

## **TERMS OF USE**

Please read these Terms of Use (the “**Terms**” or “**Terms of Use**”) carefully before using the myPATH website (mypath.tdsb.on.ca) operated for Toronto District School Board (“TDSB”) by Saba Software (Canada) Inc. (authorized TDSB vendor), its subsidiaries and/or affiliates, if applicable.

This Website is made up of various Web sites and Web pages (collectively the “**Site**”) and includes the provision of certain information (the “**Content**”) and the delivery of certain free and pay services. By accessing or using the Site and various products and services, including the learning management system and recruitment platform (each a “**Service**” and collectively, the “**Services**”) you agree to be bound by these Terms. If you disagree with any part of the Terms then you may not access the Site and Services. References to the Site in these Terms of Use include each site and page included therein, all Content, and all Services, unless the context otherwise requires.

Your access to and use of the Site and Services is conditioned on your acceptance of and compliance with these Terms without modification of the terms, conditions, and notices contained herein. Your use of the Site constitutes your agreement to all such terms, conditions, and notices. Your use of any particular site, page, Content or Services included within the Site may also be subject to additional terms outlined, at this time or from time to time in the future, elsewhere on the Site (the “**Additional Terms**”). Any Additional Terms from time to time in effect are hereby incorporated into these Terms of Use by reference.

These Terms apply to all visitors, users and others who access or use the Site and Services. If you disagree with any part of the Terms, then you may not access the Site and Services.

### **1. General Provisions**

**1.1 Acceptance.** By using the Site on the terms set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which you acknowledge, you agree, without limitation or qualification, to be bound by, and to comply with, these Terms of Use and any other posted guidelines or rules applicable to any individual site, page, Content or Service. All such guidelines and rules are hereby incorporated by reference into these Terms of Use. Unless otherwise specified herein, this agreement constitutes the entire agreement between the user and TDSB with respect to the Site and Services, and it supersedes all prior or contemporaneous communications, agreements, understandings and proposals, whether electronic, oral or written, between the user and TDSB with respect to the Site or any part thereof. A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

**1.2 Modification of Terms.** TDSB reserves the right in its sole discretion, and without notice, to change the terms, conditions, and notices under which the use of the Site is offered. You are responsible for regularly reviewing these terms and conditions and Additional Terms posted on particular sites or pages within the Site. Your continued use of the Site constitutes your agreement to all such terms, conditions, and notices.

**1.3 Non-Waiver and Severability.** TDSB's failure to exercise any right or provision of these Terms of Use shall not constitute a waiver of such right or provision. If a court of competent jurisdiction holds any provision of these Terms of Use to be invalid, the parties nevertheless agree that the court should endeavour to give effect to the parties' intentions as reflected in the provision, and agree that the other provisions of these Terms of Use remain in full force and effect.

**1.4 Successors and Assigns.** Without in any way limiting the prohibition on your resale, assignment, sublicensing, or other transfer of rights or obligations, these Terms of Use shall be binding upon and ensure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

## **2. Registration and Membership**

**2.1 Registration Information.** Certain of the Services may require the user to register and provide certain data. In registering and providing such data, you represent and warrant that: (a) the information about yourself is true, accurate, current, and complete (apart from optional items) as required by the registration form ("**Registration Data**") and (b) you will maintain and promptly update the Registration Data to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or TDSB has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Toronto District School Board ("TDSB") has the right to suspend or terminate your account and refuse any and all current or future use of the Services. All registrations become the exclusive property of TDSB. TDSB reserves the right to use and reuse all registration and other personally identifiable user information subject to the [TDSB Site Privacy Policy](#). TDSB Privacy Statement applies to use of this Site, and its terms are made a part of these Terms of Use by this reference. Users may edit, update, alter or obscure their personally identifiable information at any time by following the instructions located on individual pages.

