

## **Terms of Use**

Date of Last Revision: March 10, 2015.

Welcome to Bloomboard.com. The Bloomboard.com services, tools, and network (collectively, "Bloomboard.com" or "the Service") are operated by BloomBoard, Inc. and its corporate affiliates (collectively, "us", "we" or "the Company"). By accessing or using our web site at [www.Bloomboard.com](http://www.Bloomboard.com) (the "Site") or by posting on the Site, you (the "User") signify that you have read, understand and agree to be bound by these Terms of Use ("Terms of Use" or "Agreement"), whether or not you are a registered member of the Service. In addition, when using a particular service offered on the Site, you may be subject to additional or different terms, if any. All such additional terms are hereby incorporated by reference into these Terms of Use. We reserve the right, at our sole discretion, to change, modify, add, or delete portions of these Terms of Use at any time. If we do this, we will post the changes to these Terms of Use on this page and will indicate at the top of this page the date these terms were last revised. Your continued use of the Service or the Site after any such changes constitutes your acceptance of the new Terms of Use. If you do not agree to abide by these or any future Terms of Use, do not use or access (or continue to use or access) the Service or the Site. It is your responsibility to regularly check the Site to determine if there have been changes to these Terms of Use and to review such changes.

**PLEASE READ THESE TERMS OF USE CAREFULLY AS THEY CONTAIN IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS, REMEDIES AND OBLIGATIONS. THESE INCLUDE VARIOUS LIMITATIONS AND EXCLUSIONS, AND A DISPUTE RESOLUTION CLAUSE THAT GOVERNS HOW DISPUTES WILL BE RESOLVED.**

### **Eligibility**

This Site is intended solely for users who are eighteen (18) years of age or older. Any registration by, use of or access to the Site by anyone who is under 18 is unauthorized, unlicensed and in violation of these Terms of Use. By using the Service or the Site, you represent and warrant that you are 18 or older, and that you agree to and will abide by all of the terms and conditions of this Agreement.

### **Registration Data; Account Security**

In consideration of your use of the Site, you agree to

- (a) provide accurate, current and complete information about you as may be prompted by any registration forms on the Site ("Registration Data");
- (b) maintain the security of your password and identification;
- (c) maintain and promptly update the Registration Data, and any other information you provide to Company, to keep it accurate, current and complete; and
- (d) be fully responsible for all use of your account and for any actions that take place using your account including any content upload by you.

### **Proprietary Rights in Site Content; Limited License**

All content on the Site and available through the Service (other than any content you upload), including but not limited to designs, text, graphics, pictures, video, information, applications, software, sound and other files, and their selection and arrangement (the "Site Content"), are the proprietary property of the Company, its users or its licensors with all rights reserved. No Site Content may be modified, copied, distributed, framed, reproduced, republished, downloaded, displayed, posted, transmitted, or sold in any form or by any means, in whole or in part, without the Company's prior written permission, except that the foregoing does not apply to your own User Content (as defined below) that you legally post on the Site. Provided that you are eligible to use the Site, you are granted a limited license to access and use the Site and the Site Content, and if permitted by the copyright holder of such content, to download or print a copy of any portion of the Site Content to which you have properly gained access solely for your personal and internal business use, provided that you keep all copyright or other proprietary notices intact. Except for your own User Content, you may not upload or republish Site Content on any Internet, Intranet or Extranet site or incorporate the information in any other database or compilation, and any other use of the Site Content is strictly prohibited. Such license is subject to these Terms of Use and does not include use of any data mining, robots or similar data gathering or extraction methods. Any use of the Site or the Site Content other than as specifically authorized herein, without the prior written permission of Company, is strictly prohibited and will terminate the license granted herein. Such unauthorized use may also include use which violates applicable laws, including without limitation copyright and trademark laws and applicable communications regulations and statutes. Unless explicitly stated herein, nothing in these Terms of Use shall be construed as conferring any license to intellectual property rights, whether by estoppel, implication or otherwise. This license is revocable at any time without notice and with or without cause. Purchases made on the BloomBoard Marketplace are subject to the Marketplace Purchase Terms to be presented to you at the time of purchase.

