Honorlock

Exam Taker Terms of Use

Last Updated: August 23, 2023

Honorlock, Inc. ("Honorlock," "we," "us," or "our") provides Services to your Testing Organization(s), including proctoring online exam(s) taken at their direction. You will access the Services through our online test proctoring applications, online testing platforms selected by your Testing Organization, and/or other technology (collectively, the "Apps"), subject to these Exam Taker Terms of Use. The term "you" applies to any person that takes an online exam that is proctored with our Services (each, an "Exam"). Please review our Exam Taker Privacy Notice, (incorporated herein by reference) for details about how we process the information we collect about you in connection with the Services. Any capitalized terms not defined herein are defined in the Exam Taker Privacy Notice.

By taking any Exam that utilizes our Services or otherwise accepting these Terms of Use, you acknowledge that you have read, understood, and agree to be legally bound by the Exam Taker Privacy Notice and this Exam Taker Terms of Use (collectively, the "Exam Taker Agreement"). If you do not agree to any of the terms of the Exam Taker Agreement, then you are not authorized to install any Apps or otherwise use any of our Services.

We reserve the right, at our sole discretion, to modify, discontinue, or terminate the Services at any time on written notice to you (email to suffice). If we modify these Terms of Use at any time, we will notify you by changing the "last updated" date (above) and will post any changes on our website. If you visit our website, use our Services, or otherwise accept the revised Terms of Use after posting on our website, then you are deemed to have accepted its terms. If the modified Terms of Use are not acceptable to you, your only recourse is to cease using the Services.

Note Regarding Dispute Resolution; Binding Arbitration

The section below titled "Dispute Resolution; Binding Arbitration" contains a binding arbitration agreement and class action waiver. They affect your legal rights. Please read them.

1. App and Services Description

(a) Our Services assist Testing Organizations in offering Exams. Testing Organizations that desire to use our Services must subscribe to our Services by contracting with Honorlock directly. When a professor, instructor, or administrator from the Testing Organization (the "Administrator") desires to offer an Exam online, the Administrator administers such online Exams via its learning management system, such as Blackboard, Canvas, Desire2Learn or Intellum (each, an "LMS"). Our Services are designed to integrate with the LMS so that Honorlock's proctors (each, a "Proctor") can view the established settings of the Exam, help Exam Takers take the Exam and monitor for suspected misconduct.

(b) As an Exam Taker, you will need to follow the instructions provided by Honorlock, the applicable LMS and your Testing Organization (or Administrator) prior to starting the Exam, including installing any required Apps. For instance, you may be required to login to an LMS

account or use a specific web browser in order to access your Exam. Honorlock is not associated with or responsible for, and does not endorse, any third-party website or service you use in connection with the Services, including, without limitation, the provider of your browser or device, any Testing Organization, or any LMS.

(c) You represent and warrant that you have the authority to install any App onto any device you are using to take an Exam. We grant you a limited, non-exclusive, revocable license to install a single copy of an App on a device that you own or control solely for the purpose of taking any Exam that utilizes our Services.

2. Technical Requirements; Usage Restrictions

In order to access and use our Services, you may be required to have a device that (a) has a working web camera and microphone, and (b) meets Honorlock's minimum technical requirements found at Honorlock Support, which may be amended from time to time.

When using our Services, you will (i) comply with all applicable laws, and will not engage in, encourage or promote any activity that violates the Exam Taker Agreement; and (ii) provide accurate, complete, and up-to-date information about yourself when requested.

When using our Services, you will not (and will not allow any third party to):

- Impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity;
- Engage in any harassing, threatening, intimidating, or predatory conduct;
- Sell, or license or resell access to, the Services;
- Use or attempt to use another Exam Taker's account;
- Interfere with, or attempt to interrupt the proper operation of, the Services 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 Services through hacking, password or data mining, or any other means;
- Decompile, reverse engineer, or disassemble any aspect of the Services, or other products or processes accessible through the Services, or otherwise modify or tamper with the Apps or our Services;
- Copy, reproduce, distribute, publicly perform or publicly display all or portions of the Services, except as expressly permitted by us;
- Develop or use any applications that interact with our Services without our prior written consent;
- Attempt to cheat or otherwise engage in misconduct while using our Services;

- Use any device to cheat or for any other purpose not permitted by your Testing Organization; or

- Attempt to disguise your location, including the location of your device;

- Allow another person in the room while you are using the Services unless that other person has consented to our analyzing, using and disclosing their audio and video recording to provide our services to your Testing Organization (assuming that you authorized us to access your device camera and microphone to take audio and visual recordings during your Exam);

- Use any robot, spider, scraper, or other automated means to access or scrape any of the Services for any purpose; or

- Use our Services other than for their intended purpose, including taking any action that imposes or may impose (in our sole discretion) an unreasonable or disproportionately large load on our technical infrastructure.

