

## Terms of Use

### Updated: March 2022

These terms of use (“Terms of Use”) set forth and explain the terms and conditions governing your use of the CollegeWell and Private College 529 Plan (collectively, the “Plan”) website. The Plan is a Section 529 qualified tuition plan established and maintained by the Tuition Plan Consortium, LLC (“TPC”). Intuition College Savings Solutions, LLC (the “Plan Administrator”) provides plan administration services for the Plan pursuant to a contract with TPC, including operating the Plan’s website (the “Website”).

**The material on the Website is provided for general and educational purposes only, and is not intended to provide legal, tax, or investment advice, or for use to avoid penalties that may be imposed under U.S federal tax laws.**

Participation in the Plan does not guarantee admission to any college or university.

Tuition Certificates represent the amount of tuition you own at any of the participating institutions. Tuition Certificates are neither insured nor guaranteed by the FDIC, TPC, any government agency, Plan Administrator or their respective subcontractors and affiliates. However, Tuition Certificates are guaranteed by colleges and universities solely for tuition and mandatory fee credits. Please read the [Disclosure Statement and Enrollment Agreement](#) carefully and consider your financial objectives and risks before purchasing a Tuition Certificate. TPC, Plan Administrator and their respective subcontractors and affiliates do not provide financial, legal or tax advice. Contact your attorney or other advisor regarding your specific legal, investment or tax situation.

Please read these Terms of Use carefully before you start to use the Website. By using the Website, you accept and agree to be bound and abide by these Terms of Use and our [Privacy Policy](#), incorporated herein by reference.

By enrolling in the Plan and creating an account (“Account”) as an account owner (“Account Owner”) or by accessing the Website you agree to be bound by these Terms of Use. Enrollment is deemed to have occurred as of such time that you click to accept the Plan’s Disclosure Statement, Enrollment Agreement, these Terms of Use and your Contribution has been received and deposited.

Private College 529 Plan assets can be used to pay any qualified expense at any college or university, public or private. The tuition guarantee applies only to participating institutions. Outside the network, the value of the account is calculated as your total contributions adjusted for net investment returns subject to a maximum increase of 2 percent per year or a maximum loss of 2 percent per year, compounded annually. If the refunded amount is not used to pay qualified education expenses, the earnings portion will be subject to federal income tax and an additional 10 percent penalty. [See Disclosure Statement for details.](#)

IF YOU DO NOT WISH TO BE BOUND BY ALL OF THESE TERMS OF USE, DO NOT ACCESS THE WEBSITE OR USE ANY OF THE SERVICES PROVIDED ON THE WEBSITE. BY USING THE WEBSITE, YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THESE TERMS OF USE; AND (B) ACCEPT THESE TERMS OF USE AND AGREE THAT YOU ARE LEGALLY BOUND BY THESE TERMS. BY USING THE WEBSITE YOU ALSO REPRESENT THAT YOU ARE (1) AT LEAST THIRTEEN (13) YEARS OLD; (2) OF LEGAL AGE TO FORM A BINDING CONTRACT; AND (3) NOT A PERSON BARRED FROM USING THE WEBSITE UNDER THE LAWS OF THE UNITED STATES, YOUR PLACE OF RESIDENCE OR ANY OTHER APPLICABLE JURISDICTION.

**THESE TERMS AND CONDITIONS CONTAIN A BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER THAT IMPACT YOUR RIGHTS ABOUT HOW TO RESOLVE DISPUTES. If you live in the United States, please read it carefully.**

## **THE WEBSITE**

The Website is operated by the Plan Administrator for the Plan for on-line user access to individual account information (“Account Information”) for the Plan.

## **MODIFICATION OF THESE TERMS OF USE**

The Plan reserves the right to change the terms, conditions, and notices contained in these Terms of Use. You are responsible for regularly reviewing these terms and conditions. The information and materials contained on this Website are subject to change without notice to the user.

