

## Game Learning Terms of Use

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Welcome to Game Learning.co! Before using Game Learning, LLC's website ([www.gamelearning.co](http://www.gamelearning.co)), software, products, mobile application(s), and services (together, the "**Services**", "**our Services**", or "**Game Learning's Services**"), it is important that you carefully read the following agreement. The website at [www.gamelearning.co](http://www.gamelearning.co) (the "**Site**") is a copyrighted work belonging to Game Learning, Inc. ("**Game Learning**", "**us**", "**our**", and "**we**"). Certain features of the services may be subject to additional guidelines, terms, or rules, which will be posted as appropriate in connection with such features. All such additional terms, guidelines, and rules are incorporated by reference into these Terms of Use.

THESE TERMS OF USE (THE "**TERMS**") ALONG WITH GAME LEARNING'S PRIVACY POLICY SET FORTH THE LEGALLY BINDING TERMS AND CONDITIONS THAT GOVERN YOUR USE OF GAME LEARNING'S SERVICES. BY USING THE SERVICES, YOU ARE ACCEPTING THESE TERMS (ON BEHALF OF YOURSELF OR ANY ENTITY THAT YOU REPRESENT), AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THESE TERMS (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT). YOU MAY NOT USE THE SERVICES OR ACCEPT THE TERMS IF YOU ARE NOT AT LEAST 13 YEARS OLD OR HAVE OBTAINED NECESSARY PARENTAL CONSENT. IF YOU DO NOT AGREE WITH ALL OF THE PROVISIONS OF THESE TERMS, DO NOT USE THE SERVICES.

THESE TERMS REQUIRE THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMIT THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE.

### 1. What Services Does Game Learning Provide?

Game Learning provides you with Video Games, Graphic Novels, and Lesson plans (the "**Service**"). You also understand and agree that the Service may include certain communications from Game Learning such as service announcements, administrative messages, other membership messages and the Game Learning newsletter and that these communications are considered part of Game Learning membership and you will not be able to opt out of receiving them. Unless explicitly stated otherwise, any new features that augment or enhance the current Service, including the release of new Game Learning properties, shall be subject to the Terms.

### 2. What Requirements and Responsibilities Apply to Creating an Account?

**Account Creation.** In order to use certain features of Game Learning's Services, you must register for an account ("**Account**") and provide certain information about yourself as prompted by the account registration form. You represent and warrant that: (a) all required registration information you submit is truthful and accurate; (b) you will maintain the accuracy of such information; and (c) you are of legal age to form a binding contract and are not a person barred from receiving services under the laws of the United States or other applicable jurisdictions. You may delete your Account at any time, for any reason, by following the instructions on the Site. Game Learning may suspend or terminate your Account in accordance with these Terms.

**User Accounts.** Game Learning is concerned about the safety and privacy of all its users, particularly children. When you create a Game Learning Child Account and add your child or student (“**Child**”) to the Account, you certify that you are at least 18 years old and that you are the legal guardian or authorized education provider of the child/children listed on the Game Learning Child Account. Please remember that the Service is designed to appeal to users of the Services. Accordingly, as the legal guardian or authorized education provider, it is your responsibility to determine whether any of the Service areas are appropriate for your Child or Children.

**Account Responsibilities.** You are responsible for maintaining the confidentiality of your Account login information and are fully responsible for all activities that occur under your Account. You agree to immediately notify Game Learning of any unauthorized use, or suspected unauthorized use of your Account or any other breach of security. Game Learning cannot and will not be liable for any loss or damage arising from your failure to comply with the above requirements.

### **3. What Rights and Responsibilities Apply When I Download The Mobile Application From iTunes?**

The following applies to any mobile application offered by Game Learning accessed through or downloaded from the Apple App Store (“**App Store Sourced Application**”):

(a) You acknowledge and agree that (i) the Terms are concluded between you and Game Learning only, and not Apple, and (ii) Game Learning, not Apple, is solely responsible for the App Store Sourced Application and content thereof. Your use of the App Store Sourced Application must comply with the App Store Terms of Service.

(b) You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Sourced Application.

(c) In the event of any failure of the App Store Sourced Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App Store Sourced Application to you and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App Store Sourced Application. As between Game Learning and Apple, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Game Learning.

(d) You and Game Learning acknowledge that, as between Game Learning and Apple, Apple is not responsible for addressing any claims you have or any claims of any third party relating to the App Store Sourced Application or your possession and use of the App Store Sourced Application, including, but not limited to: (i) product liability claims; (ii) any claim that the App Store Sourced Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

(e) You and Game Learning acknowledge that, in the event of any third-party claim that the App Store Sourced Application or your possession and use of that App Store Sourced Application infringes that third party’s intellectual property rights, as between Game Learning and Apple, Game Learning, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by the Terms.

(f) You and Game Learning acknowledge and agree that Apple, and Apple's subsidiaries, are third-party beneficiaries of the Terms as related to your license of the App Store Sourced Application, and that, upon your acceptance of the terms and conditions of the Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce the Terms as related to your license of the App Store Sourced Application against you as a third-party beneficiary thereof.

(g) Without limiting any other terms of the Terms, you must comply with all applicable third-party terms of agreement when using the App Store Sourced Application.

#### **4. How Will I Be Charged When I Sign Up For a Subscription To Use The Services?**

**General Purpose of Terms: Sale of Service, not Software.** The purpose of the Terms is for you to secure access to the Services. All fees set forth within and paid by you under the Terms shall be considered solely in furtherance of this purpose. In no way are these fees paid considered payment for the sale, license, or use of Game Learning software.

**Payment.** You agree to pay all fees or charges to your Account in accordance with the fees, charges and billing terms in effect at the time a fee or charge is due and payable. You must provide Game Learning with a valid credit card (Visa, MasterCard, or any other issuer accepted by us) ("**Payment Provider**") as a condition to signing up for the Services. Your Payment Provider agreement governs your use of the designated credit card, and you must refer to that agreement and not the Terms to determine your rights and liabilities. By providing Game Learning with your credit card number and associated payment information, you agree that Game Learning is authorized to immediately invoice your Account for all fees and charges due and payable to Game Learning hereunder and that no additional notice or consent is required. You agree to immediately notify Game Learning of any change in your billing address or the credit card used for payment hereunder. Game Learning reserves the right at any time to change its prices and billing methods, either immediately upon posting on the Services or by e-mail delivery to you.

**Service Subscription Fees.** You will be responsible for payment of the applicable fee for any Services (each, a "**Service Subscription Fee**") at the time you create your Account and select your monthly package (each, a "**Service Commencement Date**"). Except as set forth in the Terms, all fees for the Services are non-refundable. No contract will exist between you and Game Learning for the Services until Game Learning accepts your order by a confirmatory e-mail, SMS/MMS message, or other appropriate means of communication.

**Taxes.** Game Learning's fees are net of any applicable Sales Tax. If any Services, or payments for any Services, under the Terms are subject to Sales Tax in any jurisdiction and you have not remitted the applicable Sales Tax to Game Learning, you will be responsible for the payment of such Sales Tax and any related penalties or interest to the relevant tax authority, and you will indemnify Game Learning for any liability or expense we may incur in connection with such Sales Taxes. Upon our request, you will provide us with official receipts issued by the appropriate taxing authority, or other such evidence that you have paid all applicable taxes. For purposes of this section, "**Sales Tax**" shall mean any sales or use tax, and any other tax measured by sales proceeds, that Game Learning is permitted to pass to its customers, that is the functional equivalent of a sales tax where the applicable taxing jurisdiction does not otherwise impose a sales or use tax.

**Withholding Taxes.** You agree to make all payments of fees to Game Learning free and clear of, and without reduction for, any withholding taxes. Any such taxes imposed on payments of fees to Game Learning will be your sole responsibility, and you will provide Game Learning with official receipts issued by the appropriate taxing authority, or such other evidence as we may reasonably request, to establish that such taxes have been paid.

**Automatic Renewal.** Your subscription will continue indefinitely until terminated in accordance with the Terms. After your initial subscription period, and again after any subsequent subscription period, your subscription will automatically commence on the first day following the end of such period (each a "**Renewal Commencement Date**") and continue for an additional equivalent period, at Game Learning's then-current price for such subscription. You agree that your Account will be subject to this automatic renewal feature unless you cancel your subscription at least (a) thirty (30) days prior to the Renewal Commencement Date (or in the event that you receive a notice from Game Learning that your subscription will be automatically renewed, you will have thirty days from the date of the Game Learning notice), by logging into your game learning account and navigate to the subscription panel in the left-hand panel. Once there, click on the trashcan icon next to the active subscription you wish to cancel and follow the on-screen prompt." If you do not wish your Account to renew automatically, or if you want to change or terminate your subscription, please contact Game Learning at [info@gamelearning.co](mailto:info@gamelearning.co) or log in and go to the "Change/Cancel Membership" page on your "Account Settings" page. If you cancel your subscription, you may use your subscription until the end of your then-current subscription term; your subscription will not be renewed after your then-current term expires. However, you will not be eligible for a prorated refund of any portion of the subscription fee paid for the then-current subscription period. By subscribing, you authorize Game Learning to charge your Payment Provider now, and again at the beginning of any subsequent subscription period. Upon renewal of your subscription, if Game Learning does not receive payment from your Payment Provider, (i) you agree to pay all amounts due on your Account upon demand, and/or (ii) you agree that Game Learning may either terminate or suspend your subscription and continue to attempt to charge your Payment Provider until payment is received (upon receipt of payment, your Account will be activated and for purposes of automatic renewal, your new subscription commitment period will begin as of the day payment was received).

**Free Trials and Other Promotions.** Any free trial or other promotion must be used within the specified time of the trial. At the end of the trial period, your use of that Service will expire and any further use of the Service is prohibited unless you pay the applicable subscription fee. If you are inadvertently charged for a subscription, please contact Game Learning to have the charges reversed.

**Disputes.** You must notify us in writing within seven (7) days after receiving your credit card statement, if you dispute any of our charges on that statement or such dispute will be deemed waived. Billing disputes should be notified to the following address: [info@gamelearning.co](mailto:info@gamelearning.co).

## **5. What Requirements and Restrictions Apply to Accessing or Using the Services?**

**License.** Subject to these Terms, Game Learning grants you a non-transferable, non-exclusive, revocable, limited license to use and access the Services solely for your own personal, noncommercial use.

**Certain Restrictions.** The rights granted to you in these Terms are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, distribute, host, or otherwise commercially exploit the Services, whether in whole or in part, or any content

displayed on the Services; (b) you shall not modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Site or Services; (c) you shall not access the Services in order to build a similar or competitive website, product, or service; and (d) except as expressly stated herein, no part of the Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means. Unless otherwise indicated, any future release, update, or other addition to functionality of the Services shall be subject to these Terms. All copyright and other proprietary notices on the Services (or on any content displayed on any Service) must be retained on all copies thereof.

**Compliance with Law.** You are responsible for using the Services in compliance with all applicable federal and state laws and regulations. You shall not use the Services in violation of any applicable law.

**Ownership.** Excluding any User Content that you may provide (defined below), you acknowledge that all the intellectual property rights, including copyrights, patents, trademarks, and trade secrets, in the Services and their content are owned by Game Learning or our suppliers. Neither these Terms (nor your use of the Services) transfers to you or any third party any rights, title or interest in or to such intellectual property rights, except for the limited access rights expressly set forth under “**License**” above. Game Learning and its suppliers reserve all rights not granted in these Terms. There are no implied licenses granted under these Terms.

