

TERMS OF SERVICE – AUTHORIZED USERS (Faculty, LMS Administrators, and other Staff)

Honorlock Inc. (“Honorlock,” “we,” “us,” or “our”) provides you access to our proprietary cloud-based proctoring application (the “App”), and the proctoring services we provide through the App (the “Services”), subject to the following terms and conditions of service (the “Terms of Service”), which may be updated by us from time to time without notice to you.

BY ACCESSING THE APP AND/OR USING OUR SERVICES, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE LEGALLY BOUND BY THESE TERMS OF SERVICE AND OUR PRIVACY POLICY, LOCATED AT <https://honorlock.com/legal/privacy> (THE “PRIVACY POLICY”), WHICH IS HEREBY INCORPORATED HEREIN AND MADE A PART HEREOF BY REFERENCE. THE TERMS OF SERVICE AND THE PRIVACY POLICY ARE COLLECTIVELY REFERRED TO AS THE “AGREEMENT.” IF YOU DO NOT AGREE TO ANY OF THE TERMS OF THE AGREEMENT, THEN YOU ARE NOT AUTHORIZED TO ACCESS THE APP OR USE THE SERVICES.

THE SECTIONS BELOW TITLED “BINDING ARBITRATION” AND “CLASS ACTION WAIVER” CONTAIN A BINDING ARBITRATION AGREEMENT AND CLASS ACTION WAIVER. THEY AFFECT YOUR LEGAL RIGHTS. PLEASE READ THEM.

We reserve the right, at our sole discretion, to modify, discontinue, or terminate the App or the Services, or to modify the Agreement, at any time and without prior notice. If we modify the Agreement, we will post the modification on our website at <https://honorlock.com/> and/or provide you with notice of the modification at the last email address you provided to us. By continuing to access or use the App and/or our Services after we have posted a modification to the Agreement, or have provided you with notice of a modification, you are indicating that you agree to be bound by the modified Agreement. If the modified Agreement is not acceptable to you, your only recourse is to cease using the App and Services.

Capitalized terms not defined in these Terms of Service shall have the meaning set forth in our Privacy Policy.

1. APP AND SERVICES DESCRIPTION

The App is our proprietary, cloud-based proctoring solution that enables universities and other educational institutions (each, a “School”) to offer online examinations (each, an “Exam”) with confidence and ease. Schools that desire to use our proctoring Services must subscribe to our Services by contracting with Honorlock directly. Once subscribed, the School may permit certain personnel to use the Services including professors and instructors (“Faculty”), an individual appointed by the School to administer the School’s LMS (as defined below) the “LMS Administrator” and various other personnel (“Staff”). Faculty, LMS Administrators, and Staff are referred to collectively as “Authorized Users.” All Exams are administered, with the oversight of the LMS Administrator, via the School’s Learning Management System, such as Blackboard or Canvas (each, an “LMS”). Our App integrates with the LMS so that Honorlock’s proctors (each, a “Proctor”) can administer Exams and monitor students taking the Exam (each, a “Student”).

Authorized Users must enable the App to turn on our proctoring Services. Faculty will have options to toggle certain features and functionalities on and off on an Exam-by-Exam basis, depending on their preferences. Faculty will also have the ability to enable specific rules about each Exam, such as what Students can or cannot have with them while taking the Exam. After the Students have taken the Exam, our Proctor will review the Students’ Exam sessions and notify Faculty of any misconduct or violations by

issuing Faculty a proctoring report (each, a “Report”). In addition to the Reports created by our Proctors who monitor Exam sessions in real time, Faculty can review each Student’s session (via screen and web camera recording) by logging into the School’s LMS. You may be required to create a login with the LMS; you should review the LMS terms of use and privacy policy before using it. Honorlock is not associated with, and does not endorse, any third-party website or service, including, without limitation, any School or any LMS.