If you are taking an Exam through our Services at your home or in a personal space, you agree to allow your activity and surrounding workspace area to be recorded by video and audio. Please note that these recordings may capture images or audio of other people what are in or around your surrounding workspace area. These recordings may be viewed by a trained proctor during or after the Exam, and by the instructor or administrator after the Exam, as directed by your Testing Organization for the purpose of detecting any indication of cheating on the Exam.

Honorlock reserves the right, in its sole discretion, to permanently ban an Exam Taker from using and accessing our Services. Please be advised that in making a decision to ban any Exam Taker, Honorlock may consider, in its sole discretion, any attempt(s) to contravene or violate the Exam Taker Agreement.

3. Authentication; Enabling Devices; Authorization

(a) When you use the Services in order to take your Exam, you may be required to enable certain features on your device, such as the camera and microphone, to take certain recordings or allow our Services to take certain audio or visual recordings. If you allow our Services to have access to your device camera or microphone, then you authorize us to access your device camera and microphone to take audio and visual recordings, and process those recordings to provide our Services to your Testing Organization. Please visit our Exam Taker Privacy Notice for information regarding our data, audio, and visual recording collection, use and disclosure practices.

(b) As part of the Services requested by your Testing Organization, you may also be required to download an App designed to detect and block your use of prohibited applications during an Exam. This App may send information regarding suspected usage of a prohibited application on your device and may cause your device to force close the prohibited application. By downloading this App, you authorize us to access your device via the App for these purposes. For more details on how we process information about you via our Services, please see

Honorlock App Privacy.

(c) If another person intends to take an Exam that utilizes our Services on the same device where you installed an App, then you will ensure that such person: (i) inputs their own personal information (such as name and email) as an Exam Taker for that Exam, (ii) accept the Exam Taker Agreement, and (iii) provide all necessary consents requested through the Services. Unless all the foregoing obligations are fulfilled by the additional Exam Taker to our reasonable satisfaction, we may invalidate the Exam results of the additional Exam Taker. The foregoing obligation will not apply if we are able to obtain any such agreements and consents, and provide any such notices, directly from/to that other user.

4. Proctoring During the Exam

(a) Proctors have the ability to communicate with you directly via live chat, such as in the event of suspected misconduct. A Proctor may also inform the Testing Organization and Administrator of activities occurring through the Services, including suspected misconduct. Please be advised that if a Proctor communicates with you during the Exam, you may not recover the lost time. Please contact your Testing Organization for more information about its exam and proctoring policies.

(b) Honorlock offers certain additional features and functionalities to Testing Organizations and Administrators for added proctoring and Exam protection, such as "seed sites" that are designed to detect Exam Takers attempting to cheat using a secondary device. You do not have the ability to enable or disable these additional features and functionalities, and you may not know whether or not these features and functionalities are running during your Exam.

(c) We urge you to assume that such features are always enabled, so you should never use another device to engage in any prohibited activity, including to search the Internet for your Exam (or for answers to your Exam) while you are taking the Exam.

5. Reviewing After the Exam

(a) Proctors have the ability to review an exam after your Exam has been completed if the Testing Organization has elected the Record and Review feature. This feature allows a Proctor to review your Exam for any suspected misconduct.

6. Support; Feedback

(a) If you are having technical difficulties with the Services at any time, or if you have questions about our Services, you may email us or utilize our live chat support using the contact information on our website at Honorlock Support.

(b) If you share any feedback with Honorlock or its personnel, including, but not limited to, questions, comments, suggestions, ideas, or techniques about Honorlock or our Services, then we shall be free to use any such feedback for any purpose whatsoever, including but not limited to, the development, production, and marketing of products and services that incorporate such feedback, without compensation or attribution to you, in accordance with your Testing Organization's agreement with Honorlock.

(c) It is important to us that our support and proctoring staff is treated with respect. Please use good judgment and appropriate verbiage when interacting with our staff. If we determine, in our sole discretion, that your behavior is inappropriate or disrespectful, Honorlock reserves the right to immediately end the session, and, in its sole discretion, to ban you from using our services in the future.

7. Our Disclaimer; Limitation of Liability

(a) You acknowledge that although the Services and other information or materials provided by Honorlock can be used as aids to Testing Organizations and Administrators to make decisions about suspected misconduct, the Testing Organization and Administrators are solely responsible for determining whether any misconduct has occurred and the decisions made about any suspected misconduct. If an Exam Taker desires to contest an allegation of misconduct, they should raise their concern directly with the Testing Organization or Administrator, 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 to you or to the Testing Organization.

