

student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

The vendor understands and acknowledges that any unauthorized disclosure of confidential information is illegal as provided in FERPA and in the implementing federal regulations found in 34 CFR, Part 99. The penalty for unlawful disclosure is a fine of not more than \$250,000 (under 18 U.S.C. sec. 3571) or imprisonment for not more than five years (under 18 U.S.C. sec. 3559), or both.

The vendor understands and acknowledges that children's free and reduced price meal and free milk eligibility information or information from the family's application for eligibility, obtained under provisions of the NSLA or the CNA is confidential information and that any unauthorized disclosure of confidential free and reduced price lunch information or information from an application for this benefit is illegal. The penalty for unlawful disclosure is a fine of not more than \$1,000.00 (under 7 C.F.R. 245.6) or imprisonment for up to one year (under 7 C.F.R. 245.6), or both.

In the event there is a conflict between this agreement and any other agreement between KCBOE and Vendor, the terms of this agreement shall apply.

Snorkl, Inc

Vendor Name

5383 Balboa Avenue, San Diego, CA 92117

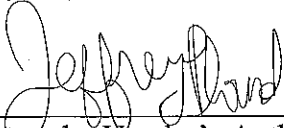
Vendor Address

858-688-0577

Vendor Telephone

Jeff@snorkl.app

Vendor Email Address



Signature by Vendor's Authorized Representative

Jeffrey Plourd, CEO

Print Name

5/13/2026

Date



Terms and Conditions

Last Updated: December 12, 2025

[Link to Prior Terms and Conditions](#)

These Terms and Conditions (this "**Agreement**"), effective as of the date on which you check a box acknowledging your acceptance of this Agreement, begin using the Platform, or you execute with Snorkl an Order that incorporates this Agreement by reference (the "**Effective Date**"), is between Snorkl, Inc. with offices located at 5383 Balboa Ave, San Diego, CA 92117 ("**Snorkl**") and the entity on whose behalf the individual accepting this Agreement accepts this Agreement ("**Organization**"). The individual accepting this Agreement hereby represents and warrants that it is duly authorized by the entity on whose behalf it accepts this Agreement to so accept this Agreement. Snorkl and Organization may be referred to herein collectively as the "**Parties**" or individually as a "**Party**." The Parties agree as follows:

1. Definitions.

1.1. "**Authorized User**" means Organization's employees, consultants, contractors, agents or other business users (including in the case of school districts, students): (i) who are authorized by Organization to access and use the Platform under this Agreement; and (ii) for whom access to the Platform has been purchased or otherwise provided hereunder.

1.2. "**Business Contact Data**" means Personal Information that relates to Snorkl's relationship with Organization, including, by way of example and without limitation data Snorkl collects for the purpose of managing its relationship with Organization, identity verification, or as otherwise required by applicable laws, rules, or regulations.

1.3. "**Documentation**" means Snorkl's end user documentation relating to the Platform and Platform pricing, as made available on the Snorkl website from time to time.

1.4. "**Harmful Code**" means any software, hardware, or other technology, device, or means, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner any (i) computer, software, firmware, hardware, system, or network; or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data processed thereby.

1.5. "**Order**" means: (i) a purchase order, order form, or other ordering document entered into by the Parties that incorporates this Agreement by reference; or (ii) if Organization registered for the Platform through Snorkl's online ordering process, the results of such online ordering process.

1.6. "**Organization Data**" means information, data, images, Organization -owned intellectual property and other content, in any form or medium, that is submitted, posted, imported, or otherwise transmitted by or uploaded by or on behalf of Organization or an Authorized User through the Platform, and any student data or personal information; provided that, for purposes of clarity, Organization Data as defined herein does not include Business Contact Data or Usage Data.

1.7. "**Personal Information**" means any information that, individually or in combination, does or can identify a specific individual or by or from which a specific individual may be identified, contacted, or located, including without limitation all data considered "personal data", "personally identifiable information", or something similar under applicable laws, rules, or regulations relating to data privacy.