**2.2 Privacy.** TDSB will use its reasonable efforts to ensure that it and all of its employees, agents, contractors and others acting on its behalf comply in all respects with the with [TDSB Privacy Statement](#) and [TDSB privacy policy and procedure](#)" (collectively the "**TDSB Privacy Policy**") as in force from time to time. Notwithstanding the foregoing, you agree that TDSB will have no liability to you or any person claiming through you with respect to any negligent or innocent breach of the [TDSB Privacy Statement](#). TDSB reserves the right at all times to disclose any information as TDSB deems necessary to satisfy any applicable law, regulation, legal process or governmental request, in TDSB's sole discretion.

**2.3 Security of Communications.** You acknowledge that any unprotected email or other communication (including your actions or communications related to any interactive Services and including any applications, registrations, or completion of on-line forms) over the Internet is not secure and confidential, is subject to possible interception or loss, and is also subject to possible alteration. You accept sole responsibility for the security and confidentiality of all electronic communications between you and TDSB. TDSB is not responsible for and will not be liable to you or anyone else for any damages in connection with any communication sent by you to TDSB or any communication sent by TDSB to you at your request.

**2.4 Passwords and Member Privileges.** Upon registering, you may receive a password and ID. You are responsible for maintaining the confidentiality of the password and ID, and are fully

responsible for all activities that occur under your password or ID. You agree to (a) immediately notify TDSB of any unauthorized use of your password or account or any other breach of security, and (b) ensure that you exit from your account at the end of each session. TDSB will not be liable for any loss or damage arising from your failure to comply with these requirements. In particular, and without limiting the generality of the foregoing, TDSB will not be liable for any loss that you may incur as a result of someone else using your password or account, either with or without your knowledge. However, you could be held liable for losses incurred by TDSB or another party due to someone else using your account or password. You may not use anyone else's account at any time, with or without the permission of the account holder.

**2.5 Minors/Parental Controls.** In cases where you have authorized a minor to use the Site, you recognize that you are fully responsible for: (a) the online conduct of such minor; (b) controlling the minor's access to and use of the Site; and (c) the consequences of any misuse by the minor.

### **3. Use of Site**

**3.1 Personal Use.** The use of the Site is solely for your personal and non-commercial use. You may not modify, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, transfer, or sell any information, software, products or services obtained from the Site. Without limiting the generality of the foregoing, without the advance express written permission of TDSB you may not 'meta-search' the Site, send, or cause to be sent, any automated queries of any sort to the Site, or use the Site in any other commercial manner.

**3.2 No Unlawful or Prohibited Use.** As a condition of your use of the Site, you will not use the Site for any purpose that is unlawful or prohibited by these terms, conditions, and notices. Without limiting the generality of the foregoing, and in addition to the specific prohibitions in section 3.3 hereof, you may not use the Site in any manner that could damage, disable, overburden, or impair the Site or any Content or Services (or the network(s) connected to the Site) or interfere with any other party's use and enjoyment of any part of the Site or any Content or Services. You may not attempt to gain unauthorized access to the Site or any Content or Services, other accounts, computer systems or networks connected to the Site, through hacking, password mining or any other means. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available through the Site.

**3.3 Prohibited Conduct.** Without limiting the generality of any other prohibition or restriction contained herein, you agree that you will not use the Site and Services to:

3.3.1 Upload, post, email, otherwise transmit, or post links to any Content, or select any member or user name or email address, that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, pornographic, libelous, invasive of privacy or publicity rights, hateful, or racially, sexually, ethnically or otherwise objectionable.

3.3.2 Upload, post, email, otherwise transmit, or post links to any Content that promotes illegal activity, including without limitation the provision of instructions for illegal activity.

3.3.3 Upload, post, email, otherwise transmit, or post links to any Content that exploits the images of children under 18 years of age, or that discloses personally identifying information belonging to children under 18 years of age.

3.3.4 Harm minors in any other way.

3.3.5 Make any sexual request on behalf of a minor or make any sexual request of a minor.

3.3.6 "Stalk" or otherwise harass another.

