



## Data Usage Agreement

This Data Usage Agreement ("**DUA**") is effective as of \_\_\_\_\_ (the "**Effective Date**") and entered into by and between the American Council on Education ("**American Council on Education**" or "**we**") and the undersigned institution / researcher (referred to in this DUA as "**Researcher/s**," "**I**," "**you**," or "**your**").

Through your submission of a Data Request and Research Agreement ("**Data Request**") to the American Council on Education, you have requested access to certain data from the data component identified below for the research project specified in your Data Request, which will not include any personally identifiable information (the "**Data**"). We are pleased to assist you and are willing to grant you access to the Data, subject to the terms and conditions of this DUA.

### **Data component requested:**

Carnegie Elective Classification for \_\_\_\_\_

### **License:**

Subject to the terms and conditions of this DUA, American Council on Education hereby grants you a non-exclusive, non-sublicensable, non-assignable, non-transferable, revocable license to use the Data, solely for the research project specified in your Data Request.

Researcher/s must obtain necessary approvals (IRB or otherwise) required by your institution, disciplinary organization, and/or ethics boards to conduct your research. American Council on Education only provides access to the Carnegie Elective Classification dataset(s). Researcher/s must submit proof of research approval or request for reasonable exemption with the signed DUA.

Researcher/s must appropriately credit the Carnegie Foundation for the Advancement of Teaching and the American Council on Education in any dissemination of your research using the Carnegie Elective Classification dataset(s). You must submit any public-facing dissemination of research (conference presentations or posters, invited talks, proceedings, or publications) for review by a designated American Council on Education staff to ensure data usage agreement compliance. In return, your research will be listed on our website and shared with colleagues in the field.

### **Protected Information:**

You will only receive Data for those institutions of higher education, and partner organizations of these institutions, that have provided express consent to use the Data for research purposes. Consent in these surveys and applications was given with the understanding that the provider

institution's identity would not be disclosed. While we have endeavored to strip the Data of the name and contact information on the cover of the application, we have not redacted all references to the provider institution, references to its location, or to embedded links that may reveal the identity of the institution. Further, with certain information, you may be able to deduce the identities of some institutions behind the Data. **For this reason, you expressly agree that the identity of each institution is highly confidential and that you will not directly or indirectly reveal the identity of any institution of higher education that may be included in the Data provided to you.**

### **Data Security:**

You agree to use all reasonable legal, organizational, physical, administrative, and technical measures, and security procedures to safeguard and ensure the security of the Data and to protect the Data from unauthorized access, disclosure, duplication, use, modification, or loss.

You will implement all reasonable practices to prevent intrusion, attack, data leak, and computer virus infection and preserve the integrity of the Data and will ensure that the Data You store is not susceptible to intrusion, attack, data leak, or computer virus infection.

You will notify the American Council on Education in writing within five (5) hours after You know there has been an intrusion, attack, computer virus infection or loss of system or database integrity

### **Disclaimer:**

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NOTHING IN THIS DUA SEEKS TO EXCLUDE ANY CONDITION, WARRANT OR GUARANTEE THAT CANNOT BE EXCLUDED UNDER APPLICABLE LAW.

THE DATA, INCLUDING THE ACCESS TO THE DATA, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS UNLESS OTHERWISE SPECIFIED IN WRITING. USE OF THE SERVICES ARE AT YOUR OWN OPTION AND RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WITHOUT WARRANTIES, GUARANTEES, CONDITIONS OR TERMS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PURPOSE OR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ANY OTHER IMPLIED WARRANTY UNDER THE UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT AS ENACTED BY ANY STATE. NO

ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM ACE, ITS EMPLOYEES, OR AGENTS, WILL CREATE ANY WARRANTY, GUARANTEE, TERM OR CONDITION NOT EXPRESSLY STATED HEREIN. WITHOUT LIMITING THE FOREGOING, WE DO NOT WARRANT THAT (I) ANY CONTENT PROVIDED ON OR THROUGH THE CARNEGIE ELECTIVE CLASSIFICATION IS ACCURATE, COMPLETE, LEGALLY COMPLIANT, UP-TO-DATE, RELIABLE OR CORRECT; (II) THE DATA WILL MEET YOUR REQUIREMENTS; (III) THE DATA WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, OR WILL BE UNINTERRUPTED OR SECURE; (IV) ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR (V) THAT THE DATA IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY CONTENT DOWNLOADED, UPLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE DATA IS TRANSMITTED AT YOUR OWN OPTION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA OR ANY OTHER TYPE OF LOSS THAT RESULTS FROM SUCH CONTENT OR YOUR USE OF THE SERVICES.

**Limitation of Liability:**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS DUA, IN NO EVENT SHALL ACE, ITS MEMBERS, SUBSIDIARIES, AND THEIR RESPECTIVE BOARD MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS, BE LIABLE TO AN ORGANIZATION OR YOU FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY DAMAGES OR LOSSES, LOST PROFITS, OR DAMAGES RESULTING FROM LOST DATA, LOST EMPLOYMENT OPPORTUNITY OR BUSINESS INTERRUPTION RESULTING FROM THE USE OR INABILITY TO USE THE SITE OR SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE COMPANY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

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CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, THE ABOVE APPLIES ONLY TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

**Termination:**

The American Council on Education may terminate Your license and access to the Data at any time, without notice, for any reason whatsoever, including if we determine, at our sole discretion, that the Data is being used for illegal activity, in response to court orders regarding any illegal activity, and/or for violation of this DUA.

**Additional Terms:**

This DUA shall be governed and construed under the laws of the District of Columbia, without regard to conflicts of law principles. These disputes will be resolved exclusively in the federal or state courts of the District of Columbia, and both of you and ACE consent to personal jurisdiction in those courts.

You may not assign these Terms, by operation of law or otherwise, without ACE's prior written consent. Subject to that restriction, these Terms will be binding on, inure to, and be enforceable against the parties and their respective successors and assigns. ACE's failure to enforce your strict performance of any provision of this agreement will not constitute a waiver of our right to enforce such provision or any other provision of this agreement subsequently.

Nothing in these Terms shall be construed as making either party the partner, joint venturer, employer, contractor, or employee of the other. Neither party shall have or hold itself out to any third party as having any authority to make any statements, representations or commitments of any kind, or to take any action, that shall be binding on the other, except as provided for herein or authorized in writing by the party to be bound.

You acknowledge that a breach by you of any confidentiality or proprietary rights provision of this agreement may cause us irreparable damage, for which the award of damages would not be adequate compensation. Consequently, ACE may institute an action to enjoin you from any acts in violation of those provisions, which remedy shall be cumulative and not exclusive, and additionally, we may seek the entry of an injunction enjoining any breach or threatened breach of those provisions, in addition to any other relief to which we may be entitled at law or in equity.

This DUA, the Data Usage Policies and Procedures and Conflict of Interest Policy constitute the entire agreement between You and ACE with respect to the Data and supersede all prior or contemporaneous communications and proposals (whether oral, written, or electronic) between you and us with respect to the Services. No modifications or amendments to the terms of this DUA shall be effective unless made in writing and signed by the authorized representatives of the American Council on Education and Researcher/s. If any part of this DUA is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect. Neither of us will be responsible for any failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, pandemics, materials shortages, transportation delays, internet or other telecommunication delays, fires, floods, labor disturbances, riots, wars, terrorist acts or inability to obtain any export or import license or other approval or authorization of any government authority.

*[Signature Page Follows]*

You hereby agree to be bound by all the terms and conditions of this DUA, in exchange for receiving access to the Data provided to you hereunder. This DUA is valid until the completion of the approved Data Request and Research Agreement.

Name: \_\_\_\_\_

Institution: \_\_\_\_\_

Position: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**For the American Council on Education**

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_