1.8. "**Platform**" means Snorkl's proprietary, hosted artificial-intelligence based software platform for student education, as made available to Authorized Users from time to time, and as described on an Order.

1.9. "**Sensitive Data**" means: (i) special categories of data enumerated in European Union Regulation 2016/679, Article 9(1) or any successor legislation; (ii) protected health information as defined in the Health Insurance Portability and Protection Act, as amended ("**HIPAA**"); (iii) payment cardholder information or financial account information, including bank account numbers or other personally identifiable financial information; (iv) social security numbers, driver's license numbers, or other government identification numbers; (v) other sensitive information subject to regulation or protection under specific laws such the

Gramm-Leach-Bliley Act ("GLBA"), in each case as amended, or related rules or regulations; or (vi) any data similar to the above protected under applicable laws, rules, or regulations.

1.10. **"Snorkl IP"** means the Platform, the Documentation, and any and all intellectual property provided to Organization or any Authorized User in connection with the foregoing. For the avoidance of doubt, Snorkl IP includes Business Contact Data and any information, data, or other content derived from Snorkl's provision of the Platform but does not include Organization Data.

1.11. **"Subscription Period"** means the time period identified on the Order during which Organization's Authorized Users may access and use the Platform.

1.12. **"Third-Party Products"** means any third-party products provided with, integrated with, or incorporated into the Platform, including such products and services used by Organization to import or enable access to Organization Data.

1.13. **"Usage Data"** means service usage data collected and processed by Snorkl in connection with Organization's use of the Platform, including without limitation data used to identify the source and destination of a communication, activity logs, and data used to optimize and maintain performance of the Platform, and to investigate and prevent system abuse (in each case, without containing any Organization identifying information).

1.14. **"Usage Limitations"** means the usage limitations set forth in this Agreement and the Order, including without limitation any limitations on the number of Authorized Users (if any), and the applicable product, pricing, and support tiers agreed-upon by the Parties.

2. Access and Use.

2.1. **Provision of Access.** Subject to and conditioned on Organization's compliance with the terms and conditions of this Agreement, including without limitation the Usage Limitations, Organization may, solely through its Authorized Users, access and use the Platform during the Subscription Period on a non-exclusive, non-transferable (except in compliance with Section 13.9), and non-sublicensable basis. Such use is limited to Organization's internal business purposes and the features and functionalities specified in the Order. Each Authorized User must have its own unique account on the Platform and Authorized Users may not share their account credentials with one another or any third party. Organization will be responsible for all of the acts and omissions of its Authorized Users in connection with this Agreement and for all use of Authorized Users' accounts.

2.2. **Documentation License.** Subject to and conditioned on Organization's compliance with the terms and conditions of this Agreement, Snorkl hereby grants to Organization a non-exclusive, non-transferable (except in compliance with Section 13.9), and non-sublicensable license to use the Documentation during the Subscription Period solely for Organization's internal business purposes in connection with its use of the Platform.

2.3. **Use Restrictions.** Organization shall not use the Platform for any purposes beyond the scope of the access granted in this Agreement. Organization shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of any Snorkl IP, whether in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Platform or Documentation to any third party; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Platform, in whole or in part; (iv) remove any proprietary notices from any Snorkl IP; (v) use any Snorkl IP in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; (vi) access or use any Snorkl IP for purposes of competitive analysis of Snorkl or the Platform, the development, provision, or use of a competing software service or product, or any other purpose that is to Snorkl's detriment or commercial disadvantage; (vii) bypass or breach any security device or protection used by the Platform or access or use the Platform other than by an Authorized User through the use of valid access credentials; (viii) input, upload, transmit, or otherwise provide to or through the Platform any information or materials, including Organization Data, that are unlawful or injurious or that infringe or otherwise violate any third party's intellectual property or other rights, or that contain, transmit, or activate any Harmful Code; or (ix) use any Snorkl IP for any activity where use or failure of the Snorkl IP could lead to death, personal injury, or environmental damage, including life support systems, emergency services, nuclear facilities, autonomous vehicles, or air traffic control.