3.3.7 Collect or store personally identifying information about other users for commercial or unlawful purposes.

3.3.8 Impersonate any person or entity, including, but not limited to, a TDSB official, employee, forum leader, guide, teacher or host, or falsely state or otherwise misrepresent your affiliation with a person or entity.

3.3.9 Employ misleading email addresses or falsify information in the header, footer, return path, or any part of any communication, including emails, transmitted through the Site.

3.3.10 Upload, post, email, otherwise transmit, or post links to any Content that you do not have a right to transmit under any law or regulation or under contractual or fiduciary relationships (such as inside information, or proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements).

3.3.11 Upload, post, email, or otherwise transmit, or post links to any Content that facilitates hacking.

3.3.12 Upload, post, email, otherwise transmit, or post links to any Content that infringes any patent, trademark, service mark, trade secret, copyright or other proprietary rights ("**Rights**") of any party or contributing to inducing or facilitating such infringement. This prohibition shall include, without limitation, the following forms of software piracy:

3.3.12.1 Making available copyrighted software or other Content that has had the copyright protection removed.

3.3.12.2 Making available serial numbers for software that can be used to illegally validate or register software.

3.3.12.3 Making available tools that can be used for no purpose other than for "cracking" software or other copyrighted Content.

3.3.12.4 Making available any software files for which the user does not own the copyright or have the legal right to make available.

3.3.13 Upload, post, email, otherwise transmit, or post links to any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation, except in those areas that are designated for such purpose.

3.3.14 Upload, post, email, otherwise transmit, or post links to any material that contains software viruses, worms, trojan horses, time bombs, trap doors or any other computer code, files or programs or repetitive requests for information designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or to diminish the quality of, interfere with the performance of, or impair the functionality of the Site, the Content, or the Services.

3.3.15 Use automated means, including spiders, robots, crawlers, or the like to download data from the Site.

3.3.16 Conduct your own contests and promotions.

3.3.17 Upload, post, email, otherwise transmit, or post links to any Content regarding any raffle, contest or game requiring a fee by participants.

3.3.18 Modify, publish, transmit, transfer or sell, reproduce, create derivative works from, distribute, perform, link, display or in any way exploit any Content, including, without limitation, by incorporating Content into any e-mail or "white pages" products or services, whether browser-based, based on proprietary client-site applications, web-based, or otherwise.

3.3.19 Sell, distribute, or make any commercial use of Content or make any other use of Content in a manner which could be expected to offend any person for whom the data is relevant.

3.3.20 Disrupt the normal flow of dialogue in a chat room or on a bulletin board, cause a screen to "scroll" faster than other users of the Services are able to type, or otherwise act in a manner that negatively affects other users' ability to engage in real time exchanges.

3.3.21 Interfere with or disrupt the Site or servers or networks connected to the Site, or disobey any requirements, procedures, policies or regulations of networks connected to the Site.

3.3.22 Intentionally or unintentionally violate any applicable local, provincial, state, national or international law, and any regulations having the force of law.

3.3.23 Upload, post, email, otherwise transmit, or post links to any material that is false, misleading, or designed to manipulate any equity, security, or other market.

3.3.24 Access any Content or Service after your account or access has been terminated by TDSB.

3.3.25 Fail to complete any transaction after submitting an order to purchase any goods or services from TDSB, or breach any terms and conditions governing such transactions.

3.3.26 Purchase any Services that you are prohibited from purchasing or possessing by any law applicable to you in your jurisdiction. The responsibility for ensuring compliance with all such laws shall be the user's alone. By submitting an order to purchase goods or services, you represent and warrant that you have the legal right to purchase such goods or services.

3.3.27 Use any software deployed in connection with the Site to process data as a service to other entities without the express written consent of TDSB or the party from whom such software may be licensed.

3.3.28 Decompile, disassemble, modify, translate, adapt, reverse engineer, create derivative works from, or sublicense any software deployed in connection with the Site.