Students who are required to use the App to take their Exams are aware that they are being monitored by our Proctors. They are required to affirmatively consent to separate terms of service created specifically for Students which provide necessary disclosures about our proctoring Services, such as the required identity verifications (“Authentication”) and web camera and screen recording monitoring on the computers they use to take the Exam (the “Primary Device”), depending on the custom settings that you have enabled.

2. TECHNICAL REQUIREMENTS; USAGE RESTRICTIONS

In order to access and use our App, your device will need to meet Honorlock’s minimum technical requirements which may be found at <https://honorlock.com/support>, which may be amended from time to time. We will use commercially reasonable efforts to notify you of any changes to the technical requirements.

When using the App and our Services, you agree to the following:

- You will comply with all applicable laws in your use of the App and the Services, and will not use the App for any unlawful purpose;
- You will provide accurate, complete, and up-to-date information about yourself when requested;
- You will not impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity;
- You will not interfere with, or attempt to interrupt the proper operation of, the App through the use of any virus, device, information collection or transmission mechanism, software or routine, or access or attempt to gain access to any data, files, or passwords related to the App through hacking, password or data mining, or any other means;
- You will not decompile, reverse engineer, or disassemble any software, Services, or other products or processes accessible through the App, or otherwise tamper with the App;
- You will not cover, obscure, block, or in any way interfere with any safety features on the App;
- You will not use any robot, spider, scraper, or other automated means to access the App for any purpose; and
- You will not take any action that imposes or may impose (in our sole discretion) an unreasonable or disproportionately large load on our technical infrastructure.

3. AUTHENTICATION AND MONITORING

One major component of Honorlock’s proctoring Services is Student Authentication. Faculty will have the ability to toggle on and off certain Authentication procedures, such as matching the Student’s picture to his or her photo ID, and taking a 360° video scan of the room in which the Student is sitting for the Exam. These features will be available to Faculty so long as the applicable School has enabled them. The information that we collect in connection with Authentication is referred to as “Authentication Data.” Students’ Authentication Data contains personal information, and we take privacy very seriously. Our Privacy Policy <https://honorlock.com/legal/privacy> sets forth the ways in which we collect, store, process, transfer, and use Authentication Data and other information that we collect about both you and your Students.

In addition to Authentication, Students will be required to enable their web camera and screen recording on their Primary Devices. The web camera allows our Proctors to see Students at all times during the Exam, and the screen recording allows our Proctors to monitor screen activity during the Exam.

4. PROCTORING SERVICES

Honorlock offers certain optional features and functionalities to Schools and Faculty for added proctoring and Exam protection. Provided the School has opted into these features, Faculty will have the ability to enable or disable these features and functionalities on an Exam-by-Exam basis. Although we have disclosed information about these features and functionalities to Students in their terms of service, we have informed Students that they will not know whether or not these features and functionalities are running during an Exam. A description of these additional features and functionalities is set forth below.

- **Search and Destroy**

One additional feature of the App is our Search and Destroy feature. If you choose to enable this feature, you will be required to provide us with an advance copy of the Exam, and we will crawl the Internet for copies of the Exam or portions thereof, and initiate take-down procedures under the Digital Millennium Copyright Act (DMCA), which allows copyright holders (or their designees) to demand that copyrighted materials be removed from any websites for which permission was not given by the copyright holder. The Search and Destroy feature ultimately aims to remove any copies of the Exam (or portions of the Exam) that are on the Internet, either temporarily or permanently, while Students are taking the Exam. This protects against Students searching for the Exam (and its answers) on the Internet using their mobile devices or any other devices that they have in the Exam room (“Secondary Devices”).

In order for Faculty to enable Search and Destroy, you must either (i) be the owner of all copyright in the Exam, or (ii) have express, written permission from the copyright owner for Honorlock to send take-down notices under the DMCA. If the copyright owner is neither you nor your School, and you are unable to obtain express, written permission for Honorlock to send take-down notices, you will not be permitted to run Search and Destroy. Notwithstanding the foregoing, Honorlock has relationships with a number of known Exam publishers, and has obtained blanket consents from some such publishers to issue take-down notices. If the copyright to your Exam is owned by a publisher that has provided us with advance consent, we will notify you and permit you to enable Search and Destroy with respect to that Exam.