2.4. **Reservation of Rights.** Snorkl reserves all rights not expressly granted to Organization in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Organization or any third party any intellectual property rights or other right, title, or interest in or to the Snorkl IP.

2.5. **Suspension.** Notwithstanding anything to the contrary in this Agreement, Snorkl may temporarily suspend Organization's and any Authorized User's access to any portion or all of the Platform if: (i) Snorkl

reasonably determines that (a) there is a threat or attack on any of the Snorkl IP; (b) Organization's or any Authorized User's use of the Snorkl IP disrupts or poses a security risk to the Snorkl IP or to any other Organization or vendor of Snorkl; (c) Organization, or any Authorized User, is using the Snorkl IP for fraudulent or illegal activities; (d) subject to applicable law, Organization has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; (e) Snorkl's provision of the Platform to Organization or any Authorized User is prohibited by applicable law; or (f) any Organization Data submitted, posted, or otherwise transmitted by or on behalf of Organization or an Authorized User through the Platform may infringe or otherwise violate any third party's intellectual property or other rights; (ii) any vendor of Snorkl has suspended or terminated Snorkl's access to or use of any Third-Party Products required to enable Organization to access the Platform; or (iii) Organization fails to make payment of Fees in accordance with Section 5.1 (any such suspension described in subclauses (i), (ii), or (iii), a "Service Suspension"). Snorkl shall use commercially reasonable efforts to provide written notice of any Service Suspension to Organization and to provide updates regarding resumption of access to the Platform following any Service Suspension. Snorkl shall use commercially reasonable efforts to resume providing access to the Platform as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Snorkl will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Organization or any Authorized User may incur as a result of a Service Suspension.

2.6. Business Contact Data and Usage Data. Notwithstanding anything to the contrary in this Agreement, Snorkl may process Business Contact Data and Usage Data: (i) to manage the relationship with Organization; (ii) to carry out Snorkl's core business operations, such as accounting, audits, tax preparation and for filing and compliance purposes; (iii) to monitor, investigate, prevent and detect fraud, security incidents and other misuse of the Platform, and to prevent harm to Snorkl, Organization, and Snorkl's other Organization s; (iv) for identity verification purposes; and (v) to comply with applicable laws, rules, and regulations relating to the processing and retention of Personal Information to which Snorkl is subject. Snorkl may also process Usage Data to monitor, maintain, and optimize the Platform. As between Snorkl and Organization, all right, title, and interest in and to such Usage Data is owned solely and exclusively by Snorkl.

3. Organization Responsibilities.

3.1. General. Organization is responsible and liable for all uses of the Platform and Documentation resulting from access provided by Organization, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Organization is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Organization will be deemed a breach of this Agreement by Organization. Organization shall use reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Platform and shall cause Authorized Users to comply with such provisions.

3.2. Limited Organization Data License. Organization may not upload to the Platform any Organization Data it does not have sufficient rights to upload. Organization hereby grants to Snorkl a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use, perform, and display the Organization Data and perform all acts with respect to the Organization Data solely as may be necessary for Snorkl to provide the Platform to both Authorized Users and end users, including a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, use and display Organization Data incorporated within the Business Contact Data for the same purpose.

3.3. Third-Party Products. Snorkl may from time to time make Third-Party Products available to Organization or Snorkl may allow for certain Third-Party Products to be integrated with the Platform to allow for, among other things, the transmission of Organization Data from such Third-Party Products into the Platform. For purposes of this Agreement, such Third-Party Products are subject to their own terms and conditions. Snorkl is not responsible for the operation of any Third-Party Products and makes no representations or warranties of any kind with respect to Third-Party Products or their respective providers. If Organization does not agree to abide by the applicable terms for any such Third-Party Products, then Organization should not install or use such Third-Party Products. By authorizing Snorkl to transmit Organization Data from Third-Party Products into the Platform, Organization represents and warrants to Snorkl that it has all right, power, and authority to provide such authorization.