3.3.29 Advertise, offer for sale, or sell any product or service.

**3.4 Code of On-Line Conduct.** In addition to the provisions contained herein, all users of the Site must comply at all times with the TDSB Code of On-Line Conduct as it is in force from time to time. The TDSB Code of On-Line Conduct can be viewed at: <http://www.tdsb.on.ca/About-Us/Policies-Procedures-Forms/Online-Code-of-Conduct>.

**3.5 Monitoring.** TDSB has the right (but not the obligation) to monitor your use of the Site from time to time to ensure compliance with these Terms of Use. You hereby consent to all such monitoring from time to time, notwithstanding that you will not have notice thereof at any given time, and notwithstanding that such monitoring may allow TDSB to access information with respect to you and/or your use of the Internet that you would otherwise not choose to share with others.

**3.6 Other Jurisdictions.** It is important to note that not all of the Content or Services are available in provinces outside of Ontario or in jurisdictions outside Canada. Content and Services are expressly not being made available and not offered, and TDSB hereby expressly denies you the right to use them, in any jurisdiction in which they are not lawful. It is your responsibility to be aware of the laws of your province or country or that otherwise apply to you in relation to any of the matters described in these pages. If you choose to access the Site from outside of Ontario, you do so on your own initiative and are responsible for compliance with applicable local, national or international laws. You may not use or export or re-export the Content or any copy or adaptation in violation of any applicable laws or regulations, including but not limited to the export laws and regulations of Canada in force from time to time.

## 4. Content

**4.1 Generally.** Content provided by TDSB and other sources on the Site (including but not limited to Content with respect to schools and Content contained in Services including automated learning systems) is believed to be accurate and reliable when placed on the Site, but TDSB cannot guarantee it is accurate or complete or current at all times. Content on the Site is for informational purposes only and is not intended to provide any type of advice and should not be relied upon in that regard. Where the accuracy, completeness or currency of any information contained in any Content is important to you, it is your responsibility to verify it from other sources selected by you and known by you to be reliable.

**4.2 Third Party Content.** Some of the Content available on the Site, including but not limited to Content that is part of the Services, is obtained from, or posted by, third parties. Such third parties are solely responsible for the information or content they make available through the Site.

**4.3 Links.** Links from or to web sites outside the Site are meant for convenience only. Such links do not imply any endorsement by TDSB of those sites. TDSB does not review, endorse, approve or control, and is not responsible for any sites linked from or to the Site, the content of those sites, the third parties named therein, or their products and services. Linking to any other site is at your sole risk and TDSB will not be responsible or liable for any damages in connection with linking. Links to downloadable software sites are for convenience only and TDSB is not responsible or liable for any difficulties or consequences associated with downloading the software. Use of any downloaded software is governed by the terms of the license agreement, if any, which accompanies or is provided with the software.

## **5. Services**

**5.1 Reasonable Efforts.** TDSB will use its reasonable efforts to ensure that any Services (whether provided free or on a fee-for-service basis) are designed and implemented to operate in accordance with their specifications and accomplish their intended goals. Notwithstanding the foregoing, under no circumstances will TDSB have any liability for any failure of any Service to operate properly or to accomplish its intended or stated goals or any of them. Without limiting the generality of the foregoing, you agree that TDSB has no responsibility or liability for the deletion, corruption or failure to store any messages or other content maintained or transmitted by or in respect of any Service.

**5.2 Personal Work.** If you are participating in any Service that includes submission of any work (including but not limited to narrative or selected answers to questions, essays, reports, graphical materials, responses, comments, analyses, or any other materials of any sort whatsoever), you represent and warrant at the time of such submission that such work complies in all respects with the plagiarism and copyright policies of TDSB in force at that time. Without limiting the generality of the foregoing, you agree, represent and warrant that all work submitted by you is the sole result of your personal effort, and is not a copy, abstract, precis, paraphrasing, extract, excerpt or other duplication of any sort whatsoever of the work of any other person, unless the work submitted is clearly labelled as such.