### **Trademarks**

BloomBoard, Formative Learning, Formative Teaching, and other Company graphics, logos, designs, page headers, button icons, scripts and service names are registered trademarks, trademarks or trade dress of Company in the U.S. and/or other countries. Company's trademarks and trade dress may not be used, including as part of trademarks and/or as part of domain names, in connection with any product or service in any manner that is likely to cause confusion and may not be copied, imitated, or used, in whole or in part, without the prior written permission of the Company.

### **User Conduct**

You understand that the Service and the Site are available for your personal and internal business use only. You represent, warrant and agree that no materials of any kind submitted through your account or otherwise posted, transmitted, or shared by you on or through the Service will violate or infringe upon the rights of any third party, including copyright,

trademark, privacy, publicity or other personal or proprietary rights; or contain libelous, defamatory or otherwise unlawful material.

In addition, you agree not to use the Service or the Site to:

- harvest or collect email addresses or other contact information of other users from the Service or the Site by electronic or other means for the purposes of sending unsolicited emails or other unsolicited communications;
- use the Service or the Site in any unlawful manner or in any other manner that could damage, disable, overburden or impair the Site;
- use automated scripts to collect information from or otherwise interact with the Service or the Site;
- upload, post, transmit, share, store or otherwise make available any content that we deem to be harmful, threatening, unlawful, defamatory, infringing, abusive, inflammatory, harassing, vulgar, obscene, fraudulent, invasive of privacy or publicity rights, hateful, or racially, ethnically or otherwise objectionable;
- register for more than one User account, register for a User account on behalf of an individual other than yourself, or register for a User account on behalf of any group or entity;
- impersonate any person or entity, or falsely state or otherwise misrepresent yourself, your age or your affiliation with any person or entity;
- upload, post, transmit, share or otherwise make available any unsolicited or unauthorized advertising, solicitations, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
- upload, post, transmit, share, store or otherwise make publicly available on the Site any private information of any third party, including, without limitation, addresses, phone numbers, email addresses, Social Security numbers and credit card numbers;
- solicit personally identifying information for unlawful purposes;
- upload, post, transmit, share or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- intimidate or harass another;
- upload, post, transmit, share, store or otherwise make available content that would constitute, encourage or provide instructions for a criminal offense, violate the rights of any party, or that would otherwise create liability or violate any local, state, national or international law;
- use or attempt to use another's account, service or system without authorization from the Company, or create a false identity on the Service or the Site;
- upload, post, transmit, share, store or otherwise make available content that, in the sole judgment of Company, is objectionable or which restricts or inhibits any other person from using or enjoying the Site, or which may expose Company or its users to any harm or liability of any type.

### **User Content Posted on the Site**

BloomBoard is concerned about your privacy and has developed a policy to address privacy concerns. Please see our [Privacy Policy](#) regarding the collection and use of your information. By using this Site, you are consenting to the terms of our Privacy Policy.

You are solely responsible for the profiles, messages, videos, images, notes, text, information, and other content that you upload, publish or display (hereinafter, "post") on or through the Service or the Site, or transmit to or share with other users (collectively the "User Content"). For example, if you post any video footage containing images of students, you must have obtained their parents' written permission. You may not post, transmit, or share User Content on the Site or Service that you did not create or that you do not have permission to post. You understand and agree that the Company may, but is not obligated to, review the Site and may delete or remove (without notice) any Site Content or User Content in its sole discretion, for any reason or no reason, including without limitation User Content that in the sole judgment of the Company violates this Agreement, or which might be offensive, illegal, or that might violate the rights, harm, or threaten the safety of users or others. You understand and agree that you may be exposed to User Content that is inaccurate, objectionable, inappropriate for children, or otherwise unsuited to your purpose, and you agree that the Company will not be liable for any damages you allege to incur as a result of User Content. You are solely responsible at your sole cost and expense for creating backup copies and replacing any User Content you post or store on the Site or provide to the Company.