3.4. Organization Control and Responsibility. Organization has and will retain sole responsibility for: (i) all Organization Data, including all student data and content; (ii) all information, instructions, and materials provided by or on behalf of Organization or any Authorized User in connection with the Platform; (iii) Organization's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems), and networks, whether operated directly by Organization

or through the use of third-party platforms or service providers ("Organization Systems"); (iv) the security and use of Organization's and its Authorized Users' access credentials; and (v) all access to and use of the Platform directly or indirectly by or through the Organization Systems or its or its Authorized Users' access credentials, with or without Organization's knowledge or consent, including all results obtained from, and all conclusions, decisions, and actions based on, such access or use.

3.5. Children's Online Privacy Protection Act. In the event Organization is a school or district, Organization shall provide Snorkl with all reasonably requested cooperation, actions, and information required for Snorkl to comply with the Children's Online Privacy Protection Act ("COPPA"). Organization: (i) shall provide "school consent" as defined in and required by COPPA, or (ii) obtain advance written consent, where required, from all parents and guardians whose children under the age of thirteen (13) will be accessing the Platform, (iii) understand how the Platform may collect and use information of users of the Platform, including children, (iv) when obtaining consent from parents or guardians, must provide them with Snorkl's Privacy Policy and (v) is responsible for keeping all applicable consents on file and providing them to Snorkl upon request. Snorkl shall provide all direct notices to Organization as required under COPPA.

3.6. Family Educational Rights and Privacy Act. In the event Organization is subject to the provisions of the Family Educational Rights and Privacy Act ("FERPA"), the Parties agree as follows: (i) Organization appoints Snorkl as a "school official" as that term is used in FERPA §§99.7(a)(3)(iii) and 99.31(a)(1) and as interpreted by the Family Policy Compliance Office, and determines that Snorkl has a "legitimate educational interest," for the purpose of carrying out its responsibilities under the Agreement and (ii) Snorkl acknowledges that Organization is bound by all relevant provisions of FERPA and Snorkl agrees that it will work to ensure Organization does not breach any such relevant provisions by ensuring personally identifiable information obtained from Organization by Snorkl in the performance of this Agreement: (a) will not be disclosed to third parties, except as expressly permitted in FERPA, without signed and dated written consent of the student, or if the student is under eighteen (18) years of age, signed and written consent of the student's parents/guardians and (b) will be used only to fulfill Snorkl's responsibilities under the Agreement. In accordance with FERPA, the parties agree that any consents to disclose information may be made electronically. Notwithstanding anything to the contrary, nothing in this Agreement prevents Snorkl from using or disclosing or otherwise exercising all rights in de-identified, anonymized, or aggregate information derived from educational records. Subject to Section 12.3, in accordance with data governance and destruction guidelines under FERPA, after providing Organization with a reasonable time period to transfer educational records from the Platform, Snorkl will delete all Organization Data subject to FERPA upon the termination or expiration of this Agreement. Consistent with its obligations under this Agreement and the data practices outlined in Snorkl's Privacy Policy and Data Processing Addendum, Appendix 1 of these terms sets forth Snorkl's and Organization's rights and responsibilities to student data subjects under FERPA.

4. Support. During the Subscription Period, Snorkl will use commercially reasonable efforts to provide Organization with Organization support via Snorkl's standard support channels during Snorkl's normal business hours.

5. Fees and Taxes.

5.1. Fees. The Platform may be provided for a fee or other charge, depending on the selected tier, or other functionality and inclusions specified in an Order. Organization shall pay Snorkl the fees ("Fees") for the Platform (as applicable) identified in the Order without offset or deduction at the pricing identified in the Order or other referenced Documentation. Fees paid by Organization are non-refundable. Organization shall make all payments hereunder in US dollars by ACH or credit or debit card payment, or another mutually agreed-upon payment method. If Organization pays online via credit or debit card, Organization agrees to be bound by the Stripe, Inc. Services Agreement available at <https://stripe.com/us/legal>.