**5.3 Evaluation and Results.** To the extent that any Service involves the evaluation by or on behalf of TDSB of any work or activity by you as a user thereof, TDSB does not warrant or guarantee the accuracy or appropriateness of any mark, evaluation, assessment or other opinion of progress or quality, and shall have no liability for any failure of any such evaluation to be fair or accurate. TDSB will use its reasonable efforts to ensure that all marking, evaluation, assessments and opinions of progress or quality related to any of the Services shall be in compliance with the TDSB policies from time to time relating to the assessment. Where any marking, evaluation or assessment is automated, TDSB does not represent or warrant that the automated system will be accurate, complete or fair, nor that any quality control or other system in place with respect to such automated system will operate effectively. TDSB shall have no responsibility to manually review the results from any automated marking, evaluation or assessment system.

**5.4 Use of Services.** In addition to any other provisions herein with respect to use of the Site, you agree that you will use any Service, whether free or fee-based, solely for its intended purpose and solely in the manner that it is intended to be used.

## **6. Intellectual Property**

**6.1 Licence to Use.** TDSB hereby grants to you a limited, non-exclusive, non-transferable licence only to view the Site in compliance with these Terms of Use. The licence granted herein shall be terminable by TDSB in its sole discretion at any time without notice.

**6.2 No Resale, Assignment or Sublicensing.** Your rights hereunder are personal to you. You agree not to resell, assign, sublicense, otherwise transfer, or delegate your rights or obligations under these Terms of Use, or make any attempt to do so, without prior express written authorization of TDSB.

**6.3 Trademarks.** Certain names, words, titles, phrases, logos, icons, graphics or designs or other content in the pages of the Site are trade names or trade-marks owned by TDSB, or trade names or trade-marks licensed to them. The trade-marks are distinguished from one another and accompanied, at first-time use, with the appropriate trade-mark symbol: ®/™/\*. These symbols are keyed to their respective legend which describes the owner or licensee of the trade-mark. The display of trade-marks and trade names on pages at the Site does not imply that a license of any kind has been granted to anyone else.

**6.4 Copyright.** The Content is for your personal use only. Any unauthorized downloading, re-transmission, or other copying or modification of trade-marks and/or the contents of the Site may be a violation of any federal or other law that may apply to trade-marks and/or copyrights and could subject the copier to legal action. The Content is protected under the copyright laws of Canada and other countries. Users of the Site shall be entitled to copy any information for their own personal use but may not republish or reproduce any such information in any manner, including electronic reproduction by "uploading" or "downloading", without the prior written consent of TDSB. Unless otherwise specified in these Terms of Use or in writing from TDSB, no one has permission to copy, redistribute, reproduce, republish, store in any medium, re-transmit, modify or make public or commercial use of, in any form, the Content.

**6.5 Licence from User to TDSB.** TDSB does not claim ownership of the materials you provide to TDSB (including feedback and suggestions) or post, upload, input or submit to any part of the Site for review by the general public, or by the members of any public or private community (**each a "Submission" and collectively "Submissions"**). However, by posting, uploading, inputting, providing or submitting (collectively "**Posting**") your Submission you are granting TDSB permission to use your Submission in connection with the operation of their activities (including, without limitation, the Site), including, without limitation, the license rights to: copy, distribute, transmit, publicly display, publicly perform, reproduce, edit, translate and reformat your Submission; and the right to publish your name in connection with your Submission. No compensation will be paid with respect to the use of your Submission, as provided herein. TDSB is under no obligation to post or use any Submission you may provide and TDSB may remove any Submission at any time in its sole discretion. By Posting a Submission you warrant and represent that you own or otherwise control all of the rights to your Submission as described in these Terms of Use including, without limitation, all the rights necessary for you to provide, post, upload, input or submit the Submissions.