(b) Your use of the Services and your devices while taking an Exam is at your own risk.

(c) You acknowledge that the Services may contain bugs, errors, and other problems that could cause system failures. The Services and all other information and materials provided by Honorlock are provided "as is" and "as available," and Honorlock makes no representations or warranties with respect to the same or otherwise in connection with the Exam Taker 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.

(d) We and our affiliates and our and their respective officers, directors, employees, agents, successors, licensees, licensors, and assigns (the "Honorlock Parties") shall not be liable for any indirect, incidental or consequential damages, lost profits, or damages resulting from your access to or use of the Services, including, without limitation any lost data resulting from the use or inability to access and use the Services or any website, even if we have been advised of the possibility of such damages. Additionally, the Honorlock Parties shall not be liable for any direct damages that you may suffer as a result of your use of the Services in excess of one hundred U.S. dollars ($100).

(e) No cause of action arising under statute, tort, contract, or warranty related to the Services, or otherwise arising under the Exam Taker Agreement, regardless of form, may be brought by you more than one (1) year after such action has accrued.

(f) Some jurisdictions 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 the Exam Taker Agreement shall affect any non-waivable statutory rights that apply to you.

8. Indemnification

You agree to defend, indemnify, and hold the Honorlock Parties 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 the Exam Taker Agreement; (ii) your misuse of 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.

9. Intellectual Property

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

(b) You may view all Content for your own personal, internal 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 Content. You must retain all copyright and other proprietary notices contained in the original Content. You may not sell, transfer, assign, license, sublicense, or modify the Content or reproduce, display, publicly perform, make a derivative version of, distribute, or otherwise use the Content in any way for any public or commercial purpose. The use or posting of the Content on any other website, social media page, or in a networked computer environment for any purpose is expressly prohibited.

(c) The trademarks, service marks, and logos of Honorlock (the "Honorlock Trademarks") used and displayed on the Services are registered and unregistered trademarks or service marks of Honorlock. Other company, product, and service names located on the Services may be trademarks or service marks owned by others (the "Third-Party Trademarks," and, collectively with Honorlock Trademarks, the "Trademarks"). Nothing on the Services should be construed as granting, by implication, estoppel, or otherwise, any license or right to use the Trademarks, without Honorlock's 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.

(d) Elements of the Services 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 Content may be retransmitted without our express, written consent for each and every instance.

10. Compliance with Applicable Laws

The Services are based in the United States. We make no claims concerning whether the Services may be accessed, downloaded, viewed, or be appropriate for use outside of the United States. If you access the Services 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.

11. Termination of The Exam Taker Agreement

We reserve the right, in our sole discretion, to restrict, suspend, or terminate the Exam Taker Agreement and your access to all or any part of the Services, 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 Services at any time without prior notice or liability. Sections 5-15 of these Terms of Use shall survive the termination or expiration of the Exam Taker Agreement.

12. Controlling Law

The Exam Taker Agreement and any action related thereto will be governed by the laws of the State of Florida without regard to the conflict of law rules or principles of any other jurisdiction.

13. Dispute Resolution; Binding Arbitration

Please read the following section carefully because it requires you to arbitrate certain disputes and claims with Honorlock and limits the manner in which you can seek relief from us.

No class or representative actions or arbitrations are allowed under this arbitration agreement. In addition, arbitration precludes you from suing in court or having a jury trial.

(a) No Representative Actions. You and Honorlock agree that any dispute arising out of or related to the Exam Taker Agreement or our Services is personal to you and Honorlock and that any dispute will be resolved solely through individual action, and will not be brought as a class arbitration, class action or any other type of representative proceeding.

(b) Arbitration of Disputes. Except for small claims disputes in which you or Honorlock seeks to bring an individual action in small claims court located in the county of your billing address or disputes in which you or Honorlock seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property, you and Honorlock waive your rights to a jury trial and to have any dispute arising out of or related to the Exam Taker Agreement or our Services resolved in court. Instead, for any dispute or claim that you have against Honorlock or relating in any way to the Services, you agree to first contact Honorlock and attempt to resolve the claim informally by sending a written notice of your claim ("Notice") to Honorlock by email at Honorlock Privacy. The Notice must (a) include your name, residence address, email address, and telephone number; (b) describe the nature and basis of the claim; and (c) set forth the specific relief sought. Our notice to you will be similar in form to that described above. If you and Honorlock cannot reach an agreement to resolve the claim within thirty (30) days after such Notice is received, then either party may submit the dispute to binding arbitration administered by JAMS or, under the limited circumstances set forth below, in court. All disputes submitted to JAMS will be resolved through confidential, binding arbitration before one arbitrator. Arbitration proceedings will be conducted telephonically or via video conference, in

accordance with the JAMS Streamlined Arbitration Rules and Procedures ("JAMS Rules"), unless the arbitrator determines that an in-person hearing is appropriate. Any in-person appearances will be held at a location that is reasonably convenient to both parties. If the parties are unable to agree on a location, the arbitrator will determine the location. The most recent version of the JAMS Rules are available on the JAMS website and are hereby incorporated by reference. You either acknowledge and agree that you have read and understand the JAMS Rules or waive your opportunity to read the JAMS Rules and waive any claim that the JAMS Rules are unfair or should not apply for any reason.