5.2. Taxes. All Fees and other amounts payable by Organization under this Agreement are exclusive of taxes and similar assessments. Organization is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Organization hereunder, other than any taxes imposed on Snorkl's income.

6. Confidential Information.

6.1. Definition. From time to time during the Subscription Period, either Party may disclose or make available to the other Party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media that: (i) is marked, designated or otherwise identified as "confidential" or something similar at the time of disclosure or within a reasonable period of time thereafter; or (ii) would be considered confidential by a reasonable person given the nature of the information or the circumstances of its disclosure (collectively, "Confidential Information"). Except for Personal Information, Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain;

(b) known to the receiving Party at the time of disclosure; (c) rightfully obtained by the receiving Party on a non-confidential basis from a third party; or (d) independently developed by the receiving Party without use of, reference to, or reliance upon the disclosing Party's Confidential Information.

6.2. Duty. The receiving Party shall not disclose the disclosing Party's Confidential information to any person or entity, except to the receiving Party's employees, contractors, and agents who have a need to know the Confidential information for the receiving Party to exercise its rights or perform its obligations hereunder ("Representatives"). The receiving Party will be responsible for all the acts and omissions of its Representatives as they relate to Confidential Information hereunder. Notwithstanding the foregoing, each Party may disclose Confidential Information solely to the extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (ii) to establish a Party's rights under this Agreement, including to make required court filings. Further, notwithstanding the foregoing, each Party may disclose the terms and existence of this Agreement to its actual or potential investors, debtholders, acquirers, or merger partners under customary confidentiality terms.

6.3. Return of Materials; Effects of Termination/Expiration. On the expiration or termination of the Agreement, the receiving Party shall promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the disclosing Party that such Confidential Information has been destroyed. Each Party's obligations of non-use and non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire three (3) years from the date of termination or expiration of this Agreement; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential information remains subject to trade secret protection under applicable law.

7. Data Security and Processing of Personal Information.

7.1. Security Measures. Snorkl will implement and maintain commercially reasonable administrative, physical, and technical safeguards designed to protect Organization Data (including Personal Information) from unauthorized access, use, alteration, or disclosure.

7.2. Processing of Personal Information; No Sensitive Data. Snorkl's rights and obligations with respect to Personal Information that it collects directly from individuals are set forth in the Snorkl Privacy Policy. Personal Information processed by Snorkl on behalf of Organization will be governed by the terms of this Agreement and, as applicable Snorkl's Data Processing Agreement. Under all applicable data privacy laws, Organization will be the controller of any personal data contained in the Organization Data, and Snorkl will be the service provider or processor. Notwithstanding the foregoing, except for student data (to the extent such data is deemed to be "Sensitive Data" under applicable data privacy laws), Organization acknowledges and agrees that: (i) the Platform is not designed to store Sensitive Data; and (ii) Organization will not use the Platform to store Sensitive Data and will not submit, post, or otherwise transmit through the Platform any Organization Data that includes or constitutes Sensitive Data.

8. Intellectual Property and Data Ownership; Feedback.

8.1. Snorkl IP. Organization acknowledges that, as between Organization and Snorkl, Snorkl owns all right, title, and interest, including all intellectual property rights, in and to the Snorkl IP and, with respect to Third-Party Products, the applicable third-party providers own all right, title, and interest, including all intellectual property rights, in and to the Third-Party Products.

8.2. Organization Data. Snorkl acknowledges that, as between Snorkl and Organization, Organization owns all right, title, and interest, including all intellectual property rights, in and to the Organization Data. Other than the limited licenses granted in Section 3 to Snorkl in order for it to provide the Platform to Organization and end users, nothing herein shall be construed as a grant of right to Snorkl of any Organization Data.

8.3. Feedback. If Organization or any of its employees or contractors sends or transmits any communications or materials to Snorkl by mail, email, telephone, or otherwise, suggesting or recommending changes to the Snorkl IP, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("Feedback"), Snorkl is free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback.

