

Master Services Agreement

This Master Services Agreement (“Agreement”) is made as of the date of last signature below (“Effective Date”) between Tutor.com, Inc. (“Tutor.com”) and College of the Florida Keys (“Customer”).

1. **Services.** Tutor.com will provide to Customer and its Users the online tutoring services (“Services”) set forth in service orders (“Service Orders”), the first of which is attached hereto as Exhibit A and each of which is part of this Agreement. “User” means students of Customer who are authorized by Customer to access the Services. Tutor.com provides the Services through its proprietary online classroom (“Online Classroom”), and during the term of this Agreement and subject to the terms and conditions of this Agreement, Tutor.com grants Customer and its Users the non-exclusive, non-transferable right to access the Online Classroom in connection with the Services.

2. **Setup.** Tutor.com will set up the Services for launch on a date mutually agreeable to the parties. Customer will provide Tutor.com with all information and other cooperation needed to set up and launch the Services. Customer acknowledges and agrees that although Tutor.com offers a variety of authentication methods through which Users may access the Services, Customer is responsible for determining the authentication method to be used.

3. **Payment.** The fees for the Services will be set forth in Services Orders and will be invoiced in accordance with the Service Orders. Customer will pay invoices within 30 days of the invoice date unless otherwise specified in the Service Orders. Tutor.com may suspend the Services if any amounts remain unpaid 30 days after the due date. All fees are net of taxes, except for taxes on Tutor.com’s income. If Customer is exempt from taxes, Customer will provide its state tax exemption certificate.

4. **Representations and Warranties.**

a. Each party represents and warrants to the other that (i) it will comply with all applicable laws and regulations in connection with its performance under this Agreement and (ii) the individual signing this Agreement on its behalf has the authority to do so.

b. Tutor.com represents and warrants that it will perform the Services in a professional manner in accordance with industry standards. Customer’s sole remedy for a breach of this warranty is re-performance of the particular Services that breached the warranty at no additional charge.

c. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICES AND THE ONLINE CLASSROOM ARE PROVIDED “AS IS” AND TUTOR.COM EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. TUTOR.COM MAKES NO WARRANTY THAT THE SERVICES OR THE ONLINE CLASSROOM WILL MEET CUSTOMER’S REQUIREMENTS OR WILL WORK IN COMBINATION WITH ANY HARDWARE OR APPLICATIONS PROVIDED BY THIRD PARTIES, THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ALL DEFECTS IN THE SERVICES OR THE ONLINE CLASSROOM WILL BE CORRECTED.

5. Term and Termination.

- a. The term of this Agreement is from the Effective Date through the date of termination by either party. Either party may terminate this Agreement upon 30 days prior written notice to the other if no Service Order is in effect.
- b. Either party may terminate this Agreement (or any Service Order) upon written notice to the other if the other party commits a material breach of this Agreement (or the Service Order) that remains uncured for 30 days following written notice of the breach.

6. User Information. Tutor.com will not disclose to any third party any personally identifiable information of a User without first obtaining Customer's prior written consent, except as otherwise provided in Tutor.com's privacy policy. Subject to the foregoing, Tutor.com is entitled to use such information in accordance with applicable law and its privacy policy.

7. Certain Obligations and Restrictions.

- a. Customer will not allow the Services or the Online Classroom to be used by any person who is not a User. Customer will notify Tutor.com promptly of any known or suspected breach of Tutor.com's rights to the Services or the Online Classroom that comes to its attention and will reasonably cooperate in Tutor.com's efforts to protect its rights.
- b. Customer, including its Users, will not (i) use, copy, create derivative works of, display, or modify the Services (including any content available through the Services) or the Online Classroom except as permitted by this Agreement, (ii) disclose, reproduce, sell, or distribute any content available through the Services to any third party, or (iii) decompile, reverse engineer, or otherwise attempt to discover any source code of the Online Classroom.
- c. Customer, including its Users, will not upload to or distribute or publish through the Online Classroom any content (i) which is defamatory, threatening, abusive, or otherwise unlawful, (ii) which is vulgar, obscene, or sexually explicit, (iii) which violates any person's privacy or publicity rights, or (iv) which violates the intellectual property or other proprietary rights of any person.
- d. Customer, including its Users, will not (i) attempt to gain unauthorized access to the Services or the Online Classroom or use or access the Services or the Online Classroom in a way intended to avoid fees, (ii) interfere with or disrupt the Services or the Online Classroom or (iii) upload to or distribute through the Online Classroom any viruses, Trojan horses, worms, or other similar programs.
- e. Customer, including its Users, will treat Tutor.com's tutors with respect.
- f. All marketing and other communications by Customer and Customer web pages that refer to the Services must include the Tutor.com logo as provided by Tutor.com or the words "Powered by Tutor.com, a Service of The Princeton Review®."

