

**RESPONDUS MONITOR**  
**INSTITUTION LICENSE AND TERMS OF USE**

These Terms of Use ("Terms") are an agreement between the institution to which license and access to Respondus Monitor is granted ("Institution"), and Respondus, Inc., ("Respondus"), regarding the Institution's use of Respondus Monitor®. Institution agrees to these Terms in full before using Respondus Monitor.

**SERVICE AND SOFTWARE COMPONENTS.** Respondus Monitor is a cloud-based service ("Respondus Monitor Services") and software ("the Software") (also collectively referred to herein as "Respondus Monitor"), that work together to provide an online interactive database of video/audio recordings and associated data featuring student activity captured during student assessment sessions for use in monitoring students.

**LICENSE GRANT AND USE.** If Institution accepts these Terms, Institution is granted a non-exclusive, non-transferable, non-assignable license to use the Software and to access and use the Respondus Monitor Services, in accordance with these Terms, subject to license fees requirements as explained below, and as may be further specified in a separate license fee agreement. Institution may not modify, distribute, sell, or sublicense any part of Respondus Monitor. Institution may not reverse engineer or attempt to extract the source code of Respondus Monitor, unless laws prohibit those restrictions or unless Institution otherwise receives written permission from Respondus. Respondus Monitor is licensed to Institution, not sold or transferred to Institution. Institution agrees that it may not use Respondus Monitor in any way that conflicts with or violates these Terms or other agreements between Institution and any third-party, including that of the learning management system ("LMS") through which Institution accesses Respondus Monitor Services. Institution warrants and represents that it will not violate any law, regulation or contractual obligation by entering into these Terms, and that it is free to enter into these Terms.

**FEES.** The license grant for Respondus Monitor is separate from that of Respondus Lockdown Browser. If Institution is being granted access to a "beta" version of Respondus Monitor under these Terms, or is participating in a pilot program for Respondus Monitor under these Terms, no license fees will be charged by Respondus for Institution's use of Respondus Monitor as part of the pilot program, or for Institution's use of the beta version made available by Respondus. However, Respondus reserves the right to terminate any non-paid license grant to the Software or non-paid grant of access to Respondus Monitor Services (including for a beta version or pilot program), at any time, subject to any other written agreement(s) between the parties. License fees for Respondus Monitor are provided in a separate license fee agreement, if and when applicable, and are incorporated herein by reference.

**SUPPORT AND MAINTENANCE.** Support and maintenance terms for Respondus Monitor are detailed in the separate license fee agreement, if and when applicable, and are incorporated herein by reference.

**PRIVACY & SECURITY POLICY.** Respondus cares about your privacy and the security of your personal data. The Respondus Privacy Policy is available at [www.respondus.com/privacy](http://www.respondus.com/privacy), and we recommend that you review it carefully, particularly if you reside in the European Economic Area. The information below summarizes important aspects of the security used with Respondus Monitor and how we process your personal data. Together with your Institution, the controller of the data, we work to protect the online privacy of those who use Respondus Monitor.

Respondus Monitor uses the following methods to limit access to video sessions and associated data.

1. Respondus Monitor uses industry standard SSL (Secure Sockets Layer) or TLS (Transport Layer Security) encryption to transfer information.
2. Student identifiable information including name, grade, course name, and photos that show identification cards can only be accessed through the learning management system's (LMS's) extension architecture (e.g., Blackboard Building Block).
3. Only users with instructor credentials for the LMS course (e.g., instructors, teaching assistants, LMS administrators) are able to view video sessions in conjunction with the student identifiable information.
4. Video URLs are "one-time use" and will not function if copied.
5. Respondus uses independent, third-party security firms to perform "penetration testing" of the Respondus Monitor system. This includes a review of the Respondus Monitor architecture and the testing for vulnerabilities and exploits.

Unfortunately, no data transmission over the Internet is 100% secure, and Respondus does not warrant the security of any information collected using its services. By agreeing to these Terms, Institution agrees to use Respondus Monitor at its own risk, and agrees that Respondus shall not be liable if a security breach occurs, if the site malfunctions, or if information is misused or mismanaged in any way to Institution's detriment or to the detriment of a student, staff member or third party, whether by Respondus, Institution, or an unauthorized third party.

Each student that is recorded will have a unique username or identification code ("ID") and password through the Institution's LMS. The ID and password will be usable by students, at the discretion of Institution, to allow students to transmit recordings to the online component of Respondus Monitor if required by Institution as part of an assessment activity. Instructors, administrators, and other agents of Institution may access those recordings related to the Institution's students through Respondus Monitor.