When you post User Content to the Site, you authorize and direct us to make such copies thereof as we deem necessary in order to facilitate the posting and storage of the User Content on the Site. By posting User Content to the BloomBoard resource library, you automatically grant, and you represent and warrant that you have the right to grant, to the Company an irrevocable, perpetual, non-exclusive, transferable, fully paid, worldwide license (with the right to sublicense) to use, copy, publicly perform, publicly display, reformat, translate, excerpt and distribute such User Content for any purpose on or in connection with the Site or the promotion thereof, subject to the protections set forth in our Privacy Policy. This may include sharing your User Content with your school or school district upon their request, if allowed by your privacy settings. You may remove your User Content from the Site at any time. If you choose to remove your User Content, the license granted above will automatically expire. Upon such expiration or termination of the license granted to you, we may retain copies of your User Content in an archival copy if such archival copy is stored on our server and cannot be removed or deleted. Additionally, copies of any User Content you remove from the Site may remain viewable in cached and archived pages of the Service.

### **DMCA Copyright Policy**

We operate the Service in compliance with 17 U.S.C. §512 and the Digital Millennium Copyright Act ("DMCA"). It is our policy to respond to any infringement notices and take appropriate actions under the DMCA and other applicable intellectual property laws. It is our

policy to promptly process and investigate notices of alleged copyright infringement, and take appropriate actions under the DMCA. The DMCA requires that all notices of alleged copyright infringement must be in writing. When informing the designated agent of an alleged copyright infringement, the complainant must do the following:

- (a) Identify the copyrighted work that allegedly has been infringed. If multiple copyrighted works at a single online site are involved, please provide a list of the works on that site;
- (b) Describe the material that is claimed to be infringing and provide sufficient information to permit us to locate that material;
- (c) Provide your contact information, including an address, telephone number, and, if available, an email address;
- (d) Certify or include a statement that the complainant has a good faith belief that the use of the copyright-protected material in the manner complained of is not authorized by the copyright owner, the owner's agent, or law;
- (e) Certify that the information that you have provided to us is accurate. The complainant should attest under penalty of perjury that the complainant is authorized to enforce the copyrights that have allegedly have been infringed; and
- (f) Include a physical or electronic signature of the copyright owner or person authorized to act on behalf of the owner.

Before the complainant alleges an infringement, complainant should consult copyright materials to confirm that the use is, in fact, infringing. The United States Copyright Office provides basic information, online, at <http://www.copyright.gov/circs/circ01.pdf>, which can assist one in determining whether an exception or defense, such as fair use, may apply to the use of your copyrighted work.

We expect all of the Users of our Service to comply with applicable copyright laws. However, if we are notified of a claimed copyright infringement, or otherwise become aware of facts and circumstances from which infringement is apparent, we will respond appropriately, which may include removing or disabling access to the material that is claimed to be infringing. We will follow the procedures outlined in the DMCA with regard to appropriate notifications of the User and the complaining party, acceptance of counter notifications, and, where indicated, "putback" of the alleged infringing material. Refer to the United States Copyright Office for the provisions of the DMCA at <http://www.loc.gov/copyright/legislation/dmca.pdf>.

Where it has been clearly established that a User is a repeat offender, we may, in our sole discretion, terminate that User's account. Pursuant to the DMCA, we have designated an agent to receive notification of alleged copyright infringement occurring on web pages or computer servers. If you believe that your copyrighted work is being infringed on the Service, please notify our designated agent at: 430 Cowper Street, Palo Alto, CA 94031.

### **Third Party Websites and Content**

Parties other than BloomBoard operate stores, provide services, or sell products on this Site. In addition, we provide links to the sites of affiliated companies and certain other businesses, (or you may be sent through the Site or the Service) links to other web sites ("Third Party Sites") as well as applications, articles, photographs, text, graphics, pictures, designs, sound, video, information, applications, software and other content or items belonging to or originating from third parties (the "Third Party Applications, Software or Content"). Such Third Party Sites and Third Party Applications, Software or Content are not investigated, monitored or checked for accuracy, appropriateness, or completeness by us, and we are not responsible for any Third Party Sites accessed through the Site or any Third Party Applications, Software or Content posted on, available through or installed from the Site, including without limitation the content, accuracy, offensiveness, opinions, reliability, privacy practices or other policies of or contained in the Third Party Sites or the Third Party Applications, Software or Content. Inclusion of, linking to or permitting the use or installation of any Third Party Site or any Third Party Applications, Software or Content does not imply approval or endorsement thereof by us. If you decide to leave the Site and access the Third Party Sites or to use or install any Third Party Applications, Software or Content, you do so at your own risk and you should be aware that the Third Party Site terms and policies will apply with respect to such Third Party Applications, Software, or Content. You should review the applicable terms and policies, including privacy and data gathering practices, of any site to which you navigate from the Site or relating to any applications you use or install from the site.

### **Pricing**

All pricing quoted is in United States Dollars and are exclusive of taxes. All sales are final and payments are non-refundable.

### **User Disputes**

You are solely responsible for your interactions with other Bloomboard.com users. We reserve the right, but have no obligation, to monitor disputes between you and other users.

### **Privacy**

We care about the privacy of our users. [Click here to view our Privacy Policy](#). By using the Site or the Service, you are consenting to have your personal data transferred to and processed in the United States.

### **Disclaimers**

The Company is not responsible or liable in any manner for any User Content or Third Party Applications, Software or Content posted on the Site or in connection with the Service, whether posted or caused by users of the Site, by Bloomboard.com, by third parties or by any of the equipment or programming associated with or utilized in the Site or the Service. Although we provide rules for user conduct and postings, we do not control and are not responsible for what users post, transmit or share on the Site and are not responsible for any offensive, inappropriate, obscene, unlawful or otherwise objectionable content you may

encounter on the Site or in connection with any User Content or Third Party Applications, Software or Content. The Company is not responsible for the conduct, whether online or offline, of any user of the Site or Service.

The Site and the Service may be temporarily unavailable from time to time for maintenance or other reasons. Company assumes no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or destruction or unauthorized access to, or alteration of, User communications. The Company is not responsible for any technical malfunction or other problems of any telephone network or service, computer systems, servers or providers, computer or mobile phone equipment, software, failure of email or players on account of technical problems or traffic congestion on the Internet or at any Site or combination thereof, including injury or damage to User's or to any other person's computer, mobile phone, or other hardware or software, related to or resulting from using or downloading materials in connection with the Web and/or in connection with the Service. Under no circumstances will the Company be responsible for any loss or damage, including any loss or damage to any User Content or personal injury or death, resulting from anyone's use of the Site or the Service, any User Content or Third Party Applications, Software or Content posted on or through the Site or the Service or transmitted to Users, or any interactions between users of the Site, whether online or offline.

THE SITE, THE SERVICES AND THE SITE CONTENT ARE PROVIDED "AS-IS" AND THE COMPANY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. THE COMPANY CANNOT GUARANTEE AND DOES NOT PROMISE ANY SPECIFIC RESULTS FROM USE OF THE SITE. COMPANY DOES NOT REPRESENT OR WARRANT THAT SOFTWARE, CONTENT OR MATERIALS ON THE SITE, THE SERVICE ARE ACCURATE, COMPLETE, RELIABLE, CURRENT OR ERROR-FREE OR THAT THE SITE OR SERVICE ITS SERVERS, ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THEREFORE, YOU SHOULD EXERCISE CAUTION IN THE USE AND DOWNLOADING OF CONTENT OR MATERIALS. WITHOUT LIMITING THE FOREGOING, YOU UNDERSTAND AND AGREE THAT YOU DOWNLOAD OR OTHERWISE OBTAIN CONTENT, MATERIAL, DATA OR SOFTWARE (INCLUDING ANY MOBILE CLIENT) FROM OR THROUGH THE SERVICE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR YOUR USE THEREOF AND ANY DAMAGES TO YOUR COMPUTER SYSTEM, LOSS OF DATA OR OTHER HARM OF ANY KIND THAT MAY RESULT.

The Company reserves the right to change any and all content, software and other items used or contained in the Site and any Services offered through the Site at any time without notice. Reference to any products, services, processes or other information, by trade name, trademark, manufacturer, supplier or otherwise does not constitute or imply endorsement, sponsorship or recommendation thereof, or any affiliation therewith, by Company.

**Limitation on Liability**

IN NO EVENT WILL COMPANY OR ITS DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE TO YOU OR ANY THIRD PERSON FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING FOR ANY LOST PROFITS OR LOST DATA ARISING FROM YOUR USE OF THE SITE OR THE SERVICE, ANY APPLICATIONS OR ANY OF THE SITE CONTENT OR OTHER MATERIALS ON, ACCESSED THROUGH OR DOWNLOADED FROM THE SITE, EVEN IF THE COMPANY IS AWARE OR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE COMPANY'S LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO THE AMOUNT PAID, IF ANY, BY YOU TO COMPANY FOR THE SERVICE DURING THE TERM OF MEMBERSHIP, BUT IN NO CASE WILL THE COMPANY'S LIABILITY TO YOU EXCEED \$1,000. YOU ACKNOWLEDGE THAT IF NO FEES ARE PAID TO COMPANY FOR THE SERVICE, YOU SHALL BE LIMITED TO INJUNCTIVE RELIEF ONLY, UNLESS OTHERWISE PERMITTED BY LAW, AND SHALL NOT BE ENTITLED TO DAMAGES OF ANY KIND FROM COMPANY, REGARDLESS OF THE CAUSE OF ACTION.

CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS.

**Termination**

The Company may terminate your account, delete your profile and any content or information that you have posted on the Site and/or prohibit you from using or accessing the Service or the Site or any Site Content (or any portion, aspect or feature of the Service or the Site or Site Content) for any reason, or no reason, at any time in its sole discretion, with or without notice, including without limitation if it believes that you are under 18, or that you have violated these terms.

**Governing Law; Venue and Jurisdiction**

By visiting or using the Site and/or the Service, you agree that the laws of the State of California, without regard to principles of conflict of laws, will govern these Terms of Use and any dispute of any sort that might arise between you and the Company or any of our affiliates. With respect to any disputes or claims not subject to arbitration (as set forth below), you agree not to commence or prosecute any action in connection therewith other than in the state and federal courts of California, and you hereby consent to, and waive all defenses of lack of personal jurisdiction and forum non conveniens with respect to, venue and jurisdiction in the state and federal courts of California.



**Indemnity**

You agree to indemnify and hold the Company, its subsidiaries and affiliates, and each of their directors, officers, agents, contractors, partners and employees, harmless from and against any loss, liability, claim, demand, damages, costs and expenses, including reasonable attorney's fees, arising out of or in connection with any User Content or Content you post or share on or through the Site, your use of the Service or the Site, your conduct in connection with the Service or the Site or with other users of the Service or the Site, or any violation of this Agreement or of any law or the rights of any third party.

**Submissions**

You acknowledge and agree that any questions, comments, suggestions, ideas, feedback or other information about the Site or the Service ("Submissions"), provided by you to Company are non-confidential and shall become the sole property of Company. Company shall own exclusive rights, including all intellectual property rights, and shall be entitled to the unrestricted use and dissemination of these Submissions for any purpose, commercial or otherwise, without acknowledgment or compensation to you.

**Other**

These Terms of Use constitute the entire agreement between you and Company regarding the use of the Site and/or the Service, superseding any prior agreements between you and Company relating to your use of the Site or the Service. You also may be subject to additional terms and conditions that may apply when you use certain Company Service, affiliate's services, third-party content or third-party software. The failure of Company to exercise or enforce any right or provision of these Terms of Use shall not constitute a waiver of such right or provision in that or any other instance. If any provision of this Agreement is held invalid, the remainder of this Agreement shall continue in full force and effect. If any provision of these Terms of Use shall be deemed unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these Terms of Use and shall not affect the validity and enforceability of any remaining provisions.

**Questions**

Please send any questions to [support@bloomboard.com](mailto:support@bloomboard.com) for more information.