## **DISCLAIMERS**

THE MATERIALS AND SERVICES ON THIS WEBSITE ARE PROVIDED “AS-IS” AND “AS-AVAILABLE” AND FOR INFORMATION PURPOSES ONLY. Private College 529 Plan, the “Plan Trust” (a Section 529 qualified trust established by TPC to hold and maintain the assets of the Plan) , TPC, and their subcontractors, agents and their respective affiliates (hereinafter referred to collectively as “the Plan”), the Plan Administrator, and its subcontractors, agents, and their respective affiliates (hereinafter referred to collectively as “the Contractors”), make no representation or warranty that the materials are suitable for your needs, are complete, timely, reliable, or are free from errors, inaccuracies or typographical mistakes. THE PLAN AND THE CONTRACTORS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. Where applicable law does not allow the exclusions of implied warranties, the aforementioned exclusions may not apply to you.

Certain content from third parties may be made available as part of the Website or through links from the Website. Generally, these third parties have obtained such content from sources believed by them to be reliable. The Plan and the Contractors make no representation with respect to, nor guarantee or endorse the accuracy, completeness, timeliness, reliability, suitability, or correct sequencing of any third-party content.

Likewise, neither the Plan nor the Contractors endorse, oppose or edit any opinion or analysis expressed by such third parties. You should refer to the policies posted on third-party websites regarding privacy and terms of service prior to using such websites. You understand that you bear all risks associated with the use of any third-party content accessible through the Website, including, without limitation, opinions, advice, statements and advertisements.

## **USE OF THE WEBSITE**

Access to and use of any password protected or secure areas of the Website is restricted to Account Owners only.

- a) You agree that you will not share your password(s), Account Information, or access to the Website with any parties other than the Plan Administrator and the Plan.
- b) You are responsible for maintaining the confidentiality of your password and Account Information, and you are responsible for all activities that occur using your password or Account and/or as a result of your use or access to the Website. To help protect the confidentiality of your password and Account Information, you agree to logout of your Account whenever you are using a public computer.
- c) You agree to notify the Plan Administrator immediately of any unauthorized use of your password or Account. You agree that neither the Plan nor the Contractors will be liable for any loss that you may incur as a result of someone else using your password or Account, either with or without your knowledge. However, you could be held liable for losses incurred by the Plan, the Plan Administrator or a third party due to someone else using your Account or password.
- d) You also agree not to access or use the Website in any manner that may damage, disable, unduly burden, or impair any of the Plan's or the Contractors' networks or systems. You agree not to attempt to gain unauthorized access to any areas of the Website, or to interfere or attempt to interfere or gain access to the Plan's or the Contractors' networks or systems.
- e) You agree not to attempt to interfere with services provided to any user, host or network, including, without limitation, via means of submitting a virus to the Website, spamming, crashing, or otherwise. You agree not to use any robot or spider, or any other automated means to access or use the Website or any Plan or Subcontractors' networks or systems. Refusal to abide by this or any other rules may result in termination of your Account and civil or criminal penalties.

## **RESTRICTIONS**

You may use the Website only for lawful purposes and in accordance with these Terms and the Privacy Policy. You shall not use the Website:

- a) in any way that violates applicable federal, state, local or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the United States or other countries);
- b) for the purpose of exploiting, harming or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personal or sensitive information or otherwise;

- c) to transmit, or procure the sending of, any advertising or promotional material, including any “junk mail,” “chain letter,” or “spam” or any other similar solicitation;
- d) to impersonate or attempt to impersonate the Plan, the Plan’s employee, another user, or any other person or entity (including, without limitation, by using e-mail associated with any of the foregoing); and
- e) to engage in any other conduct that restricts or inhibits anyone’s use or enjoyment of the Website, or which, as determined by us, may harm The Plan or users of the Website or expose them to liability.

