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MASTER SERVICES AGREEMENT*

THIS MASTER SERVICES AGREEMENT (“AGREEMENT”) IS A CONTRACT BETWEEN THE SCHOOL DISTRICTS, INDIVIDUAL SCHOOLS AND/OR OTHER ENTITIES LISTED ON THE ORDER DETAILS CONFIRMATION (COLLECTIVELY, THE “CUSTOMER”) AND THE LEARNING INTERNET, dba (company name/website) (“company name/website”), TO OBTAIN THE RIGHT TO USE ONE OR MORE OF THE (company name/website) SERVICES (COLLECTIVELY THE “SERVICE”) AND THE RELATING DOCUMENTATION. BY COMPLETING THE ONLINE REGISTRATION FORM AND CLICKING THE “I AGREE” BUTTON, YOU HEREBY AGREE TO THE TERMS OF THIS AGREEMENT AND THAT YOU HAVE THE REQUISITE AUTHORITY, POWER AND RIGHT TO FULLY BIND THE CUSTOMER WISHING TO USE THE SERVICE PURSUANT TO THIS AGREEMENT. IF YOU DO NOT HAVE THE AUTHORITY TO BIND THE CUSTOMER OR YOU OR THE CUSTOMER DO NOT AGREE TO ANY OF THE TERMS BELOW, (COMPANY NAME/WEBSITE) IS UNWILLING TO PROVIDE THE SERVICE TO THE CUSTOMER, AND YOU SHOULD CLICK ON THE “DO NOT ACCEPT” BUTTON BELOW TO DISCONTINUE THE REGISTRATION PROCESS, IN WHICH CASE (COMPANY NAME/WEBSITE) WILL PROVIDE A FULL REFUND.

YOU AND CUSTOMER AGREE THAT UNLESS STATED OTHERWISE, ANY NEW FEATURES THAT AUGMENT OR ENHANCE ANY PORTION OF THE EXISTING SERVICE AND/OR ANY NEW SERVICE AND/OR PRODUCTS SUBSEQUENTLY PURCHASED BY THE CUSTOMER SHALL BE SUBJECT TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

1. Certain Definitions.

1.1 “District” is the administrative body that supervises Schools within a specified territory.

1.2 The current “Privacy Policy” of (company name/website) is available at [www.\(company name/website\)/privacypolicy.htm](http://www.(company name/website)/privacypolicy.htm) provided that (company name/website) reserves the right to change the Privacy Policy from time to time, provided that any such changes shall not have retroactive effect.

1.3 A “School” is a building or set of buildings that comprise one educational unit (*i.e.*, an elementary school, middle school, junior high school or high school) subject to this Master Services Agreement.

1.4 The “Order Details Confirmation” is the document which confirms the specific order details of Customer’s purchase of products and services hereunder, including the term, pricing and payment terms and a list of the Schools authorized under this Agreement to access such products and services. The Order Details Confirmation is hereby incorporated herein by reference and is provided to Customer following an order placed by such Customer and is also available for viewing during the course of using the Service.

1.5 A “Student” is an individual enrolled in a School.

1.6 A “Teacher” is a teacher or other education provider employed by a School or School District.

2. License Grants and Restrictions

2.1 Grant and Privacy Restrictions.

2.1.1 (company name/website) grants to Customer a nonexclusive, nontransferable, limited right and license to use the Service accessible at the Site at all Schools listed in the School List, subject to all of the terms and conditions of this Master Services Agreement. Unless a particular right is expressly granted herein, it is expressly excluded in this license. The Service may only be accessed by the Authorized Schools and Number of Authorized Students as set forth on the Order Details Confirmation and, for purposes of clarity, once a Student is licensed to access the Service (“Licensed Student”), such license cannot be transferred to or used by any other Student or other third party during the then-current school year except in the event that the Licensed Student leaves the Authorized School for any reason during such school year, in which case such license may be transferred to another Student at the Authorized School for the duration of such school year. The foregoing license is specific to the such Authorized Schools and Number of Authorized Students and is not a grant for concurrent use of the Service. If Customer purchases a version of the Service that (a) allows tracking of the use of the Service, then Customer may provide a Login Code (defined in Section 3 below) to each Licensed Student, or (b) does not allow tracking of the use of the Service, then the Master Login Code (defined in Section 3 below) may be used by Customer to create a Class Login Code (defined in Section 3 below), provided, however, that Customer agrees that, in all circumstances, it shall be responsible for ensuring that any and all such use shall be solely limited to Licensed Students.

