



# STARLING TUTORING INC

## TERMS OF SERVICE

### DESCRIPTION OF SERVICES

This Terms of Service Agreement ("Agreement") is entered into on 12/13/2023 by and between Starling Tutoring Inc., ("Starling") and Parent 1st nm. Parent last nm ("Client"). (Starling and Client may be jointly referred to as "Parties" or individually as "Party") as parent or guardian of Student 1st nm Student lastnm ("Student") subject to the following terms and conditions:

Starling provides extracurricular tutorial services, in person. Online or via Virtual Communication to willing students in the areas of test preparation, math, and science. The tutorial services are delivered in tutorial sessions ("Sessions") during reserved time slots arranged by the Student or Client in advance. All services offered by Starling under this Agreement are for the purpose of advising and assisting the Student for test preparation, math and science assistance. The Student and Client agree to be bound by the guidelines in the Student and Client Commitment ("Commitment") attached to this Agreement as Exhibit "A."

Tutoring is both an art and a science. Starling has developed its tutoring techniques over several years of tutoring and study in the field of brain science, personality types, and persuasion. The Student's success in these endeavors is largely dependent upon the commitment of the Student to the Sessions, the Student's dedication and preparation, and the Client's dedication in encouraging and supporting the Student. Because each Student is different, Starling Tutoring makes no promise, representation, warranty or guarantee of any outcome related to the Student's performance, comprehension, test results, school grades or otherwise.

Starling will make tutoring recommendations to the Student and Client which are in accordance with the research it has developed and to provide Sessions to the Student as provided in this Agreement. The Client, by signing below, indicates their agreement to accept and implement those recommendations with the Student. Starling will deliver documentation of the Student's record of communication, assignment completion, and progress ("Documents") to the Client and Student on a regular basis (not more often than after every Session). If the Student shows chronic inability to complete assignments given to Student by Starling, and/or fails to communicate with Starling regarding the Sessions and work assignments, or otherwise fails to adhere to the terms of the Commitment, all future Sessions may be canceled and all reserved time slots may be forfeited upon 24 hours written notice to the Client. Client agrees to accept email notifications for this purpose.

### RATE

Starling charges per hour of tutorial with a 60-minute minimum tutorial length. Any tutoring time in excess of one hour will be charged on the twelfth hour basis. For example, if a tutoring session lasts 78 minutes the Client will be charged at 1.25 times the hourly rate for the Session. The hourly rate is detailed in the Fee Schedule attached hereto as Exhibit B. Starling may choose to charge for time spent helping a Student outside of a scheduled Session or for telephone Sessions if the amount of time exceeds 30 minutes in length ("Additional Time"). The Additional Time will be billed by the quarter of an hour at the hourly rate detailed in Exhibit "B."

## **SCHEDULING AND LOCATION**

Available time slots for the Sessions are offered to all of Starling's clients and students simultaneously. Subject to availability, time slots may be reserved at any time, by any student, on a first come first served basis. Time slots will not be held without being reserved in advance. Once booked, the Client is responsible for paying for the full Session unless canceled in accordance with this Agreement. All Sessions will take place at a suitable residence, where a responsible adult must be present at all times on the immediate premises or via Virtual Communications. The residence must have a comfortable space, free of noise and interruption. If the Session takes place in a public setting, transportation for the Student must be organized or provided by the Client. Starling cannot and will not transport a Student in their vehicle for liability and insurance purposes. If a scheduled Session is not canceled at least 24 hours before its scheduled start time, the entire balance of the tutorial will be due and payable in full. Starling may, at its sole option, waive or reduce cancellation fees depending on the situation. If Starling determines that an excessive number of Sessions have been canceled by the Client or Student within a thirty (30) day period, additional cancellation fees may be assessed, not exceeding the cost of the tutorial and transportation costs of the tutor, if any, Starling's terms regarding cancellation fees may be changed on an as needed basis. Further, excessive cancellations without a valid excuse may be evidence of lack of commitment to the tutoring protocols by the Student. If an excessive number of Sessions have been canceled by the Client or Student, for any reason, Starling reserves the right to terminate all remaining Sessions. Starling reserves the right to cancel tutorials if it deems that traveling to the destination is unsafe or the tutor is unavoidably unavailable to attend the Session. If Starling cancels a Session, which it deems was avoidable, it may choose to reduce the cost of a future tutorial.