Additionally, you agree not to do any of the following:

- 1) copy the Website, except as expressly permitted by these Terms;
- 2) modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Website;
- 3) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Website or any part thereof;
- 4) remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from the Website, including any copy thereof;
- 5) view, copy, or procure content or information from the Website by automated means (such as scripts, bots, spiders, crawlers, or scrapers) or use other data mining technology or processes to frame, mask, extract data or other materials from the Website, unless formally authorized by the Plan under a separate written agreement;
- 6) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Website, or any features or functionality of the Website, to any third party for any reason, including by making the Website available on a network where it is capable of being accessed by more than one device at any time;
- 7) remove, disable, circumvent, or otherwise create or implement any workaround to any copy protection, rights management, or security features in or protecting the Website;
- 8) use the Website in any manner that could disable, overburden, damage, or impair the Website or interfere with any other party’s use of the Website, including its ability to engage in real time activities through the Website;
- 9) introduce any viruses, Trojan horses, worms, logic bombs, or other material that is malicious or technologically harmful;
- 10) attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Website, the server on which the Website is stored, or any server, computer, or database connected to the Website; or
- 11) attack the Website via a denial-of-service attack or a distributed denial-of-service attack.

No right, title or interest in or to the Website or any content on the Website are transferred to you, and the Plan reserves all rights not expressly.

## **LIMITATION OF LIABILITY**

IN NO EVENT SHALL THE PLAN OR THE CONTRACTORS BE LIABLE TO YOU FOR DAMAGES OF ANY KIND WHATSOEVER INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR DAMAGES RESULTING FROM LOST DATA OR BUSINESS INTERRUPTION, OR PUNITIVE DAMAGES OF ANY KIND WHATSOEVER THAT MAY RESULT FROM YOUR USE OF OR INABILITY TO USE THIS WEBSITE OR THE MATERIALS OR SERVICES PROVIDED ON THIS WEBSITE OR THE PRODUCTS OR SERVICES RECEIVED FROM THIS WEBSITE. YOU AGREE THAT NEITHER THE PLAN NOR THE CONTRACTORS SHALL BE LIABLE FOR ANY VIRUSES, WORMS, TROJAN HORSES, OR OTHER SIMILAR HARMFUL COMPONENTS THAT MAY ENTER YOUR COMPUTER SYSTEM BY DOWNLOADING INFORMATION, SOFTWARE, OR OTHER MATERIALS FROM OUR WEBSITE.

THE FOREGOING LIMITATIONS WILL APPLY WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR THE PLAN WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW CERTAIN LIMITATIONS OF LIABILITY SO SOME OR ALL OF THE ABOVE LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU.

IF YOU ARE A RESIDENT OF A JURISDICTION THAT REQUIRES A SPECIFIC STATEMENT REGARDING RELEASE THEN THE FOLLOWING APPLIES. FOR EXAMPLE, CALIFORNIA RESIDENTS MUST, AS A CONDITION OF THE TERMS, WAIVE THE APPLICABILITY OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH STATES, "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR." YOU HEREBY WAIVE THIS SECTION OF THE CALIFORNIA CIVIL CODE. YOU HEREBY WAIVE ANY SIMILAR PROVISION IN LAW, REGULATION, OR CODE THAT HAS THE SAME INTENT OR EFFECT AS THE AFOREMENTIONED RELEASE.

## **OWNERSHIP**

All right, title and interest in and to the Website and content, including all of the pages, links, graphics, text, source code and other programs, routines, and other components of the Website (whether visible to or discernible to the user), are and shall remain the intellectual property and copyrighted works of the Plan or the Contractors and/or their respective licensors, and are protected by United States and international copyright, trademark, and other laws.

- a) You may not use or frame any name, trademark, logo or other proprietary materials, including images posted on the Website, the content of any text or the

design of any page, or form contained on a page, without the Plan's prior express written consent. Except as provided in these Terms of Use, no content may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including without limitation, electronic, mechanical, photocopying, recording or otherwise without the prior written consent of the Plan or the respective owner.