By enabling Search and Destroy, you represent and warrant to Honorlock that you are the sole owner of all copyright in the applicable Exam or that you have obtained the express, written permission from the copyright owner for Honorlock to send take-down notices under the DMCA. You will be required to submit evidence of any such written permissions.

● **Secondary Device Detection**

It is assumed that, generally speaking, Secondary Devices will not be permitted in the room while a Student is taking an Exam. Part of our proctoring Services aims to detect Secondary Devices through the Students' web cameras, and during the initial 360° video room scans (if applicable). However, some Secondary Devices, such as mobile phones, may go undetected by the App. To combat this issue, we developed our Secondary Device Detection feature. This feature uses proprietary technology to detect Internet activity from Students' Secondary Devices while they are taking an Exam. The Secondary Device Detection functionality is twofold: first, the App detects Internet searches for Exam questions and traces the searches back to the Secondary Device used to conduct the search (thereby determining which Student attempted to search for the Exam online); second, it replaces the search results on the applicable Secondary Device with "dummy" websites owned and operated by Honorlock. All Exam information, including answers to the Exam questions, have been wiped from these "dummy" websites, so that the Student who conducted the search on his or her Secondary Device does not actually benefit from any answers. In short, the Secondary Device Detection feature of our App both blocks a Student's ability to cheat by replacing search results with "dummy" websites that do not contain Exam answers, and notifies the School and Faculty of any Student who attempted to cheat by tracing the search back to the Secondary Device and its owner.

As is the case with Search and Destroy, we require express, written consent from copyright holders to replace search results with "dummy" websites if the Secondary Device Detection feature is enabled. Essentially, the Secondary Device Detection feature cannot be activated without the Search and Destroy feature (although Search and Destroy can be activated without Secondary Device Detection). Therefore, Faculty will not be able to enable Secondary Device Detection if you are not the copyright holder or do not have the express, written permission from the copyright holder, as described above. In addition, Secondary Device Detection only works when Exam questions meet certain criteria (for example, they contain fact patterns that have been posted to the Internet). If your Exam question has never been duplicated on the Internet, Secondary Device Detection will not find results when it crawls the Internet, and will not have any websites that require replacement with "dummy" websites. We will inform you if either Search and Destroy and/or Secondary Device Detection fail as a result of your Exam not meeting the required criteria. We are not responsible for any such failures.

Honorlock may use a third-party service provider to record Secondary Device activity. We currently use a service provided by Inspectlet, but may use other third-party service providers in the future without notice. Inspectlet provides Secondary Device activity to us in anonymous format. You may review Inspectlet's privacy policy and terms of use at <https://www.inspectlet.com/legal>.

5. SUPPORT

If you are having technical difficulties with the App at any time, or if you have questions about our Services, you may email or call us using the contact information on our website. All interactions between you and Honorlock may be recorded, including phone calls, emails, and live chats.

With respect to all communications between you and any Honorlock personnel, including, but not limited to, feedback, questions, comments, suggestions, and the like, we shall be free to use any ideas, concepts, know-how, or techniques contained in your communications for any purpose whatsoever, including but not limited to, the development, production, and marketing of products and services that incorporate such information, without compensation or attribution to you.