Random samples of video and/or audio recordings may be collected via Respondus Monitor and used by Respondus to improve the Respondus Monitor capabilities for institutions and students. The recordings may be shared with researchers (research institutions and/or biometric experts) under contract with Respondus to assist in such research, and the researchers are under written obligation to maintain the video and/or audio recordings in confidence and under terms at least as strict as the terms herein. No personally identifiable information for students is provided with the video and/or audio recordings to researchers in the nature of student names, course names, institution, grades, or student identification photos submitted as part of the Respondus Monitor exam session.

Other than the research purposes identified above, Respondus will not share recordings or personally identifying information of any particular student (collectively also referred to herein as "personal information or data") with third parties (third parties do not include the student who provided the personal information, the parent/guardian of a student under the age of 18 who provided personal information, or the institution who authorized access by the student to Respondus Monitor Services), unless specifically required by Institution. For example, if Institution uses third parties to manage student personal information, Institution may direct Respondus to share the personal information or data with that third party under Institution's direction and control.

If, in the future, Respondus, or substantially all of its assets are acquired, the maintenance of all collected personal information or data (including any recordings) may be transferred to the acquiring party, provided that the acquiring party implement a privacy and security policy compliant with current legal standards, and provided that the collected personal information and data remain under the control of Institution.

Respondus Monitor analyzes the recordings of student activity as part of an automated proprietary process. Respondus personnel do not review/analyze the recordings except as may be required to resolve technical problems, improve system performance, modify Respondus Monitor services, investigate violations of these Terms, or as may be directed by Institution.

Respondus reserves the right at all times to disclose any information or data (including recordings and any content to the extent applicable) stored by Institution, students or any other user as necessary, to comply with the law, a regulation or a governmental request, or to edit or remove any information or data, in whole or in part, that in Respondus' sole discretion, is in violation of these Terms (however, if Respondus elects to, for any reason, refuse, delete or move any recording of student activity for violation of these Terms, Respondus will save a copy of such recording for access by the Institution, subject to conditions of these Terms that define the duration of storage of such recordings otherwise).

If you have any questions regarding our privacy and security policy, please contact Respondus by email at or by writing to:

Respondus, Inc.  
Attn: Legal – Privacy Team  
8201 164th Ave NE, Suite 200  
Redmond, WA 98052  
USA  
Via email: [privacy@Respondus.com](mailto:privacy@Respondus.com)

**USER CONDUCT.** Institution shall be responsible for the conduct of all of its agents, including, such as, for example, instructors that use Respondus Monitor, to ensure that Institution's agents comply with these Terms on behalf of Institution. Institution promises NOT to use Respondus Monitor Services or Software for any of the following purposes or activities:

- a. conducting or supporting illegal activity of any type whatsoever;
- b. transmitting or storing worms or viruses or any code of a destructive nature;
- c. threatening, harassing, abusing, impersonating, injuring or intimidating others;
- d. engaging in vulgar, invasive, or hateful conduct, or conduct that invades another's privacy;
- e. interfering with others' use of Respondus Monitor Services or Software, unless such interference is for the purpose of complying with another section of these Terms;
- f. delivering spam or collecting information to deliver spam, or sending unsolicited advertisements;
- g. decompiling, disassembling, reverse engineering or otherwise attempting to discover any source code contained in the Software or the Respondus Monitor Services;
- h. disguising the origin of any content transmitted through the Respondus Monitor Services or Software or manipulating a user's presence on Respondus Monitor Services or Software; and/or
- i. causing the launch of any automated system(s) that access the Respondus Monitor Services or Software in a manner that sends more request messages to servers of Respondus in a given period of time than a human can reasonably produce in the same period by using a conventional on-line web browser.

**ACTIVITY GENERAL.** Institution is responsible for the conduct of all of its agents, including instructors, and their activities arising during use of Respondus Monitor and for any information or data they provide to or through Respondus Monitor. Institution agrees that Respondus is not responsible for, nor liable for, any mistakes, inaccuracies, lack of usefulness, defamation, omissions, falsehood, obscenity or otherwise offensive material in any of the information or data provided to users. Institution also understands that Respondus does not, and has no obligation to, monitor, pre-screen nor pre-approve information or data, but that Respondus shall nonetheless have the right (but not the obligation) in its sole discretion, to refuse, delete or move any information or data that is available via Respondus Monitor, if such information or data violates any of these Terms, subject to the obligation to save any student activity recordings as described above under the PRIVACY & SECURITY POLICY section and as further described below under LICENSE PROVIDED TO RESPONDUS .

**LICENSE PROVIDED TO RESPONDUS.** Respondus Monitor will save all recordings of students for a period of one (1) year. Institutions have the ability to retain the data for up to an additional four (4) years. However, Respondus does not guarantee removal of all traces of any information or data (including recordings) from the Respondus Monitor Services after deletion. **Respondus does not claim ownership in the information or data Institution or any students provide;** however, by providing information or data to Respondus, Institution grants Respondus, and its affiliates, a fully paid-up, perpetual license to use, store, modify, copy, and transmit any such information or data for the purpose of carrying out the Respondus Monitor Services in accordance with these Terms.