## **STUDENT SOCIAL CREDIT SCORES**

Starling tracks the record of work for each Student in documents called Tutorial Summaries ("Summaries"). Among other things, these Summaries will keep track of the Student's record of completed work, Student's recent grades, Student's date of next assessment, the goal of the tutorial that corresponds to the Summary, work assigned to be completed by the Student for the next tutorial, date of Student's next scheduled tutorial, date of scheduled follow up, and Student's social credit score ("Factors"). The track record of the Student with respect to these Factors will influence their social credit score with Starling. There are three possible social credit scores: "In good standing," "not in good standing," and "on probation." The Student's completion of assignments and timely responses to communications and meeting the Factors will improve their social credit score. Failure to respond to communications, chronic non-delivery of work assignments and failing to meet the other Factors will damage the Student's social credit score.

If the Student's social credit score reaches "on probation," all of the Student's time slots for future reserved Sessions will be forfeited and the existing balance of payments for the completed Sessions will become due and payable. If the Student who is on probation submits to Starling a compelling argument to resume tutoring, in writing, the Student's social credit score may be placed back to "in good standing", and new or existing Session times may be selected provided they are available.

## **ATTORNEY'S FEES AND COSTS**

The Client will be responsible to pay all of Starling's attorney's fees and costs if Starling has to hire an attorney to enforce the terms of this Agreement. If Starling places the Client's account with a collection agency, in addition to the amounts owed to Starling for the Sessions or canceled Sessions, the Client will pay Starling's costs of collection. If Client brings an action against Starling in Court or in Arbitration, Client will pay all of Starling's attorney's fees and costs associated with that action if Starling is the substantially prevailing Party.

# **LIMITATION OF LIABILITY**

The Client and Student agree that for himself/herself/theirselves and the Student that any damages recoverable against Starling shall be strictly limited. Should Starling be found to be in default of the terms of this Agreement or any law applicable to the performance of this Agreement, damages shall be limited to a refund of any amounts paid by Client to Starling plus \$5,000.00 for damages, consequential damages, punitive damages and/or incidental damages including attorney fees as allowed by Statute or Court Rule.

Parent Initial: Client Initials Here

Student Initial: Student Initials Here

# **DISPUTE RESOLUTION**

Any and all disputes arising as to breach, interpretation, enforcement of or relating in any way to this Agreement or the relationship of the Parties to this Agreement ("Parties") which exceeds \$3,000.00, including attorney's fees and costs of suit ("Disputes") shall be resolved by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules ("Arbitration Rules") using a single arbitrator, as the sole and exclusive method of resolving all Disputes. The Parties agree to this exclusive remedy, and to be bound by the results of arbitration. The Parties acknowledge they have the right to consult independent counsel regarding this dispute resolution provision before signing this Agreement. They further expressly acknowledge and agree that by choosing arbitration each is waiving and relinquishing its respective right to a jury or nonjury trial in all Disputes related to or arising from this Agreement. The Client and Parties acknowledge that arbitration is very different from civil court proceedings and trials in civil courts. The parties waive any right to have the disputes heard in a civil court by a judge or by a judge and jury. Instead of suing in court, the Client and Starling each agree to settle or resolve Disputes only by arbitration. The rules in arbitration are different than the rules of a civil court. There is no judge or jury in arbitration, and appeal or review of the arbitration award is limited, but an arbitrator can award the same damages and relief, and must honor the same limitations stated in this Agreement as a court would. Knowing that they are waiving valuable rights by giving up the right to proceed in civil court, the parties choose arbitration. Such arbitration shall be binding and final. Any question as to the enforceability of the Dispute Resolution section of this Agreement shall also be decided in arbitration. The arbitration hearing shall be held in New York, in Westchester County. Judgment may be entered on the arbitrator's award in any court having jurisdiction. The Limitation of Liability provisions in this Agreement shall be enforced by the arbitrator.

Parent Initial: Client Initials Here

Student Initial: Student Initials Here

## GOVERNING LAW AND VENUE

All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by, and construed in accordance with, the laws of the State of New York without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any other jurisdiction. In the event of any litigation or arbitration arising from this Agreement, the Parties hereto agree that the forum for said litigation shall be the state or federal courts sitting in the State of New York and Westchester County or arbitration conducted in the State of New York and Westchester County.

## LEGALLY BINDING AGREEMENT

The Client agrees that this is a legally binding Agreement. Starling and the Client agree to be bound by the terms of this Agreement and the Commitment.

## INTEGRATION AND MERGER

This Agreement and the Exhibits constitutes the entire Agreement between the Parties relating to the subject matter reflected in this Agreement. All prior negotiations, representations, advertisements and promotions, agreements and understandings between the Parties with respect thereto are merged into, extinguished by and superseded by the terms of this Agreement. No agreements, advertisements, promises, covenants, representations, warranties or indemnities have been made or relied upon by any of the Parties hereto, other than those that are expressly herein set forth in this Agreement.