## **7. Disclaimer of Warranties and Limited Liability**



**7.1 Disclaimer of Warranties.** THE SITE, ALL CONTENT, AND ALL SERVICES ARE PROVIDED "AS IS," WITH NO WARRANTIES WHATSOEVER. ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS, ARE EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW. TO THE FULLEST EXTENT PERMITTED BY LAW, TDSB DISCLAIMS ANY WARRANTIES FOR THE SECURITY, RELIABILITY, TIMELINESS, AND PERFORMANCE OF THE SITE. YOU EXPRESSLY UNDERSTAND AND AGREE THAT TDSB DISCLAIMS ANY AND ALL RESPONSIBILITY OR LIABILITY FOR THE ACCURACY, CONTENT, COMPLETENESS, LEGALITY, RELIABILITY, OR OPERABILITY OR AVAILABILITY OF CONTENT ON THE SITE. TDSB DISCLAIMS ANY RESPONSIBILITY FOR THE DELETION, FAILURE TO STORE, MISDELIVERY, OR UNTIMELY DELIVERY OF ANY CONTENT OR SERVICE. TDSB DISCLAIMS ANY RESPONSIBILITY OR LIABILITY FOR ANY HARM RESULTING FROM DOWNLOADING OR ACCESSING ANY INFORMATION OR MATERIAL THROUGH THE SITE, INCLUDING, WITHOUT LIMITATION, FOR HARM CAUSED BY VIRUSES OR SIMILAR CONTAMINATION OR DESTRUCTIVE FEATURES. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SITE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS IN THE DOWNLOAD OF SUCH MATERIAL.

**7.2 Limitation of Liability.** YOU EXPRESSLY UNDERSTAND AND AGREE THAT UNDER NO CIRCUMSTANCES SHALL TDSB BE LIABLE TO ANY USER ON ACCOUNT OF THAT USER'S USE OR MISUSE OF AND/OR RELIANCE ON THE SITE, ANY CONTENT, OR ANY SERVICE. SUCH LIMITATION OF LIABILITY SHALL APPLY TO PREVENT RECOVERY OF DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, AND PUNITIVE DAMAGES (EVEN IF TDSB HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). SUCH LIMITATION OF LIABILITY SHALL APPLY WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF THE SITE OR ANY PART THEREOF, FROM INABILITY TO USE THE SITE OR ANY PART THEREOF, OR FROM THE INTERRUPTION, SUSPENSION, OR TERMINATION OF THE USE OF THE SITE OR OF ANY SERVICE (INCLUDING SUCH DAMAGES INCURRED BY THIRD PARTIES).

**7.3 Force Majeure.** UNDER NO CIRCUMSTANCES SHALL TDSB BE HELD LIABLE FOR ANY DELAY OR FAILURE IN PERFORMANCE RESULTING DIRECTLY OR INDIRECTLY FROM ACTS OF NATURE, FORCES, OR CAUSES BEYOND ITS REASONABLE CONTROL, INCLUDING, WITHOUT LIMITATION, INTERNET FAILURES, COMPUTER EQUIPMENT FAILURES, TELECOMMUNICATION EQUIPMENT FAILURES, OTHER EQUIPMENT FAILURES, ELECTRICAL POWER FAILURES, STRIKES, LABOR DISPUTES, RIOTS, INSURRECTIONS, CIVIL DISTURBANCES, SHORTAGES OF LABOR OR MATERIALS, FIRES, FLOODS, STORMS, EXPLOSIONS, ACTS OF GOD, WAR, GOVERNMENTAL ACTIONS, ORDERS OF DOMESTIC OR FOREIGN COURTS OR TRIBUNALS, NON-PERFORMANCE OF THIRD PARTIES, OR LOSS OF OR FLUCTUATIONS IN HEAT, LIGHT, OR AIR CONDITIONING.