- b) You may electronically copy and print to hard copy content for non-commercial, personal use. Any other use is strictly prohibited. You may not use the Plan or the Plan Administrator's name, logo or other service marks for any purpose without their prior express written consent. Intuition College Savings Solutions is a service mark owned by Intuition College Savings, LLC. Copyright in the Website (including the pages and in the screens displaying the pages) and in the information and material displayed or contained in the Website (including the arrangement of the material) is owned by their respective copyright owners.
- c) You may not modify, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, transfer, or sell any information, software, products or services obtained from the Website.

## **MONITORING AND ENFORCEMENT; TERMINATION**

We have the right to:

- a) take any action with respect to any user contribution that we deem necessary or appropriate in our sole discretion, including if we believe that such user contribution violates the Terms of Use hereof, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of the Website or the public, or could create liability for the Plan;
- b) disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy;
- c) take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Website; and
- d) terminate or suspend your access to all or part of the Website for any or no reason, including without limitation, any violation of these Terms of Use.

Without limiting the foregoing, we have the right to cooperate fully with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through the Website. YOU WAIVE AND HOLD HARMLESS THE PLAN AND ITS AFFILIATES, LICENSEES, AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY ANY OF THE FOREGOING PARTIES DURING, OR TAKEN AS A CONSEQUENCE OF, INVESTIGATIONS BY EITHER SUCH PARTIES OR LAW ENFORCEMENT AUTHORITIES.

We assume no liability for any action or inaction regarding transmissions, communications, or content provided by any user or third party. We have no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

## **SERVICE UNAVAILABLE OR DELAYS**

Access to services may be limited, delayed, or unavailable during periods of peak demand, system upgrades or maintenance, or electronic, communication or system problems, or for other reasons. You understand and agree that neither the Plan nor the Contractors will be liable to you if you were unable to access the Website.

## **COPYRIGHT CLAIMS**

If you believe that your work has been copied in a way that may constitute copyright infringement, please provide the Plan's Administrator with the following information:

- a) A physical or electronic signature of a person authorized to act on behalf of the owner of the copyright allegedly infringed;
- b) A description of the copyrighted work that you claim has been infringed, or, if multiple copyrighted works are the subject of a single notice, a representative list of such works;
- c) An identification of the allegedly infringing material, and a description of where that material is located on the Plan Sites; Your address, telephone number, and email address;
- d) A statement by you that you have a good faith belief that use of the disputed material in the manner complained of is not authorized by the copyright owner, its agent, or the law;
- e) A statement by you, made under penalty of perjury, that the information you provide in your notice is accurate and that you are the owner of the allegedly infringed copyright, or that you are authorized to act on behalf of the copyright owner.

The Plan's designated agent is:

Intuition College Savings Solutions, LLC  
6735 Southpoint Drive South, Suite 300  
Jacksonville, FL 32216  
Email: [copyright@intuitioncss.com](mailto:copyright@intuitioncss.com)  
Toll Free: 844.300.7470  
Fax: 904.421.7284

The Plan's designated agent should be contacted only if you believe that your work has been used or copied in a way that constitutes copyright infringement and such infringement is occurring on this Website. All other inquires to the Plan's designated agent will not be answered.

## **INDEMNIFICATION**

You agree to indemnify, defend, and hold harmless the Plan, the Contractors, and its officers, directors, employees, agents, affiliates, successors, and assigns from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments,



settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, arising from or relating to your use or misuse of the Website or your breach of these Terms of Use you submit or make available through this Website.