2.1.2 All information provided to (company name/website) or through the Service by individual users of the Service is subject to the (company name/website) Privacy Policy. (company name/website)’s use of user information shall be limited to the uses provided under the Privacy Policy. (company name/website) shall also comply with federal privacy rules applicable to the information, but (company name/website) shall not be bound to any local rules applicable to Customer or be liable to Customer therefor unless Customer first informs (company name/website) of them in writing and (company name/website) agrees to them.

2.2 Ownership and Proprietary Rights.

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2.2.1 Customer acknowledges that the Service and the Site and all intellectual property rights associated therewith are proprietary to (company name/website) and its partners, parents, subsidiaries, agents, affiliates and/or licensors (together, hereinafter "Affiliated Parties").

2.2.2 Customer will not obscure or remove any proprietary-rights notices of (company name/website) or its licensors contained in the Service and the Site. Customer may not and shall not permit any other party to sublicense, lease, rent, download, reproduce, modify, display, distribute, create a derivative work of or otherwise use the Service or the Site except as expressly provided in this Agreement. Customer may not attempt (or authorize, encourage or support attempts by others) to reverse-engineer or derive source code from the Service and the Site or otherwise alter or interfere with the Service and the Site.

3. LOGIN CODES. A user name and password ("Login Code") is required for access to the Service. (company name/website) will provide Customer with a master Login Code for each School ("Master Login Code"). Customer will be responsible for creating separate Teacher and Student Login Codes and may create Login Codes for specific classes (a "Class Login Code"). Customer must keep accurate records of the total number of Teacher and Student Login Codes and Class Login Codes and provide copies of those records to (company name/website) for audit purposes upon (company name/website)'s reasonable request from time to time. Customer may create additional Login Codes for new Students and Teachers who join a School during a School Service Period provided that Customer may not create additional Login Codes in excess of the Number of Authorized Students set forth on the Order Details Confirmation. Each Teacher will have access to the library of available Student lessons and will choose the lessons to which his or her Students will have access. Customer is responsible for securing all Login Codes and for the use of the Login Codes, passwords and account(s). Customer shall not allow unauthorized persons to use the Login Codes and shall promptly notify (company name/website) of any unauthorized use or attempts thereof.

4. TRAINING AND SUPPORT. Training and Support Services, if any, will be provided as described in the Order Details Confirmation.

5. PAYMENT TERMS. Payment terms for the Service shall be as set forth in the Order Details Confirmation.

6. ADDITIONAL LICENSEE RESPONSIBILITIES

6.1 Online Practices. Customer shall ensure that its Students and Teachers will not (a) upload, post, transmit, display or otherwise make available to other subscribers any messages, content or materials that (i) are vulgar, hateful, fraudulent, threatening, harassing, illegal, obscene, threatening, defamatory or invasive of privacy, (ii) violate (intentionally or unintentionally) a contractual, fiduciary or confidentiality obligation or duty any such person or Customer may have to any third party, (iii) infringe any intellectual property or violate other proprietary rights, or (iv) harms minors in any way; (b) upload, post, transmit, display or otherwise make available any unsolicited bulk e-mail, political campaigning, commercial solicitation, chain letters, pyramid schemes, mass mailings or any form of spam; upload, post, transmit, display or otherwise make available material that comprises or contains software viruses or other computer code designed to interfere with the functionality of any computer Service, software or hardware; (c) interfere with or disrupt the Service or the Site, or any networks or servers connected to or by the Service or the Site; (d) intentionally or unintentionally violate any applicable local, state, national or international law, (e) impersonate any person or entity or falsely state or misrepresent such person's affiliation with any person; (e) violate any law or regulation; or (f) collect or store personal data about any third party. In addition, Customer and its Teachers and Students may not use a false e-mail address, impersonate any person or entity or otherwise mislead as to the origin of a message or content. Customer understands and agrees that any loss or damage of any kind that occurs as a result of the use of any messages, content or material that Customer or its Schools, Teachers and Students upload, post, transmit, display or otherwise make available through the use of the Service is solely Customer's responsibility. Customer shall be responsible for any and all breaches of this Agreement by a Student or Teacher.

6.2 Links. The Service or the Site may present links to third-party Web sites. These links are provided only as a convenience to Customer. (company name/website) is not responsible for the availability of these outside sites or their contents. Customer should direct any concerns regarding these third-party sites to the applicable site administrator and to (company name/website).