**7.4 Intent of Limitations.** All limitations of the liability of TDSB contained herein are intended to be cumulative. In the event that any court of competent jurisdiction determines that any limitation on the liability of TDSB is unlawful or unenforceable in any applicable jurisdiction, you

and TDSB hereby agree that the limitations of liability of TDSB hereunder shall, with respect to such jurisdiction, be deemed to be those limitations that most fully limit the liability of TDSB within the laws of that jurisdiction.

**7.5 Indemnity.** By using the Site you agree to indemnify TDSB and its trustees, officers, employees and independent contractors hold them harmless from any and all claims and expenses, including legal fees, arising from your use of the Site (including for greater certainty you use of any Content or Services), or your submission of information (personal or otherwise), ideas and/or related materials to TDSB or from any person's use of any account or password you maintain, regardless of whether such use is authorized by you. By using the Site, you are hereby agreeing to release TDSB and its trustees, officers, employees and independent contractors from any and all claims, demands, debts, obligations, damages (actual or consequential), costs, and expenses of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, disclosed or undisclosed, that you may have against them arising out of or in any way related to such disputes and/or to the use of the Site, Content or Services or to any disputes regarding use of ideas and/or related materials submitted to TDSB. YOU HEREBY AGREE TO WAIVE ALL LAWS THAT MAY LIMIT THE EFFICACY OF SUCH RELEASES.

## **8. Disputes.**

**8.1 Proper Law, Jurisdiction and Dispute Resolution.** These Terms of Use shall be governed and construed in accordance with the laws of the province of Ontario and the laws of Canada applicable therein. You and TDSB each hereby irrevocably attorn to the exclusive jurisdiction of the courts of Ontario. You agree that all matters relating to your access to or use of the Site and Services, including all disputes, will be governed the laws of Canada and by the laws of the province of Ontario without regard to its conflicts of laws provisions. You agree to the personal jurisdiction by and venue in the courts of Ontario, Canada, and waive any objection to such jurisdiction or venue. In the event of any controversy or dispute between TDSB and you arising out of or in connection with your use of the Site, the parties shall attempt, promptly and in good faith, to resolve any such dispute. If we are unable to resolve any such dispute within a reasonable time (not to exceed thirty (30) days), then either party may submit such controversy or dispute to mediation. If the dispute cannot be resolved through mediation, then the parties shall be free to pursue any right or remedy available to them under applicable law.

**8.2 Limitation on Actions.** Notwithstanding any other provision of these Terms of Use, neither you nor TDSB may initiate any action or lawsuit based in whole or in part on a) these Terms of Use, or b) your use or misuse or attempted use of the Site or Services, unless substantially all of the acts complained of in the action or lawsuit or giving rise to the claim occurred not longer than six months prior to the date the action or lawsuit was commenced. **Any claim under these Terms of Use must be brought within six (6) months after the cause of action arises, or such claim or cause of action is barred.**

**8.3 Additional Remedies of TDSB.** In addition to any other remedy TDSB may have for any breach by you of the provisions of these Terms of Use, TDSB may in its sole discretion terminate your access to all or any part of the Site, Content or Services without notice, and shall have no liability to you in the event that it does so.

## **9. Miscellaneous**

If any of the provisions of these Terms of Use are held by a court or other tribunal of competent jurisdiction to be void or unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary and replaced with a valid provision that best embodies the intent of these Terms of Use, so that these Terms of Use shall remain in full force and effect. TDSB's failure to insist on or enforce strict performance of these Terms of Use shall not be construed as a waiver by TDSB of any provision or any right it has to enforce these Terms of Use, nor shall any course of conduct between TDSB and you or any other party be deemed to modify any provision of these Terms of Use. These Terms of Use shall not be interpreted or construed to confer any rights or remedies on any third parties. [TDSB may freely transfer or assign any portion of its rights or delegate its obligations under these Terms of Use.] You shall not transfer or assign, by operation of law or otherwise, any portion of your rights or delegate your obligations under these Terms of Use without the prior written consent of TDSB.

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