## AMENDMENT

No amendment, modification, or waiver of any provision of this Agreement shall be binding unless in writing and signed by the Party against whom the operation of such amendment, modification, or waiver is sought to be enforced. No delay in the exercise of any right shall be deemed a waiver thereof, nor shall the waiver of a right or remedy in a particular instance constitute a waiver of such right or remedy generally.

Client Name: Parent 1st nm. Parent last nm

Student Name: Student 1st nm Student lastnm

Date: 12/13/2023

Parent  
Signature



## EXHIBIT A: STUDENT AND CLIENT COMMITMENT

Thanks for choosing to work with Starling Tutoring. Starling Tutoring expects to interact with the Student in a meaningful, productive, and honest way. Safeguards have been put into place to protect the efficacy of the tutorials, and it is important that the Student have a thorough understanding of the terms of their agreement to work with Starling before tutorials begin.

The Student's record of work will be summarized in Tutorial Summary documents. These will include information about the Student's current grade, the date of next assessment, whether assignments have been completed and whether correspondence has been responded to.

The Tutorial Summary documents will also include a Student's social credit score. The social credit score is a way for Starling Tutoring to keep track of the Student's record of performance. There are three possible social credit scores: "In good standing," "not in good standing," and "on probation." These tutorials are extracurricular and voluntary. If a Student's social credit score reaches "on probation", all of the Student's time slots are forfeit and the existing balance of tutorials becomes due. If a Student who is on probation submits, in writing, to Starling a compelling argument to begin work again, the Student's social credit score may be placed back to "in good standing", and new tutorial times may be selected provided they are available.

Parent Initial: Client Initials Here

Student Initial:

Starling will provide advisory services in accordance with the research it has conducted. Students are expected to adhere to Starling's recommendations.

All work performed by Starling is for the purpose of increasing the understanding of the Student. The Student shall not submit work done by Starling as their own work for any purpose. Students will adhere to all academic honesty policies as outlined by their institution. If any Student is found to be lying, cheating, plagiarizing or inebriated during a Session the Student may be placed immediately on probation.

Starling Tutoring makes no guarantee of any outcome. The Student is responsible for their own performance academically or in testing.

These interactions are made in good faith and are at will. If Starling determines that interactions and Sessions are not fruitful, it may suggest a different strategy or terminate tutorials with a Student in its absolute discretion. All of the aforementioned terms are subject to change. If a revised Parent Student Commitment document is signed, it will supersede all previous Agreements. Please indicate you agree to these terms with your name, signature, and date below.

Client Name: Parent 1st nm. Parent last nm

Student Name: Student 1st nm Student lastnm

Parent  
Signature

Student  
Signature

## AUTHORIZATION FOR RELEASE OF EDUCATIONAL INFORMATION

I acknowledge and understand that my tutoring results, test scores and performance as a result of my tutoring are confidential. However, I authorize Daniel Starling or any tutors at Daniel Starling Tutoring, LLC ("Starling") to discuss my tutoring results, test scores and performance as a result of my tutoring with my parents/guardians at any time. I may revoke this authorization at any time, in writing signed by me and delivered to Starling either in person or via receipted email with a verified DocuSign signature.

Date: 12/13/2023

Student Signature

Student  
Signature



## EXHIBIT B: FEE SCHEDULE

### TUTORIAL SERVICES

\$235/hour for any portion of a tutorial during 10 am - 5 pm Monday through Thursday, and \$285/hour otherwise.

Each tutorial must be one hour in minimum length.

As an example, a tutorial beginning at 4:20 on a Wednesday, ending at 5:35 is billed (8/12 hour)(\$235/hour) + (7/12 hour)(\$285/hour) = \$322.91.

### OUT OF TUTORIAL SUPPORT

\$235/hour after the first 30 minutes per week.

Client Name: Parent 1st nm. Parent last nm

Date: 12/13/2023

Client  
signature



## **EXHIBIT C: AGREEMENT TO HOLD HARMLESS AND INDEMNIFY STARLING TUTORING INC FROM CERTAIN CLAIMS**

Starling Tutoring Inc and Daniel Starling (jointly "Starling") have agreed to provide certain tutoring services to Student 1st nm Student lastnm ("Student") who is now 99 years old.

We, as the parents or guardians of Student ("Client"), will receive a significant benefit from the tutoring services; Student will receive significant benefit from the tutoring services;

In the current environment there are risks that Starling is undertaking to provide tutoring services to Student, which we as parents or guardians of Student wish to protect Starling from in order for Starling to agree to tutor Student (Client, Student and Starling may individually be referred to as party and severally as parties);

Student for theirself, also agrees to protect Starling from certain claims;

Now, in consideration of the mutual terms and conditions of this Agreement to Hold Harmless and Indemnity Agreement ("Agreement") the parties agree that:

### **TERMS OF INDEMNIFICATION**

Client and Student will hold harmless, indemnify and defend Starling, its employees, agents, servants, officers, directors or attorneys against any claims or actions arising out of Starling's tutoring of Student, including, without limitation, expenses, fines, settlements and other amounts incurred with any suit claim, action, loss, liability or damage resulting from Starling's tutoring of Student, as well as any related activity to the tutoring services ("Activity"). This indemnification will include attorney's fees and costs of defense as well as attorney's fees and costs incurred by Starling for the enforcement of this Agreement.