6.3 Compliance with Law. Customer represents and warrants that it is now in compliance with applicable information and on-line protection laws, including, but not limited to, COPPA and FERPA. To the extent that "personally identifiable information" as to any Student under the age of thirteen (13) is provided to (company name/website), Customer represents and warrants that it has obtained all requisite consents and authorizations or otherwise has the authority to provide such information to (company name/website). To the extent that any information covered by FERPA is being made available to (company name/website) or to any third party (including other Students), Customer represents and warrants that it has given all applicable notices and has received all applicable consents and has not received any effective objections thereto.

7. LIMITED WARRANTY, LIABILITY AND DAMAGES; INDEMNITY

7.1 Limited Warranties and Warranty Disclaimer. (company name/website) provides Customer with the following limited warranties:

7.1.1 Warranties. (company name/website) warrants to Customer that (a) (company name/website) has all necessary intellectual property rights to provide the Service hereunder and (b) the Service will be available, at a minimum, between 5 a.m. and 5 p.m. Pacific time and that unscheduled Service outages during such twelve-hour period will not exceed thirty-six (36) hours within any calendar month.

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7.1.2 Warranty Disclaimer. OTHER THAN THE WARRANTIES PROVIDED IN THE FOREGOING SECTION 7.1.1, THE SERVICE AND THE SITE ARE PROVIDED “AS IS” AND WITHOUT WARRANTY BY (company name/website) AND, TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, (company name/website) AND ITS AFFILIATED PARTIES EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, TITLE AND FITNESS FOR A PARTICULAR PURPOSE. Specifically, (company name/website) makes no warranty that the Service or the Site will meet Customer’s requirements or that access to the same will be uninterrupted or error-free.

7.2 Customer’s Remedy for (company name/website)’s Breach of Performance Warranty. If (company name/website) breaches the warranty promised to Customer under Section 7.1.1(b), Customer, as its sole and exclusive remedy, shall be entitled to a credit against the following year’s Service Fees (as stated in the Order Details Confirmation) such credit to be calculated in hours and to be equal to the number of hours that the Service was unavailable divided by 240 hours.

7.3 LIMITED LIABILITY. NEITHER (company name/website) NOR ITS AFFILIATED PARTIES WILL BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR (a) ANY UNAUTHORIZED USE OF THE SERVICE OR THE SITE OR USE FOR PURPOSES NOT INTENDED UNDER THIS AGREEMENT, or (b) ANY LIABILITY OR DAMAGE CAUSED OR INITIATED BY THIRD PARTIES AND AFFECTING LICENSEE’S COMPUTERS, COMMUNICATION FACILITIES, SOFTWARE, DATA OR SERVICES THAT MAY RESULT FROM USE OR ACCESS OF THE SERVICE OR THE SITE.

7.4 LIMITED DAMAGES AND REMEDIES. NEITHER (company name/website) NOR ITS AFFILIATED PARTIES SHALL BE LIABLE TO CUSTOMER FOR ANY CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION AND THE LIKE) ARISING OUT OF THE USE OF OR THE INABILITY TO USE THE SERVICE OR THE SITE. Because some jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages, the above limitation may not apply to Customer. NOTWITHSTANDING ANYTHING IN THIS MASTER SERVICES AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL (company name/website) OR ITS AFFILIATED PARTIES BE LIABLE FOR DAMAGES OR MONETARY REMEDIES OF ANY KIND IN THE AGGREGATE UNDER THIS MASTER SERVICES AGREEMENT THAT EXCEED THE LESSER OF TWENTY THOUSAND DOLLARS (\$20,000) OR LICENSE FEE PAID BY CUSTOMER IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE CLAIM OR CLAIMS GIVING RISE TO THE LIABILITY.

7.5 Indemnity. Customer agrees to indemnify and defend (company name/website) and its agents, employees, representatives, licensors, affiliates, corporate parents and subsidiaries from and against any and all claims, losses, demands, causes of action and judgments (including attorneys’ fees and court costs) of third parties (collectively “Claims”) arising from or concerning any breach of Customer’s license grant and restrictions in Section 2 and responsibilities in Section 6 hereunder and to reimburse (company name/website) on demand for any losses, costs or expenses it incurs as a result of any such Claims.

8. TERMINATION

8.1 Term. This Agreement shall commence on the date Customer agrees to the terms herein by clicking the “I Accept” button below and shall continue for the period specified in the Order Details Confirmation. The Service Period for individual Schools set forth in the Order Details Confirmation are separate from the term of this Agreement; provided, however, that if this Agreement terminates for any reason, all Service to all Schools shall terminate at that time as well.