6. OUR DISCLAIMER; LIMITATION OF LIABILITY

YOU ACKNOWLEDGE THAT ALTHOUGH THE APP, THE SERVICES, AND OTHER INFORMATION OR MATERIALS PROVIDED BY HONORLOCK CAN BE USED AS AIDS TO SCHOOLS AND AUTHORIZED USERS TO MAKE INFORMED DECISIONS ABOUT DISCIPLINARY ACTION FOR STUDENT MISCONDUCT, THE APP, THE SERVICES, AND ALL OTHER INFORMATION AND MATERIALS PROVIDED BY HONORLOCK ARE NOT MEANT TO BE SUBSTITUTES FOR THE SCHOOL'S AND AUTHORIZED USERS' EXERCISE OF THEIR OWN JUDGMENT AND COMPLIANCE WITH THEIR OWN INTERNAL PROTOCOLS. YOU AND YOUR SCHOOL SHOULD HAVE YOUR OWN HONOR CODE, ETHICS RULES, AND DISCIPLINARY POLICIES AND PROCEDURES. HONORLOCK'S APP AND SERVICES ARE FOR USE BY THE SCHOOL AND AUTHORIZED USERS FOR INFORMATIONAL PURPOSES ONLY, AND HONORLOCK ITSELF DOES NOT MAKE ANY DETERMINATIONS ABOUT STUDENT MISCONDUCT OR IMPOSE ANY PUNITIVE ACTION ON STUDENTS. FURTHER, IF THE APP DETECTS MISCONDUCT, HONORLOCK DOES NOT REPRESENT OR WARRANT THAT THE OFFENDING STUDENT IS GUILTY OF SUCH MISCONDUCT, OR THAT A FULL INVESTIGATION HAS BEEN UNDERTAKEN. HONORLOCK DOES NOT INVESTIGATE MISCONDUCT ALLEGATIONS BEYOND THE PROCTOR'S LIMITED ABILITY WHILE REMOTELY MONITORING THE EXAM. IF A STUDENT DESIRES TO CONTEST AN ALLEGATION OF MISCONDUCT, HE OR SHE MUST GO DIRECTLY TO THE SCHOOL OR FACULTY, AND NOT TO HONORLOCK. HONORLOCK DOES NOT GUARANTEE OR ENDORSE THE ACCURACY, COMPLETENESS, OR RELIABILITY OF ANY SERVICES OR ANY INFORMATION OR MATERIALS PROVIDED BY HONORLOCK. THE APP, SERVICES, AND THEIR FEATURES ARE INTENDED TO DETER STUDENT MISCONDUCT. HONORLOCK DOES NOT INTENTIONALLY MISLEAD, TEMPT, OR DECEIVE STUDENTS.

YOU ACKNOWLEDGE THAT THE APP AND SERVICES MAY CONTAIN BUGS, ERRORS, AND OTHER PROBLEMS THAT COULD CAUSE SYSTEM FAILURES. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICES, THE APP, AND ALL OTHER INFORMATION AND MATERIALS PROVIDED BY HONORLOCK ARE PROVIDED "AS IS" AND "AS AVAILABLE," AND HONORLOCK MAKES NO ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SAME OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT, AND HEREBY DISCLAIMS ANY AND ALL EXPRESS, IMPLIED, OR STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AVAILABILITY, ERROR-FREE OR UNINTERRUPTED OPERATION, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE.

IN CONNECTION WITH ANY WARRANTY, CONTRACT, OR COMMON LAW TORT CLAIMS: (I) WE AND OUR LICENSORS SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOST PROFITS, OR DAMAGES RESULTING FROM YOUR ACCESS TO OR USE OF THE APP OR THE SERVICES, INCLUDING, WITHOUT LIMITATION ANY LOST DATA RESULTING FROM THE USE OR INABILITY TO ACCESS AND USE THE APP, THE SERVICES, OR ANY WEBSITE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (II) WE SHALL NOT BE LIABLE FOR ANY DIRECT DAMAGES, NOT ATTRIBUTABLE TO PERSONAL INJURIES, THAT YOU MAY SUFFER AS A RESULT OF YOUR USE OF THE APP OR THE SERVICES IN EXCESS OF ONE HUNDRED U.S. DOLLARS (\$100). NO COMMON-LAW CAUSE OF ACTION ARISING UNDER TORT, CONTRACT, OR WARRANTY RELATED TO THE APP OR THE SERVICES, OR OTHERWISE ARISING UNDER THIS

AGREEMENT, REGARDLESS OF FORM, MAY BE BROUGHT BY YOU MORE THAN ONE (1) YEAR AFTER SUCH ACTION HAS ACCRUED.