**CHANGES AND TERMINATION.** Respondus reserves the right to change these Terms, at its discretion, provided that it provides written notice to Institution of changes made to the Terms within fifteen (15) days after a change has been made. If the change is required by generally applicable law ("generally applicable law" means law, including, without limitation, any regulation, commonly applicable to other software or service providers providing or rendering same or similar software or services to same or similar licensees/customers as Institution), such change shall not form a basis for Institution to terminate the separate license fee agreement or receive a refund of any license fees. If the change made is not required by generally applicable law, then after Respondus provides written notice to Institution of the change, Institution shall have the right to object to such change, but only on reasonable grounds, and only in writing provided to Respondus, within thirty (30) days after Respondus provides written notice of the change, and if no written objection is provided within those thirty (30) days, the change will not provide a basis for Institution to terminate the separate license fee agreement or receive a refund for any license fees. If Institution does object to the change based on reasonable grounds, by providing written notice of such objection to Respondus within thirty (30) days after Respondus provides written notice of the change, Respondus shall have the right to amend the Terms to delete the change and revert to the prior version of the Terms within sixty (60) days after the notice of objection is provided, in which case, Institution shall have no basis for a termination of the separate license fee agreement or refund of any licenses fees. During those sixty (60) days after Institution provides written notice of objection, Institution shall make reasonable efforts to discuss with Respondus, at Respondus' request, the content of the change to which the Institution objects, so that Respondus may propose a modified

change at its discretion and Institution shall provide prompt written notice to Respondus if such modification is acceptable to institution, which acceptance shall not be unreasonably withheld, in which case, Respondus may modify the acceptable change accordingly within the sixty (60) days, and if such modification is implemented by Respondus within this period, there shall be no basis for Institution to terminate the separate license fee agreement or to collect any refund of any licenses fees. If Respondus does not take steps to delete the changes for which timely and reasonable written notice of objection has been provided by Institution by reverting to the prior version of the Terms or to modify the changes through agreement with the Institution within the sixty (60) day period, then Institution shall have the right to terminate the separate license fee agreement and any paid licenses, by providing written notice of termination to Respondus. In such case of termination, Institution may be entitled to a pro-rated refund for licenses in use after such notice of termination, such refund to be calculated as a pro-rated amount proportional to time remaining on the licenses in use after such termination versus the total term of the licenses in use, as well as a refund for advance paid licenses not in use, but such refunds and their availability are subject to the separate license fee agreement. Respondus reserves the right to terminate the services of Respondus Monitor and to license the Software, at Respondus' discretion, with at least four (4) months advance notice provided to Institution prior to the end of the term of all paid licenses (e.g., license units) that are currently in use at the time such notice is given. However, advance paid licenses that are not in use at the time such advance notice is given, may no longer be used after receipt of the advance notice, but refunds for such unused licenses may be available under the separate license fee agreement.

**INDEMNIFICATION DUE TO INFRINGEMENT.** Subject to prompt notification by Institution, cooperation by Institution, and control of all litigation and/or settlement by Respondus, Respondus shall indemnify, defend and hold harmless Institution from and against any and all costs and damages assessed against Institution by a judgment that Respondus Monitor infringes upon any third party intellectual property right. Each party agrees to notify the other promptly of any matters in respect to which this indemnification may apply. If notified in writing of any action or claim for which Respondus is to provide indemnity, Respondus shall defend those actions or claims at its own expense and pay the costs and damages awarded against Institution in any such action, or pay any settlement of such action.

**WARRANTY REGARDING 3rd PARTY INTELLECTUAL PROPERTY.** Respondus warrants and represents that, to the best of its knowledge, at the time these Terms are first accepted by Institution, Respondus Monitor does not infringe any patent, trademark or copyright or misappropriate any trade secret of any third party. If Respondus should later discover that a potential infringement exists, and if Respondus is unable to immediately modify Respondus Monitor to avoid such potential infringement, Respondus shall promptly notify Institution and Institution shall have the independent right to immediately terminate use of Respondus Monitor and to obtain a refund of any advanced paid license fees, unless Respondus Monitor is able to provide a non-infringing alternative within ninety (90) days. Also, in the case such potential infringement is discovered, Respondus shall have the right to immediately terminate Respondus Monitor at its own discretion, in which case, Respondus shall refund all advanced paid license fees.