## ARBITRATION

IF YOU'RE A U.S. RESIDENT, YOU ALSO AGREE TO THE FOLLOWING MANDATORY ARBITRATION PROVISIONS:

- a) *We Both Agree To Arbitrate*. You and the Plan agree to resolve any claims relating to these Terms through final and binding arbitration by a single arbitrator, except as set forth under Exceptions to Agreement to Arbitrate below. This includes disputes arising out of or relating to interpretation or Website of this "Mandatory Arbitration Provisions" Section, including its enforceability, revocability, or validity.
- b) *Opt-out of Agreement to Arbitrate*. You can decline this agreement to arbitrate by emailing [support@pc529.com](mailto:support@pc529.com) and stating your intention to opt-out within thirty (30) days of first using the Website. However, if you agreed to a previous version of these Terms that allowed you to opt out of arbitration, your previous choice to opt out or not opt out remains binding.
- c) *Arbitration Procedures*. The American Arbitration Association (AAA) will administer the arbitration under its Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes. The arbitration will be held in the United States county where you live or work, or any other location we agree to.
- d) *Arbitration Fees and Incentives*. The AAA rules will govern payment of all arbitration fees. The Plan will pay all arbitration fees for individual arbitration for claims less than \$50,000. If you receive an arbitration award that is more favorable than any offer we make to resolve the claim, we will pay you \$1,000 in addition to the award. The Plan will not seek its attorneys' fees and costs in arbitration unless the arbitrator determines that your claim is frivolous.
- e) *Exceptions to Agreement to Arbitrate*. Either you or the Plan may assert claims, if they qualify, in small claims court in Jacksonville, Florida or any United States county where you live or work. Either party may bring a lawsuit solely for injunctive relief to stop unauthorized use or abuse of the Website, or intellectual property infringement (for example, trademark, trade secret, copyright, or patent rights) without first engaging in arbitration or the informal dispute-resolution process described above. If the agreement to arbitrate is found not to apply to you or your claim, you agree to the exclusive jurisdiction of the state and federal courts in Jacksonville, Florida to resolve your claim.
- f) *NO CLASS ACTIONS*. You may only resolve disputes with us on an individual basis, and may not bring a claim as a plaintiff or a class member in a class, consolidated, or representative action. Class arbitrations, class actions, private attorney general actions, and consolidation with other arbitrations aren't allowed.



If this specific paragraph is held unenforceable, then the entirety of this “Mandatory Arbitration Provisions” Section will be deemed void.

## **LIMITATION OF TIME TO ASSERT CLAIMS**

ANY CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OR THE WEBSITE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES OTHERWISE SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

## **MISCELLANEOUS**

These Terms of Use is governed by the laws of the state of New York, U.S.A. without reference to its conflict of laws provisions. As a condition of the use of the Website, you agree to submit to the personal and exclusive jurisdiction of the federal and state courts located within New York.

The Plan and the Contractors’ performance of these Terms of Use are subject to existing laws and legal process, and nothing contained in these Terms of Use is in derogation or waiver of their rights to comply with governmental, court and law enforcement requests or requirements relating to your use of the Website or information provided to or gathered by the Plan or the Contractors with respect to that use.

If any provision of these Terms of Use is found invalid or unenforceable, that provision shall be enforced to the maximum extent possible, and the other provisions contained herein will remain in full force and effect. The Plan or the Plan Administrator’s failure to insist upon or enforce strict performance of any provision of the Terms of Use shall not be construed as a waiver of any provision or right. These Terms of Use constitutes the entire agreement between you and the Plan and the Plan Administrator with respect to use of the Website. This Terms of Use will be deemed to be enforceable as a signed writing as against the parties, and deemed an “original” and “in writing” when printed from electronic records established and maintained in the ordinary course of business. You may not assign your rights and obligations under this Terms of Use, in whole or in part, without the Plan’s prior written consent, and any such assignment without such consent will be null and void. The Plan and the Plan Administrator may assign their rights and obligations under this Terms of Use, in whole or in part, without your consent. These Terms of Use will inure to the benefit and burden of the parties hereto and their permitted successors and assigns.

## **YOUR COMMENTS AND CONCERNS**

All feedback, comments, requests for technical support, and other communications relating to the Website should be directed to [support@pc529.com](mailto:support@pc529.com).