This Agreement to indemnify shall not include criminal actions against Starling or personnel, actual fraud by Starling or its personnel, willful misconduct, knowingly dishonest conduct, on the part of Starling and its personnel. In the event that gross negligence is alleged, Client and Student agree to pay Starling's attorney's fees and costs of defense of such claims, but shall not be liable to pay any judgment for gross negligence, if proved.

The Client and Student will have the burden of proving that Starling is not entitled to be defended, indemnified and held harmless in any claim under this Agreement.

### **NOTICE OF CLAIM**

In the event of a claim or litigation arising out of the tutoring services, Starling will provide Client and Student with prompt notice of the commencement of such claim. Within 20 days of receipt of notice of any claim or litigation, client and Student shall assume the full defense of the claim or litigation.

### **FAILURE TO DEFEND**

If the Client and Student do not assume defense against the claim or action then Starling may defend against the claim or action in any manner Starling deems appropriate. The Client and Student will promptly reimburse Starling for Expenses, judgments, fines, settlements and any other amounts actually and reasonably incurred in connection with the defense of the claim or action subject to the limits on indemnification described in the section titled Terms of Indemnification above.



## **SETTLEMENT AND CONSENT OF STARLING**

The Client and Student will not settle any claim or action without first obtaining the written consent of Starling. Starling will not unreasonably withhold consent to any settlement.

## **EXPENSES**

All reasonable Expenses incurred by the Starling to enforce this Agreement, and all costs of defending Third Party claims or actions brought against Starling under the Agreement will be the sole responsibility of the Client and Student subject to the limits on indemnification described in the section titled Terms of Indemnification.

## **ADVANCES OF EXPENSES**

At the written request of Starling, Client and Student shall advance to Starling any expenses, including lawyers' fees, incurred by Starling in defending any action brought against Starling. Where reasonable, and to minimize hardship to Starling, advance payments shall be made prior to the disposition of any claim. Claims under this section of this Agreement may be brought by Starling on an emergency basis and shall be resolved in a summary proceeding in any court of law.

## **ENFORCEMENT**

If any right or remedy claimed by Starling under this Agreement is denied or is not paid by the Client, or Student on their behalf, within sixty (60) days after a written Notice of Indemnity has been submitted by Starling to them, Starling may then bring suit against the Client and Student to recover any unpaid amounts and if successful in whole or in part, Starling will be entitled to be paid any and all attorney's fees and costs related to enforcing this Agreement.

## **DURATION**

The rights and obligations of the Indemnifier under this Agreement will continue: so long as Starling is or will be subject to any possible claim or threatened, pending or completed action, suit or proceeding, whether civil, arbitrational, administrative or investigative that results from the participation of Starling in the Activity; or until terminated by an agreement in writing signed by both the parties to this Agreement.

## **UNLIMITED INDEMNIFICATION**

Under this Agreement, indemnification will be unlimited as to amount.

## **JOINT AND SEVERAL LIABILITY**

If two or more persons act as indemnifier in this Agreement, then the liability under this Agreement will be joint and several for each co-Indemnifier.

## NOTICES

Any notices or deliveries required in the performance of this Agreement will be deemed completed when hand delivered, delivered by agent, or seven (7) days after being placed in the post, postage prepaid, to the Parties to this Agreement at the addresses contained in this Agreement or as the Parties may later designate in writing.

## GOVERNING LAW

This Agreement will be governed by and construed in accordance with the laws of the State of New York.

## GENERAL PROVISIONS

This Agreement contains all terms and conditions agreed to by Parties to this Agreement. Statements or representations which may have been made by either Party in the negotiation stages of this Agreement may in some way be inconsistent with this final written Agreement. All such statements are declared to be of no value to either Party. Only the written terms of this Agreement will bind the Parties.

This Agreement will pass to the benefit of and be binding upon Parties' respective heirs, executors, administrators, successors, and permitted assigns. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which together will be deemed to be one and the same instrument. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neuter gender include the masculine gender and the feminine gender and vice versa.

IN WITNESS HEREOF Starling and the Indemnifier have duly affixed their signatures under hand and seal on this date of 12/13/2023.

Student Name: Student 1st nm Student lastnm

Client Name: Parent 1st nm. Parent last nm

Student  
Signature

Parent  
Signature