SOME JURISDICTIONS, INCLUDING THE STATE OF NEW JERSEY, DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN WARRANTIES; THEREFORE, SOME OF THE ABOVE LIMITATIONS IN THIS SECTION MAY NOT APPLY TO YOU.

NOTHING IN THESE TERMS OF SERVICE SHALL AFFECT ANY NON-WAIVABLE STATUTORY RIGHTS THAT APPLY TO YOU.

7. INDEMNIFICATION

You agree to defend, indemnify, and hold us and our affiliates and our and their respective officers, directors, employees, agents, successors, licensees, licensors, and assigns harmless from and against any damages, liabilities, losses, expenses, claims, actions, and/or demands, including, without limitation, reasonable legal and accounting fees, arising or resulting from: (i) your breach of this Agreement; (ii) your misuse of the App or the Services; and/or (iii) your violation of any third-party rights, including without limitation any copyright, trademark, property, publicity, or privacy right. We shall provide notice to you of any such claim, suit, or proceeding and shall assist you, at your expense, in defending any such claim, suit, or proceeding. We reserve the right to assume the exclusive defense and control (at your expense) of any matter that is subject to indemnification under this section. In such case, you agree to cooperate with any reasonable requests assisting our defense of such matter.

8. INTELLECTUAL PROPERTY

The App may contain material such as videos, photographs, software, text, graphics, images, sound recordings, and other material provided by or on behalf of Honorlock (collectively referred to as the “App Content”). The App Content may be owned by us or third parties. The App Content is protected under both United States and foreign laws. Unauthorized use of the App Content may violate copyright, trademark, and other laws.

You may view all App Content for your own personal, non-commercial use. No other use is permitted without the prior written consent of Honorlock. Honorlock and its licensors retain all right, title, and interest, including all intellectual property rights, in and to the App Content. You must retain all copyright and other proprietary notices contained in the original App Content. You may not sell, transfer, assign, license, sublicense, or modify the App Content or reproduce, display, publicly perform, make a derivative version of, distribute, or otherwise use the App Content in any way for any public or commercial purpose. The use or posting of the App Content on any other website, social media page, or in a networked computer environment for any purpose is expressly prohibited.

The trademarks, service marks, and logos of Honorlock (the “Honorlock Trademarks”) used and displayed on the App are registered and unregistered trademarks or service marks of Honorlock. Other company, product, and service names located on the App may be trademarks or service marks owned by others (the “Third-Party Trademarks,” and, collectively with Honorlock Trademarks, the “Trademarks”). Nothing on the App should be construed as granting, by implication, estoppel, or otherwise, any license or right to use the Trademarks, without our prior written permission specific for each such use. Use of the Trademarks as part of a link to or from any site is prohibited unless establishment of such a link is approved in advance by us in writing. All goodwill generated from the use of Honorlock Trademarks inures to our benefit.

Elements of the App are protected by trade dress, trademark, unfair competition, and other state and federal laws and may not be copied or imitated in whole or in part, by any means, including, but not limited to, the use of framing or mirrors. None of the App Content may be retransmitted without our express, written consent for each and every instance.

9. COMPLIANCE WITH APPLICABLE LAWS

The App and Services are based in the United States. We make no claims concerning whether the App may be accessed, downloaded, viewed, or be appropriate for use outside of the United States. If you access the App from outside of the United States, you do so at your own risk. Whether inside or outside of the United States, you are solely responsible for ensuring compliance with the laws of your specific jurisdiction.

10. TERMINATION OF THE AGREEMENT

We reserve the right, in our sole discretion, to restrict, suspend, or terminate this Agreement and your access to all or any part of the App, at any time and for any reason without prior notice or liability. We reserve the right to change, suspend, or discontinue all or any part of the App at any time without prior notice or liability. Sections 6-15 shall survive the termination of this Agreement.

11. CONTROLLING LAW

This Agreement and any action related thereto will be governed by the laws of the State of New York without regard to its conflict of laws provisions.

12. BINDING ARBITRATION

In the event of a dispute arising under or relating to this Agreement, the Services, or the App (each, a “Dispute”), either party may elect to finally and exclusively resolve the dispute by binding arbitration governed by the Federal Arbitration Act (“FAA”). Any election to arbitrate, at any time, shall be final and binding on the other party. IF EITHER PARTY CHOOSES ARBITRATION, NEITHER PARTY SHALL HAVE THE RIGHT TO LITIGATE SUCH CLAIM IN COURT OR TO HAVE A JURY TRIAL, EXCEPT EITHER PARTY MAY BRING ITS CLAIM IN ITS LOCAL SMALL CLAIMS COURT, IF PERMITTED BY THAT SMALL CLAIMS COURT RULES AND IF WITHIN SUCH COURT’S JURISDICTION. ARBITRATION IS DIFFERENT FROM COURT, AND DISCOVERY AND APPEAL RIGHTS MAY ALSO BE LIMITED IN ARBITRATION. All disputes will be resolved before a neutral arbitrator selected jointly by the parties, whose decision will be final, except for a limited right of appeal under the FAA. The arbitration shall be commenced and conducted by JAMS pursuant to its then current Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those rules, or, where appropriate, pursuant to JAMS’ Streamlined Arbitration Rules and Procedures. All applicable JAMS’ rules and procedures are available at the JAMS website www.jamsadr.com. Each party will be responsible for paying any JAMS filing, administrative, and arbitrator fees in accordance with JAMS rules. Judgment on the arbitrator’s award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The arbitration may be conducted in person, through the submission of documents, by phone, or online. If conducted in person, the arbitration shall take place in the United States county where you reside. The parties may litigate in court to compel arbitration, to stay a proceeding pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator. The parties shall cooperate in good faith in the voluntary and informal exchange of all non-privileged documents and other information (including electronically stored information) relevant to the Dispute immediately after commencement of the

arbitration. As set forth in Section 14 below, nothing in this Agreement will prevent us from seeking injunctive relief in any court of competent jurisdiction as necessary to protect our proprietary interests.

13. CLASS ACTION WAIVER

You agree that any arbitration or proceeding shall be limited to the Dispute between us and you individually. To the full extent permitted by law, (i) no arbitration or proceeding shall be joined with any other; (ii) there is no right or authority for any Dispute to be arbitrated or resolved on a class action-basis or to utilize class action procedures; and (iii) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons. YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST US ONLY IN YOUR INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

14. EQUITABLE RELIEF

You acknowledge and agree that in the event of a breach or threatened violation of our intellectual property rights and confidential and proprietary information by you, we will suffer irreparable harm and will therefore be entitled to injunctive relief to enforce this Agreement. We may, without waiving any other remedies under this Agreement, seek from any court having jurisdiction any interim, equitable, provisional, or injunctive relief that is necessary to protect our rights and property pending the outcome of the arbitration referenced above. You hereby irrevocably and unconditionally consent to the personal and subject matter jurisdiction of the federal and state courts in the State of New York, Borough of Manhattan for purposes of any such action by us.

15. MISCELLANEOUS

Our failure to act on or enforce any provision of the Agreement shall not be construed as a waiver of that provision or any other provision in this Agreement. No waiver shall be effective against us unless made in writing, and no such waiver shall be construed as a waiver in any other or subsequent instance. Except as expressly agreed by us and you in writing, this Agreement constitutes the entire Agreement between you and us with respect to the subject matter, and supersedes all previous or contemporaneous agreements, whether written or oral, between the parties with respect to the subject matter. The section headings are provided merely for convenience and shall not be given any legal import. This Agreement will inure to the benefit of our successors, assigns, licensees, and sublicensees.

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