9. Warranty Disclaimer. THE SNORKL IP IS PROVIDED "AS IS" AND SNORKL HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. SNORKL SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT,

AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. SNORKL MAKES NO WARRANTY OF ANY KIND THAT THE SNORKL IP, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET ORGANIZATION'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, PROVIDE SPECIFIC LEARNING OUTCOMES OR ACCURATE INFORMATION TO AUTHORIZED USERS, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER PLATFORM, OR BE SECURE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. SNORKL WILL HAVE NO LIABILITY FOR DECISIONS BASED ON INFORMATION, METRICS, OR DATA PROVIDED VIA THE PLATFORM, OR ORGANIZATION'S OR ITS AUTHORIZED USERS' USE THEREOF OR RELIANCE THEREON. TO THE EXTENT ORGANIZATION UTILIZES THE PLATFORM TO IMPLEMENT DIGITAL SECURITY OR VULNERABILITY POLICIES AND PROCEDURES, OR OTHERWISE MAKES CHANGES TO ITS CODE BASES OR PRODUCTS, SNORKL IS NOT RESPONSIBLE FOR THE RESULTS OR ANY LACK THEREOF RELATED TO THE SAME.

10. Indemnification.

10.1. Snorkl Indemnification.

(a) Snorkl shall indemnify, defend, and hold harmless Organization from and against any and all losses, damages, liabilities, costs (including reasonable attorneys' fees) ("Losses") incurred by Organization resulting from any third-party claim, suit, action, or proceeding ("Third-Party Claim") brought against Organization alleging that the Platform, or any use of the Platform in accordance with this Agreement, infringes or misappropriates such third party's US intellectual property rights; provided that Organization promptly notifies Snorkl in writing of the claim, cooperates with Snorkl, and allows Snorkl sole authority to control the defense and settlement of such claim.

(b) If such a claim is made or appears possible, Organization agrees to permit Snorkl, at Snorkl's sole discretion: to (i) modify or replace the Platform, or component or part thereof, to make it non-infringing; or (ii) obtain the right for Organization to continue use. If Snorkl determines that neither alternative is reasonably commercially available, Snorkl may terminate this Agreement, in its entirety or with respect to the affected component or part, effective immediately on written notice to Organization, and refund to Organization Fees previously paid by Organization for services not received as of the date of termination.

(c) This Section 10.1 will not apply to the extent that the alleged infringement arises from: (i) use of the Platform in combination with data, software, hardware, equipment, or technology not provided by Snorkl or authorized by Snorkl in writing; (ii) modifications to the Platform not made by Snorkl; (iii) Organization Data; or (iv) Third-Party Products.

10.2. Organization Indemnification. Organization shall indemnify, hold harmless, and, at Snorkl's option, defend Snorkl from and against any Losses resulting from any Third-Party Claim alleging that the Organization Data, or any use of the Organization Data in accordance with this Agreement, infringes or misappropriates such third party's intellectual property or other rights and any Third-Party Claims based on Organization's or any Authorized User's (i) negligence or willful misconduct; (ii) use of the Platform in a manner not authorized by this Agreement; or (iii) use of the Platform in combination with data, software, hardware, equipment or technology not provided by Snorkl or authorized by Snorkl in writing; in each case provided that Organization may not settle any Third-Party Claim against Snorkl unless Snorkl consents to such settlement, and further provided that Snorkl will have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.

10.3. Sole Remedy. THIS SECTION 10.3 SETS FORTH ORGANIZATION'S SOLE REMEDIES AND SNORKL'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE PLATFORM INFRINGE, MISAPPROPRIATE, OR OTHERWISE VIOLATE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. IN NO EVENT WILL SNORKL'S AGGREGATE LIABILITY UNDER THIS SECTION 10 EXCEED THE TOTAL AMOUNTS PAID TO SNORKL IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE CLAIM.

11. Limitations of Liability. IN NO EVENT WILL SNORKL BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (i) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (ii) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (iii) LOSS OF GOODWILL OR REPUTATION; (iv) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (v) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER SNORKL WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL SNORKL'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO SNORKL UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE CLAIM.

12. Subscription Period and Termination.