**Access; Fees.** You are responsible for obtaining access to the Service and all fees associated with such access. You are responsible for those fees, including those fees associated with the display or delivery of advertisements. In addition, you must provide and are responsible for all equipment necessary to access the Service

## **6. What Requirements Apply to Users Under the Age of 13?**

The Children’s Online Privacy Protection Act (“**COPPA**”) requires that all online service providers, including Game Learning, obtain parental consent before knowingly collecting personally identifiable information from children under the age of 13. Game Learning does not knowingly collect or solicit any personally identifiable information from children under the age of 13 except directly from a child’s parent or guardian at the time the child is enrolled in a school using a Game Learning Service or through the child’s use of the Services as part of the enrollment at that school. Children under the age of 13 are prohibited from using the Services or creating an Account unless they are doing so with parental consent or with the consent of a teacher, school, or district who is providing such consent in compliance with COPPA. If we learn that we have collected personal information from a person under the age of 13 that does not comply with COPPA, we will delete that information in a reasonably prudent amount of time. If you believe that a child under the age of 13 has provided personally identifiable information to us not in compliance with COPPA, please contact us at [info@gamelearning.co](mailto:info@gamelearning.co).

## **7. What are Game Learning’s Rights with Regard to Service Modifications and Support?**

**Modification.** We reserve the right, at any time, to modify, suspend, or discontinue the Services (in whole or in part) with or without notice to you. You agree that Game Learning will not be liable to you or to any third party for any modification, suspension, or discontinuation of the Services or any part thereof.

**No Support or Maintenance.** You acknowledge and agree that Game Learning will have no obligation to provide you with any support or maintenance in connection with the Services.

## 8. What Requirements Apply to User Content?

**User Content.** “**User Content**” means any and all information and content that a user submits to, or uses with, the Services (e.g., content in the user’s profile or postings). You are solely responsible for your User Content. You assume all risks associated with use of your User Content, including any reliance on its accuracy, completeness or usefulness by others, or any disclosure of your User Content that personally identifies you or any third party. You hereby represent and warrant that your User Content does not violate our Acceptable Use Policy (defined below). You may not represent or imply to others that your User Content is in any way provided, sponsored or endorsed by Game Learning. Because you alone are responsible for your User Content, you may expose yourself to liability if, for example, your User Content violates the Acceptable Use Policy. We are not obligated to backup any User Content, and your User Content may be deleted at any time without prior notice. You are solely responsible for creating and maintaining your own backup copies of your User Content if you desire.

**Feedback.** If you provide us with any feedback or suggestions regarding the Services (“**Feedback**”), you hereby grant to Game Learning an irrevocable, nonexclusive, worldwide, perpetual, royalty-free, and fully paid, right to use such Feedback and agree that we shall have the right to use and fully exploit such Feedback and related information in any manner it deems appropriate. Game Learning will treat any Feedback you provide to us as non-confidential and non-proprietary. You agree that you will not submit to Game Learning any information or ideas that you consider to be confidential or proprietary.

**License.** Game Learning does not claim ownership of your User Content. You hereby grant (and you represent and warrant that you have the right to grant) to Game Learning an irrevocable, nonexclusive, worldwide, perpetual, royalty-free and fully paid, worldwide license to reproduce, distribute, publicly display and perform, prepare derivative works of, incorporate into other works, and otherwise use and exploit your User Content, and to grant sublicenses of the foregoing rights, for the purposes of including your User Content in the Services and as otherwise permissible under applicable law. You hereby irrevocably waive (and agree to cause to be waived) any claims and assertions of moral rights or attribution with respect to your User Content.

**Enforcement.** We reserve the right (but have no obligation) to review any User Content, and to investigate and/or take appropriate action against you in our sole discretion if you violate the Acceptable Use Policy or any other provision of these Terms or otherwise create liability for us or any other person. Such action may include removing or modifying your User Content, terminating your Account in accordance with these Terms, and/or reporting you to law enforcement authorities.

## 9. What is Game Learning’s Acceptable Use Policy?

The following terms constitute our “**Acceptable Use Policy**”:

(a) You agree not to use the Services to collect, upload, transmit, display, or distribute any User Content (i) that violates any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) that is unlawful, harassing, abusive, tortious, threatening, harmful, invasive

of another's privacy, vulgar, defamatory, false, fraudulent, misleading, trade libelous, pornographic, obscene, patently offensive, promotes racism, bigotry, hatred, or physical harm of any kind against any group or individual (including, but not limited to, on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability), or is otherwise objectionable; (iii) that is harmful to minors in any way; (iv) provides material support or resources to any organization(s) designated by the United States government as a foreign terrorist organization; (v) impersonates any person or entity, including any employee or representative of Game Learning; or (vi) that is in violation of any law, regulation, or obligations or restrictions imposed by any third party.

(b) In addition, you agree not to: (i) upload, transmit, or distribute to or through the Services any computer viruses, worms, or any software intended to damage or alter a computer system or data; (ii) send through the Services unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of duplicative or unsolicited messages, whether commercial or otherwise; (iii) use the Services to harvest, collect, gather or assemble information or data regarding other users, including e-mail addresses, without their consent; (iv) interfere with, disrupt, or create an undue burden on servers or networks connected to the Services, or violate the regulations, policies or procedures of such networks; (v) attempt to gain unauthorized access to our Services (or to other computer systems or networks connected to or used together with the Services), whether through password mining or any other means; (vi) harass or interfere with any other user's use and enjoyment of the Services; or (vii) use software or automated agents or scripts to produce multiple accounts on the Services, or to generate automated searches, requests, or queries to (or to strip, scrape, or mine data from) our Services (provided, however, that we conditionally grant to the operators of public search engines revocable permission to use spiders to copy materials from the Services for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials, subject to the parameters set forth in our robots.txt file).

## **10. What Privacy Rights Apply to the Services?**

You should review our Privacy Policy for a full description of Game Learning's privacy practices and obligations.

Game Learning is subject to certain laws and regulations, some of which are described below. Please visit our Privacy Policy for more information on how we collect, use, and safeguard "Data."

## **11. How Might Game Learning Contact Me and How Can I Stop Receiving Such Communications?**

Through your use of the Services, Game Learning may contact you (including via email, Account messages, and push notifications). Such contacts are intended, among other things, to enhance your experience using the Services and to offer you the opportunity to try other Game Learning Services. BY SIGNING UP FOR THE SERVICES, YOU AGREE TO SUCH CONTACTS BY Game Learning.

(a) To permanently stop receiving emails from Game Learning, click the "Unsubscribe" link at the bottom of an email sent by Game Learning and follow the applicable instructions.



(b) To shut off push notifications from Game Learning mobile applications, please follow the instructions from your mobile phone manufacturer.

You may not elect to stop receiving messages within your Account. Further, even if you elect to stop receiving emails from Game Learning, you may continue to receive administrative emails about your Account and/or changes to these Terms or the privacy policy.

## **12. What Should I Do If I Have Concerns About the Accessibility of the Services?**

Game Learning is committed to ensuring that the Services remain accessible to all individuals, regardless of disability. Game Learning will take reasonable steps to ensure that the Services meet common industry standards for accessibility and materially comply with the requirements of the Americans with Disabilities Act ("**ADA**"), as applicable. If you have any suggestions about improvements Game Learning can make to enhance the accessibility of the Services, please contact us at [info@gamelearning.co](mailto:info@gamelearning.co).

## **13. What Are My Indemnification Obligations to Game Learning?**

You agree to indemnify and hold Game Learning (and its officers, employees, and agents) harmless, including costs and attorneys' fees, from any claim or demand made by any third party due to or arising out of (a) your use of the Services, (b) your violation of these Terms, (c) your violation of applicable laws or regulations or (d) your User Content. Game Learning reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate with our defense of these claims. You agree not to settle any matter without the prior written consent of Game Learning. Game Learning will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

## **14. How is Game Learning's Potential Liability to Me Limited?**

**DISCLAIMERS.** THE SITE AND SERVICES ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS, AND GAME LEARNING (AND OUR SUPPLIERS) EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. WE (AND OUR SUPPLIERS) MAKE NO WARRANTY THAT THE SITE OR SERVICES WILL MEET YOUR REQUIREMENTS, WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS, OR WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SERVICES, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF FIRST USE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

**LIMITATION ON LIABILITY.** YOU EXPRESSLY UNDERSTAND AND AGREE THAT GAME LEARNING, GAME LEARNING'S SUBSIDIARIES, RELATED OR AFFILIATED COMPANIES, AND LICENSORS ("**RELEASED PARTIES**") SHALL NOT, TO THE MAXIMUM EXTENT



PERMISSIBLE BY LAW, BE LIABLE FOR ANY DIRECT OR, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES (EVEN IF GAME LEARNING HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (I) THE USE OR THE INABILITY TO USE THE GAME LEARNING PRODUCTS, SERVICES OR THE SITE; (II) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (III) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SITE; (IV) ANY OTHER MATTER RELATING TO GAME LEARNING'S PRODUCTS OR SERVICES OR THE SITE. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. SOME OF THE FOREGOING LIMITATION MAY NOT APPLY TO YOU EXCEPT THAT GAME LEARNING'S LIABILITY IN SUCH JURISDICTIONS SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

#### **15. What Happens Upon the Termination of My Account?**

These Terms will remain in full force and effect while you use the Services. We may suspend or terminate your rights to use the Services (including your Account) at any time for any reason at our sole discretion, including for any use of the Services in violation of these Terms. Upon termination of your rights under these Terms, your Account and right to access and use the Services will terminate immediately. You understand that any termination of your Account may involve deletion of your User Content associated with your Account from our live databases. Game Learning will not have any liability whatsoever to you for any termination of your rights under these Terms, including for termination of your Account or deletion of your User Content. Even after your rights under these Terms are terminated, the following provisions of these Terms will remain in effect:

#### **16. What Are Game Learning's Proprietary Rights?**

You acknowledge and agree that all content, software, and materials available on the Services are protected by copyrights, trademarks, service marks, patents, trade secrets, or other proprietary rights and laws. Except as expressly authorized by Game Learning, you agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit or create derivative works from such materials or content. Notwithstanding the above, you may print or download one copy of the materials or content on the Services on a single computer for your personal, non-commercial use, provided you keep intact all copyright and other proprietary notices. Systematic retrieval of data or other content from the Services to create or compile, directly or indirectly, a collection, compilation, database or directory without permission from Game Learning is prohibited. You further agree that upon completion of any Game Learning geometry course, you will delete any and all installed versions of The Geometer's Sketchpad software provided to you by Game Learning. In addition, use of the content or materials for any purpose not expressly permitted in these Terms is prohibited.

#### **17. What Rights and Obligations Apply Related to Linking to Third Party Sites?**

The Services may contain links to third-party websites and services ("**Third-Party Links**"). Such Third-Party Links are not under the control of Game Learning, and we are not responsible for any Third-Party Links. Game Learning provides access to these Third-Party Links & Ads

only as a convenience to you, and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Links & Ads. You use all Third-Party Links at your own risk, and should apply a suitable level of caution and discretion in doing so. When you click on any of the Third-Party Links, the applicable third party's terms and policies apply, including the third party's privacy and data gathering practices. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction in connection with such Third-Party Links.

## **18. What Laws Apply and How Are Disputes Resolved?**

***Governing Law and Venue.*** These Terms shall be governed by and construed in accordance with the laws of the State of California, excluding its conflicts of law terms. You expressly agree that the exclusive jurisdiction for any claim or action arising out of or relating to these Terms or your use of the Services shall be filed only in the state or federal courts located in Los Angeles County, California, and you further agree and submit to the exercise of personal jurisdiction of such courts for the purpose of litigating any such claim or action.

***Binding Arbitration.*** Please read this Arbitration Agreement carefully. It is part of your contract with Game Learning and affects your rights. It contains procedures for MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER. All claims and disputes (excluding claims for injunctive or other equitable relief as set forth below) in connection with the Terms or the use of any product or service provided by Game Learning that cannot be resolved informally or in small claims court shall be resolved by binding arbitration before the American Arbitration Association (“AAA”), an alternative dispute provider (“**ADR Provider**”) on an individual basis under the terms of this Arbitration Agreement. Unless otherwise agreed to, all arbitration proceedings shall be held in English. This Arbitration Agreement applies to you and Game Learning, and to any subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services or goods provided under the Terms. If AAA is not available to arbitrate, the parties shall agree to select another ADR Provider. The rules of the ADR provider shall govern all aspects of the arbitration, except to the extent such rules are in conflicts with these Terms. . If you or Game Learning pursue arbitration, the arbitration action must be initiated and/or demanded within the statute of limitations (i.e., the legal deadline for filing a claim) and within any deadline imposed under the AAA Rules for the pertinent claim. If arbitration is initiated, the arbitrator will decide the rights and liabilities, if any, of you and Game Learning, and the dispute will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages, and to grant any non-monetary remedy or relief available to an individual under applicable law, the AAA Rules, and the Terms. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and Game Learning. If any part or parts of this arbitration agreement are found under the law to be invalid or unenforceable by a court of competent jurisdiction, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the arbitration agreement shall continue in full force and effect. This arbitration agreement will survive the termination of your relationship with Game Learning.

***Waiver of Jury Trial and Class or Consolidated Action.*** THE PARTIES HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A

TRIAL IN FRONT OF A JUDGE OR JURY instead electing binding arbitration. In the event that litigation shall arise between you and Game Learning in any state or federal court in a suit to vacate or enforce an arbitration award or otherwise, YOU AND GAME LEARNING WAIVE ALL RIGHTS TO A JURY TRIAL, instead electing that the dispute be resolved by a judge. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER.

## **19. What Other Provisions Apply?**

**Export.** The Services may be subject to U.S. export control laws and may be subject to export or import regulations in other countries. You agree not to export, re-export, or transfer, directly or indirectly, any U.S. technical data acquired from Game Learning, or any products utilizing such data, in violation of the United States export laws or regulations. By using or accessing the Services or creating an Account you represent and warrant that you are not (1) located in, under the control of, or a national or resident of any country to which the U.S. has embargoed goods (including, but not limited to, Cuba, Iran, North Korea, Sudan and Syria) or (2) a person on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders.

**Disclosures.** Game Learning is located at the address in Question 21. If you are a California resident, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Product of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210.

**Electronic Communications.** The communications between you and Game Learning use electronic means, whether you use the Site or Services or send us emails, or whether Game Learning posts notices on the Services or communicates with you via email. For contractual purposes, you (a) consent to receive communications from us in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications would satisfy if it were be in a hardcopy writing. The foregoing does not affect your non-waivable rights.

**Entire Terms.** These Terms constitute the entire agreement between you and us regarding the use of the Services. Our failure to exercise or enforce any right or provision of these Terms shall not operate as a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. The word "including" means "including without limitation". Your relationship to Game Learning is that of an independent contractor, and neither party is an agent or partner of the other.

**Severability.** If any provision of these Terms is, for any reason, held to be invalid or unenforceable, the other provisions of these Terms will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

**Assignment.** These Terms, and your rights and obligations herein, may not be assigned, subcontracted, delegated, or otherwise transferred by you without Game Learning's prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the

foregoing will be null and void. Game Learning may freely assign these Terms. The terms and conditions set forth in these Terms shall be binding upon assignees.

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**20. How Do I Contact Game Learning with Questions about These Terms or Report Violations?**

Game Learning, LLC

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