**DISCLAIMERS.** The disclaimers in this section are subject to Respondus' promise of Indemnification Due to Infringement, and Respondus' Warranty Regarding 3rd Party Intellectual Property, under the respective sections of those terms above, and no term in this section shall limit Respondus' promises under those terms. Respondus disclaims responsibility or liability for the accuracy, content, completeness, legality, reliability, operability or availability of information or data in the Respondus Monitor Service or Software. Respondus further disclaims any responsibility for the deletion, failure to store, misdelivery, or untimely delivery of any information or data. Respondus disclaims any responsibility for any harm resulting from downloading or accessing any information or data through Respondus Monitor. Institution will bear all risk associated with any information or data Institution accesses. Institution's access or use of any information or data provided by Respondus Monitor or third parties is conditioned on Institution's agreement to these Terms, including these disclaimer provisions.

SUBJECT TO RESPONDUS' WARRANTY REGARDING 3rd PARTY INTELLECTUAL PROPERTY AS SET FORTH ABOVE, RESPONDUS MONITOR IS PROVIDED "AS IS" WITH NO WARRANTIES WHATSOEVER. ALL OTHER EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, ARE EXPRESSLY DISCLAIMED. TO THE FULLEST EXTENT PERMITTED BY LAW, RESPONDUS DISCLAIMS ANY WARRANTIES FOR THE SECURITY, RELIABILITY, TIMELINESS, AND PERFORMANCE OF RESPONDUS MONITOR. RESPONDUS SIMILARLY DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY WARRANTIES FOR ANY INFORMATION OR ADVICE OBTAINED THROUGH RESPONDUS MONITOR.

SUBJECT TO RESPONDUS' WARRANTY REGARDING 3rd PARTY INTELLECTUAL PROPERTY AS SET FORTH ABOVE, INSTITUTION UNDERSTANDS AND AGREES THAT ANY INFORMATION OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF RESPONDUS MONITOR IS OBTAINED AT ITS OWN DISCRETION AND RISK AND THAT INSTITUTION WILL BE SOLELY RESPONSIBLE

FOR ANY DAMAGES TO ITS COMPUTER SYSTEM(S) OR LOSS OF DATA THAT MAY RESULT IN THE DOWNLOAD OF SUCH INFORMATION OR DATA. SUBJECT TO RESPONDUS' WARRANTY REGARDING 3rd PARTY INTELLECTUAL PROPERTY AS SET FORTH ABOVE, UNDER NO CIRCUMSTANCES SHALL RESPONDUS BE LIABLE TO INSTITUTION ON ACCOUNT OF ITS USE OR MISUSE OF AND RELIANCE ON RESPONDUS MONITOR. SUCH LIMITATION OF LIABILITY SHALL APPLY TO PREVENT RECOVERY OF DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, AND PUNITIVE DAMAGES (EVEN IF RESPONDUS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). SUCH LIMITATION OF LIABILITY SHALL APPLY WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF AND RELIANCE ON RESPONDUS MONITOR, FROM INABILITY TO USE THE RESPONDUS MONITOR, OR FROM THE INTERRUPTION, SUSPENSION, OR TERMINATION OF THE RESPONDUS MONITOR SERVICES OR BY REASON OF ANY INFORMATION OR ADVICE RECEIVED THROUGH THE RESPONDUS MONITOR SERVICES. THE FOREGOING DISCLAIMERS, WAIVERS AND LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

**INTELLECTUAL PROPERTY.** All web design, text, graphics, the selection and arrangement thereof, and all software compilations, underlying source code, software and all other material on Respondus Monitor are either the copyright or trademark of Respondus, or covered by other intellectual property rights of Respondus or a third party licensor of Respondus. Any use of Respondus Monitor beyond the purpose indicated above is strictly prohibited. Institution shall not acquire any rights in Respondus' Intellectual property by using Respondus Monitor.

**MISCELLANEOUS.** Respondus may terminate Institution's use of Respondus Monitor if Institution breaches or violates these Terms, provided that Respondus allow Institution a period of fifteen (15) days to cure any such breach or violation. Unless otherwise specified in writing, these Terms constitute the entire agreement between the parties with respect to the subject matter contained herein and supersede any other prior agreements between Respondus and Institution regarding Respondus Monitor. If Respondus should fail to enforce any right or provision in these Terms, this failure shall not constitute a waiver of such right or provision or of any other rights or provisions in these Terms. If a court should find that one or more rights or provisions set forth in these Terms are invalid, the parties agree that the remainder of the rights or provisions shall be enforceable and that, to the extent permitted by law, the court shall give effect to the parties' intentions, as reflected in any such rights or provisions that have been declared invalid or unenforceable. If Institution does not agree to these Terms, Institution will not be permitted to use Respondus Monitor. Any term that would naturally survive termination of these Terms shall survive, including, for example, INDEMNIFICATION DUE TO INFRINGEMENT as to Institution's prior use of Respondus Monitor before termination. Any notice required to be given under these Terms shall be deemed effective on the date sent if provided by email and later acknowledged, or if provided by registered or certified mail addressed to an administrator of the Institution or to Respondus, within three (3) days after deposit with the US Postal Service.

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