8.2 Termination. Either party may terminate this Agreement for material breach if such breach is not cured within thirty (30) days after written notice to the other party specifying the breach.

8.3 Effect of Termination. Immediately upon expiration or termination of this Agreement, Customer will cease using the Service and cause all Schools listed in the Order Details Confirmation to cease using the Service. Termination does not entitle Customer to any refund or reduction of Service Period Fees already paid by or due from Customer. If (company name/website) terminates this Agreement due to an uncured material breach by Customer, Customer shall be obligated to pay (company name/website) the full Service Period Fees for the then current term. If Customer terminates this Agreement due to an uncured material breach by (company name/website), Customer shall only be obligated to pay (company name/website) for use of the Service and the Site up to and including the date of termination. After expiration or termination, any Service Period Fees due must be paid within thirty (30) days and the following sections of this Agreement will remain in effect: Sections 2.2, 5, 7, 8 and 9. Customer understands and agrees that if Customer requests a pro-rata refund as a remedy hereunder, then such request will be an election of remedies and the sole remedy available to Customer with respect to any dispute with (company name/website).

9. MISCELLANEOUS

9.1 General Terms. (company name/website) may use and disclose to third parties Customer’s name and, if Customer is a District, the names of any affiliated Schools as part of a list of (company name/website) customers or references. This Agreement and any rights and responsibilities hereunder may not be assigned or delegated by Customer, including by action of law, without the express written consent of (company name/website). Any assignment or delegation in violation of this Section will be void and of no effect. Waiver of any breach under this Agreement does not waive future compliance with that provision, which remains in effect. If any part of this Master Services Agreement 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. This Agreement

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and any other terms or documents referred to herein represent Customer's entire agreement with (company name/website) with respect to its use of the Service and the Site. The provisions of this Agreement may not be amended or waived except by a writing signed by all parties to this Agreement that references this Agreement.

9.2 Remedies and Reserved Rights. (company name/website) reserves the right at any time and from time to time to modify, temporarily suspend and limit access to the Service or the Site (or any part thereof) with or without notice to Customer for maintenance or security reasons on a commercially reasonable basis. Customer agrees that (company name/website) shall not be liable to it or to any third party for any modification, suspension or limitation of the Service or the Site if (company name/website) acts in a commercially reasonable manner. (company name/website) also reserves the right at any time and from time to time to modify or terminate any of the content or curriculum of the Service or the Site. If any such modification reduces or limits the content or curriculum offered by (company name/website) through the Service and the Site, Customer shall be entitled to terminate all or part of the Service that no longer meet Customer's needs and seek a pro-rata refund of the Service Period Fee that has been prepaid by Customer for the modified portion of the Service. Customer agrees that this remedy shall be Customer's sole remedy for its right of early termination under this Section 9.2 and agrees further that such termination shall not be considered a breach under this Agreement. If (company name/website) discovers any unauthorized access or use of the Service and/or Site, then (company name/website) shall have the following remedies: (a) if such unauthorized use may cause injury or physical damage to (company name/website)'s computers, data or electronic files, the Site, the Service or a third party, then (company name/website) has the reasonable right to suspend all or part of the Service or the Site access of Customer immediately without prior notice to protect itself or third parties, and (company name/website) shall promptly notify Customer of the suspension and work together with Customer to cure the problem; and (b) if such unauthorized access or use would cause any other type of injury or damage to (company name/website) or a third party, then (company name/website) shall give Customer notice of the problem and no less than three (3) business days to cure the problem, and thereafter if the problem remains uncured (company name/website) has the right to suspend all or part of the Service or Customer's Site until the problem is cured.

9.3 Disputes. This Master Services Agreement will be construed according to the laws of the state of Oregon, excluding its conflict-of-laws principles and the United Nations Convention for the International Sale of Goods; provided, however, that all state and local laws pertaining to Customer solely by virtue of Customer being a public or governmental entity shall also apply. Customer agrees that in a suit, the prevailing party will be entitled to reimbursement for its costs and expenses incurred in collecting overdue payments or enforcing the terms thereof, including attorneys' fees. Any delay in or failure of performance by (company name/website) under this Agreement will not be considered a breach and will be excused to the extent caused by any occurrence beyond the reasonable control of (company name/website), but not limited to, acts of God, power outages and governmental restrictions. Any notice by a party to this Master Services Agreement shall be deemed to have been sufficiently given to the other party if sent by certified mail, return receipt request, or by facsimile and confirmed in writing by letter sent by certified mail and shall be deemed to have been received three (3) business days after the date of dispatch.

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