiliates of the institution. Furthermore, the Licensor, upon notification of termination by the Licensee, will disable access to the Software Product and Service.

The Licensor has the right to terminate this agreement if the Licensee violates one or more terms in this agreement, and upon written notice to Licensee, the Licensee fails to cure the breach within ten (10) days. If the Licensor sends a notice of termination to the Licensee, the Licensee must immediately discontinue all use of the Software Product and Service. In addition, the Licensee may be subject to legal action by the Licensor.

Limited Warranty; Disclaimer of Warranty

Licensor warrants that it has the legal right and title to grant the license rights under this Agreement to Licensee (“License Rights”). While the Licensor has tried to ensure that the Software Product and Service are accurate and free from defect, they are provided “as is” without warranty of any kind. The Licensee and its Affiliates assume the entire risk as to the results and performance of the Software Product and Service. EXCEPT FOR THE LICENSE RIGHTS, TO THE EXTENT NOT RESTRICTED BY APPLICABLE LAWS, LICENSOR DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE.

Limitation of Liability. UNDER NO CIRCUMSTANCES SHALL LICENSOR BE LIABLE TO INSTITUTION ON ACCOUNT OF ITS USE OR MISUSE OF AND RELIANCE ON LOCKDOWN BROWSER. SUCH LIMITATION OF LIABILITY SHALL APPLY TO PREVENT RECOVERY OF DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, AND PUNITIVE DAMAGES (EVEN IF RESPONDUS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). SUCH LIMITATION OF LIABILITY SHALL APPLY WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF AND RELIANCE ON LOCKDOWN BROWSER, FROM INABILITY TO USE, INTERRUPTION, SUSPENSION, OR TERMINATION OF THE SERVICES OR BY REASON OF ANY INFORMATION OR ADVICE RECEIVED THROUGH THE SOFTWARE PRODUCT. THE FOREGOING DISCLAIMERS, WAIVERS AND LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

Indemnity. Licensor agrees to indemnify Licensee against third party claims and related expenses alleging a breach of warranty by Licensor of the License Rights. Licensee agrees to provide prompt notice to Licensor of any claim where Licensee requests indemnification from Licensor under this Section, and Licensor shall have sole control of such defense.

Products and Services

Upon receipt of payment or purchase order, the Licensor will deliver or make available to the Licensee the Software Product and Service. Updates of the Software Product and Service are made available to the Licensee at no additional charge.

Support

The Licensor will make available ticket-based technical support to an administrator and two support contacts designated by the Licensee. These individuals are known as “Authorized Support Persons.” Under this license, Affiliates of the Licensee must channel all technical support questions related to the Software Product and Service through the Authorized Support Persons, the latter of which must make a good-faith effort to answer such questions before submitting a support ticket at www.support.respondus.com. It is up to the discretion of the Licensor to provide phone support in certain instances.

Term of Contract

This license agreement is based on “academic years,” starting August 1 and ending July 31, unless an alternate date is otherwise agreed to in writing. This agreement is automatically renewed unless the Licensee indicates in writing its intent to discontinue its License. If the Licensee has not issued payment for its annual license fee by August 1, or the agreed upon renewal date, the Licensor is permitted to withhold updates of the Software Product and Service that are available to Licensees in good standing or to restrict access to the Software Product and Service. The Software Product and Service will cease to function after the license has expired.

Ownership of Software

The software code for the Software Product and Service is copyrighted by the Licensor and remains the property of the Licensor. This license is not a sale of the software code or any copy. The Licensee owns the physical media on which the software code for the product and service are installed, but the Licensor retains title and ownership of the software and all other materials included as part of the Software Product and Service.

License Fees

The Software Product and Service are licensed as a site license. For K-12 Institutions, there is an annual fee based on the seat license for their Learning Management System (LMS). List fees for the Software Product are set forth at <https://web.respondus.com/k12/lockdownbrowser/pricing/>. Approximately three months prior to the August 1 license renewal date, or the agreed upon renewal date, the Licensor will provide the Licensee an invoice for the next year's license fee. Payment of the annual license fee is due by the renewal date.

Price Adjustment

The Licensor has the right to increase or decrease the annual license fee from year to year. If the Licensor intends to adjust the annual license fee, it must give notice to the Licensee no less than 60 days before the annual renewal date.

Prorating of Fees and Credits

During the first year of a license, the Licensor may, on its own discretion, prorate the annual license fee to adjust for a partial year of licensing.

General

Waiver. The failure by a party to exercise or enforce any right hereunder shall not operate as a waiver of such party's right to exercise or enforce such right or any other right in the future.

Privacy. Respondus cares about your privacy and the security of your personal data. The Respondus Privacy Policy is available at www.respondus.com/privacy, and incorporated herein by reference.

Insurance. Licensor maintains general commercial liability insurance, cyber liability insurance, professional liability (errors and omissions) insurance, and where applicable worker's compensation insurance.

Entire Agreement. This Agreement supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Agreement. This Agreement constitutes the complete and entire agreement and sole understanding of the parties with respect to the subject matter of the Agreement. Modifications to this Agreement shall not be binding upon Respondus' absent its written consent. Any conflicting terms presented by Licensee in a purchase order or other agreement shall be deemed null and void. If a court should find that one

or more rights or provisions set forth in this Agreement are invalid, the parties agree that the remainder of the rights or provisions shall be enforceable and that, to the extent permitted by law, the court shall give effect to the parties' intentions, as reflected in any such rights or provisions that have been declared invalid or unenforceable. If Institution does not agree to the terms and conditions of this Agreement, Institution is prohibited from accessing or using the Software Product. Any term that would naturally survive termination of this Agreement shall so survive, including, for example, the limitations of liability. Any notice required to be given under this Agreement shall be deemed effective on the date sent if provided by electronic mail, or if provided by registered or certified mail addressed to an administrator of the Institution or to Respondus, within three (3) days after deposit with the US Postal Service or international carrier.

Initiating a License

To obtain a license for the Software Product and Service, fill out the *Ordering & Contact Information* form below and return it with a purchase order or payment. A pilot license doesn't require a purchase order or payment, but does require return of the form below.