8. LIMITATION OF LIABILITY. TUTOR.COM WILL NOT BE LIABLE TO CUSTOMER FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR SPECIAL DAMAGES RELATING TO THIS AGREEMENT, EVEN IF TUTOR.COM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR AN AGREED REMEDY FAILS OF ITS ESSENTIAL PURPOSE. TUTOR.COM'S AGGREGATE LIABILITY FOR ALL CLAIMS RELATING TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNTS ACTUALLY RECEIVED BY TUTOR.COM UNDER THIS AGREEMENT IN THE 12 MONTHS PRECEDING SUCH CLAIM.

9. Proprietary Rights. Tutor.com retains all rights, title, and interest in and to all aspects of the Services, including but not limited to the Online Classroom, any changes to or derivative works of the Services or the Online Classroom, and recordings and transcripts of online sessions.

10. Confidentiality.

a. Except as otherwise provided in this Agreement, each party will retain the other party's Confidential Information (as defined below) in strict confidence, will use the other party's Confidential Information only for purposes of this Agreement, and will not disclose the other party's Confidential Information without the other party's prior written consent, provided that the receiving party may disclose the disclosing party's Confidential Information to the receiving party's or its affiliates' personnel and contractors who need to know such Confidential Information and who are bound by confidentiality obligations at least as restrictive as those in this Agreement. If there is a breach of this Section 10, the disclosing party may suffer irreparable harm and will therefore be entitled to obtain injunctive relief in addition to any other available rights and remedies.

b. "Confidential Information" means the terms of this Agreement and all information, materials, or technology provided by a party to the other party that is marked as "Confidential" or "Proprietary," or that, under the circumstances taken as a whole, would be reasonably deemed to be confidential. "Confidential Information" does not include information which (i) is or becomes generally available to the public other than as a result of the breach of this Agreement by the receiving party, (ii) is independently developed by the receiving party, (iii) was rightfully within the receiving party's possession prior to disclosure by the disclosing party, (iv) is received from a third party which was not bound by a confidentiality obligation with respect to such information, or (v) is legally required to be disclosed, provided that the receiving party will notify the disclosing party before disclosing the Confidential Information.

11. Notices. Any notice under this Agreement will be in writing and be deemed given if: (i) personally delivered; (ii) sent by overnight courier, with proof of delivery; (iii) sent by registered or certified U.S. mail, return receipt requested, or (iv) delivered by email, to the parties as set forth below.

	If to Customer:
Tutor.com, Inc.	College of the Florida Keys
Attn: Legal Department 110 E. 42nd Street, 7th Floor	ATTN: Kristina Neihouse 5901 College Road
New York, NY 10017	Key West, FL 33040
Email: legal@review.com	kristina.neihouse@cfk.edu

12. Miscellaneous Provisions. If there is a conflict between this Agreement and any Service Order, this Agreement will control unless the Service Order expressly provides otherwise. No provision of this Agreement will be deemed waived or amended unless waived or amended in writing. Sections 3, 6, 7, 8, 9, 10, 11, and 12 and any other provisions which would reasonably be expected to survive the termination of this Agreement will so survive. The terms in any purchase order (other than the offerings, quantities, and prices) will not be binding on Tutor.com. Neither party will be responsible for any delay in performance or failure to perform due to causes beyond its reasonable control. No joint venture, partnership, employment or agency relationship exists between the parties as a result of this Agreement. This Agreement may not be assigned by either party without the prior written consent of the other party; provided that Tutor.com may assign its rights and obligations

under this Agreement to an affiliate or in connection with a merger, reorganization, consolidation, or sale of all or substantially all of its stock or assets. Subject to the preceding sentence, this Agreement shall be binding upon the parties and their permitted successors and assigns. There are no intended third party beneficiaries of this Agreement. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. This Agreement will be governed by the laws of the state where Customer is located, without regard to its conflicts of law principles. If any provision of this Agreement is held invalid or unenforceable, the other provisions of this Agreement will remain in full force and effect and, so far as is reasonable and possible, effect will be given to the intent of the provision held invalid or unenforceable. This Agreement comprises the entire agreement between the parties, and supersedes all prior or contemporaneous oral or written negotiations, understandings, and agreements between the parties, concerning the subject matter of this Agreement. If the parties sign a separate agreement for the protection or processing of personally identifiable information or data, such agreement is hereby incorporated into this Agreement.