(c) You and Honorlock agree that the terms of the Exam Taker Agreement affect interstate commerce and that the enforceability of this Section 13 will be substantively and procedurally governed by the Federal Arbitration Act, 9 U.S.C. § 1, et seq. (the "FAA"), to the maximum extent permitted by applicable law. As limited by the FAA, the Exam Taker Agreement and the JAMS Rules, the arbitrator will have exclusive authority to make all procedural and substantive decisions regarding any dispute and to grant any remedy that would otherwise be available in court, including the power to determine the question of arbitrability. The arbitrator may conduct only an individual arbitration and may not consolidate more than one individual's claims, preside over any type of class or representative proceeding or preside over any proceeding involving more than one individual.

(d) The arbitrator, Honorlock, and you will maintain the confidentiality of any arbitration proceedings, judgments and awards, including, but not limited to, all information gathered, prepared and presented for purposes of the arbitration or related to the dispute(s) therein. The arbitrator will have the authority to make appropriate rulings to safeguard confidentiality, unless the law provides to the contrary. The duty of confidentiality does not apply to the extent that disclosure is necessary to prepare for or conduct the arbitration hearing on the merits, in connection with a court application for a preliminary remedy or in connection with a judicial challenge to an arbitration award or its enforcement, or to the extent that disclosure is otherwise required by law or judicial decision.

(e) You and Honorlock agree that for any arbitration you initiate, you will pay the filing fee and Honorlock will pay the remaining JAMS fees and costs. For any arbitration initiated by Honorlock, Honorlock will pay all JAMS fees and costs.

(f) Any claim arising out of or related to the Exam Taker Agreement or our Services must be filed within one year after such claim arose; otherwise, the claim is permanently barred, which means that you and Honorlock will not have the right to assert the claim.

(g) If any portion of this Section 13 is found to be unenforceable or unlawful for any reason, (i) the unenforceable or unlawful provision shall be severed from the Exam Taker Agreement; (ii) severance of the unenforceable or unlawful provision shall have no impact whatsoever on the remainder of this Section 13 or the parties' ability to compel arbitration of any remaining claims on an individual basis pursuant to this Section 13; and (iii) to the extent that any claims must therefore proceed on a class, collective, consolidated, or representative basis, such claims must be litigated in a civil court of competent jurisdiction and not in arbitration, and the parties agree that litigation of those claims shall be stayed pending the outcome of any individual claims in arbitration. Further, if any part of this Section 13 is found to prohibit an individual

claim seeking public injunctive relief, that provision will have no effect to the extent such relief is allowed to be sought out of arbitration, and the remainder of this Section 13 will be enforceable.

14. Equitable Relief; Governing Law

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 the Exam Taker Agreement.

We may, without waiving any other remedies under the Exam Taker 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 Florida for purposes of any such action by us or any other claim not subject to arbitration (for reasons described in Section 13 (g) above).

15. Miscellaneous

(a) Our failure to act on or enforce any provision of the Exam Taker Agreement shall not be construed as a waiver of that provision or any other provision in the Exam Taker Agreement. No waiver shall be effective against us unless expressly waived by us 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, the Exam Taker Agreement constitutes the entire agreement between you and us with respect to the subject matter set forth therein, and supersedes all previous or contemporaneous agreements, whether written or oral, between the parties with respect to the subject matter.

(b) If any provision or part of a provision of the Exam Taker Agreement is unlawful, void or unenforceable, that provision or part of the provision is deemed severable from the Exam Taker Agreement and does not affect the validity and enforceability of any remaining provisions.

(c) The section headings are provided merely for convenience and shall not be given any legal import. The Exam Taker Agreement may not be transferred, assigned or delegated by you, by operation of law or otherwise, without our prior written consent, and any attempted transfer, assignment or delegation without such consent will be void and without effect. We may freely transfer, assign or delegate the Exam Taker Agreement, in whole or in part, without your prior written consent. The Exam Taker Agreement will inure to the benefit of our successors, assigns, licensees, and sublicensees.