Accepted and agreed to by:

Tutor.com, Inc.	Customer
By:	By:
Name: Sandi White	Name:
Title: SVP, Institutional	Title:
Date:	Date:

Exhibit A

Initial Service Order under Master Services Agreement

This order for the online tutoring services listed below constitutes a Service Order under the Master Services Agreement to which this order is attached between Tutor.com, Inc. ("Tutor.com") and College of the Florida Keys ("Customer")

Customer:	Tutor.com Primary Contact Information
Name: Kristina Neihouse	Name: Cindy Hewitt
Customer: College of the Florida Keys	Tutor.com, Inc.
Address: 5901 College Road	Address: 110 E. 42nd St., FL 7
City, State Zip: Key West, FL 33040	New York, NY 10017
Telephone: (305) 809-3501	Telephone: (407) 905-9221
Email: kristina.neihouse@cfk.edu	Email: cindy.hewitt@tutor.com

Customer Billing Contact Information	Tutor.com Billing Contact Information
Name: Kristina Neihouse	Customer Invoicing
Customer: College of the Florida Keys	Telephone: 800-444-0189
Address: 5901 College Road	Email: customerinvoicing@tutor.com
City, State Zip: Key West, FL 33040	
Telephone: (305) 809-3501	
Email(s): kristina.neihouse@cfk.edu	

Ordered Services: Tutor.com agrees to provide Customer the Services listed below.

Service Order Start Date: August 1, 2023

Service Order End Date: July 31, 2024

Name	Per Hour Price	Quantity	Subtotal
Tutor.com for Higher Ed. with Spanish Per Hour 100RO Tutoring Hours: English: 24 Hours/Day Spanish: 24 Hours/Day	\$28.00	600	\$16,800.00
Standard Implementation Fee Tutor.com implementation fees are charged one time only.	\$1,500.00	1	\$1,500.00

Subtotal **\$18,300.00**

Total **\$18,300.00**

*As of the Effective Date of the Agreement, the Services are offered 361 days of each standard year, and 362 days of each leap year. The Services are unavailable on January 1, July 4, Thanksgiving Day, and December 25. On those holidays the Services close beginning at 2:00 a.m. and they reopen at 2:00 a.m. on the following day (all times Eastern). Tutor.com may change the availability of Services and will notify Customer of any changes. The availability of the Services is also subject to reasonable downtime for maintenance and related activities and loss or interruption due to causes beyond Tutor.com's reasonable control.

** Newer subjects may have more limited hours.

Term: The initial term of this Service Order will be from the Start Date to the End Date listed above. This Service Order will automatically renew for additional, successive 1 year renewal terms unless either party notifies the other in writing no less than 30 days prior to the end of the then-current term that this Service Order will terminate at the end of the then-current term.



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Open Access: Tutor.com will deliver up to 600 Hours. During the term of this Service Order, additional in excess of the number set forth above may be purchased under this Service Order by Customer for the then-current term at a rate of \$28/Hour by an email from Customer's Authorized Representative (defined below) to Tutor.com's Primary Contact at his/her email address set forth above, setting forth the number of additional Hours being purchased. Such purchase will be deemed accepted and may be invoiced upon Tutor.com's provision of additional Hours to Users in excess of the originally ordered number. For purposes of this Service Order, Customer's Authorized Representative will be Kristina Neihouse. Customer may change Customer's Authorized Representative by providing notice to Tutor.com in accordance with the Agreement.

100 % of unused hours purchased under this Service Order will carry forward into the term of the subsequent Service Order as rollover hours if a subsequent Service Order is executed on or before the end of the term of this Service Order.

Roll-Over hours will expire 12 months from the end date of the Service Order on which they were purchased or when there is no longer any active Tutor.com Service Order, whichever is earlier. Any hours rolled over will be deemed to be used first before any hours newly purchased.

Fees: Customer agrees to pay Tutor.com the fees set forth in this Service Order, which do not include taxes. Tutor.com reserves the right to change the fees for any renewal term by giving Customer written notice of such change no later than 45 days prior to the end of the then-current term (subject to Customer's right not to renew in accordance with the previous paragraph).

Invoicing and Payment: Tutor.com will invoice Customer in the initial term and any renewal term of this Service Order upon execution of the Agreement and upon the start date of the renewal term, respectively. Hours in excess of those set forth in this Service Order will be billed monthly in arrears.

If Customer requires a purchase order to order the Services, Customer will specify here:

PO Required:
