

LICENSED PRODUCT AGREEMENT – GRADPOINT PRODUCT

This Licensed Product Agreement (the “Agreement”) is between NCS Pearson, Inc. (“Pearson”), contracting through its Pearson Digital Learning business unit, and the school, school district or other entity licensing the GradPoint product from Pearson (“Customer”).

1. DEFINITIONS. The following terms, when capitalized in this Agreement, shall have the following meanings:

1.1 “Custom Courses” shall have the meaning set forth in Section 3.3.

1.2 “Documentation” shall mean all written user information, whether in electronic, printed or other format, delivered to Customer by Pearson with respect to the Licensed Product, including, but not limited to, user manuals and training materials.

1.3 “Licensed Product” shall mean Pearson’s GradPoint product, which is comprised of virtual course content as well as a platform through which such course content is delivered. As such, Licensed Product when used herein refers to: (a) all course content made available to Customer and its users as part of the GradPoint product; (b) the platform through which this content is delivered to Customer; and (c) all related Documentation. This Agreement applies only to the GradPoint product, and not to other products or content delivered by Pearson or its affiliates, even if ordered concurrently with the GradPoint product. Various course content packages are available to be licensed in connection with the GradPoint product. Customer shall receive access only to the courses ordered by Customer and for which Customer has paid the applicable Subscription Fees. To the extent that Pearson releases and makes available to Customer any future enhancements or upgrades to the GradPoint platform or the specific GradPoint course content licensed by Customer hereunder, such enhancements or upgrades will also be deemed Licensed Product and are subject to, and will be governed by, the terms of this Agreement.

1.4 “License Term” shall mean the term of Customer’s license to access and use the Licensed Product, including the initial term described in Section 8.1 and any renewal terms entered into pursuant to such Section. The License Term may vary for licenses purchased at different times.

1.5 “Subscription Fee” shall mean the fee payable to Pearson for the initial or any renewal License Term for the license of the Licensed Product and access to the support services provided by Pearson as described herein.

2. LICENSE.

2.1 License Grant. Subject to the terms and conditions set forth herein, Pearson grants to Customer a restricted, non-exclusive, non-transferable license to use the Licensed Product for the

applicable License Term for which fees have been paid. The Licensed Product shall be accessed only by students or authorized personnel of Customer. If Customer subsequently purchases additional licenses, such licenses shall also be subject to the terms and conditions of this Agreement (unless Pearson provides new terms and conditions to Customer at the time such additional licenses are purchased, in which case such new terms and conditions shall apply). Customer acknowledges and agrees that Pearson may, from time to time and at its sole discretion, (i) add new content to the Licensed Product, or (ii) limit, modify or discontinue any existing content made available within the Licensed Product.

2.2 Licensing Models. The Licensed Product is available to be licensed pursuant to a variety of licensing models, including the following:

(a) If Customer purchases a quantity of “concurrent user” licenses, this means that there is no limit to the number of users who may be assigned by Customer to use the Licensed Product, but the number who may do so simultaneously cannot exceed the number of concurrent user licenses purchased.

(b) If Customer purchases a quantity of “per seat” licenses, then each “seat” entitles one named student to be assigned to use the Licensed Product. After that student completes all assigned courses or otherwise leaves the program, the seat may be reassigned by Customer to another student if the subscription period for such seat has not yet expired. For example, if Customer purchases fifty “per seat” licenses for one year, Customer will initially be able to assign fifty students to use the applicable courses licensed. (A given student may sign up for multiple courses, but this still counts as occupying only one seat.) If five of these students complete their coursework after three months and vacate the program, Customer may assign five new students to take over those seats for the balance of the year. Thus, in this example with fifty seats, Customer is limited at any given time to fifty students assigned to the program, but Customer may have as many students rotate through the program as is feasible within Customer’s defined license period.

(c) If Customer purchases a quantity of “per course enrollment” licenses, this means that the Customer has purchased a number of licenses, each of which will entitle a single student to enroll in a course designated as a one-semester course, or the Customer can use two licenses to enroll in a two-semester course. For example, if Customer purchases fifty “per course enrollment” licenses, then Customer can choose to have twenty-five students

enroll in a two-semester course, or have fifty students enroll in a one-semester course, or even have twenty students enroll in two-semester courses, and ten students enroll in a one-semester course.

Other licensing models in addition to “concurrent user,” “per seat,” and “per course enrollment” licensing may be available, in which case additional details regarding such options will be included on the price quotation or other order documentation supplied by Pearson to Customer during the sales process. Regardless of the licensing model used, Customer is limited to using only those courses specifically licensed by Customer, which may include the entire catalog of available courses or a defined subset thereof. Pearson may monitor Customer's usage of the Licensed Product to ensure compliance with the terms of the licenses purchased by Customer.

3. OWNERSHIP; RESTRICTIONS ON USE.

3.1 Title. The Licensed Product is protected by trade secret and/or copyright law and is proprietary to Pearson and/or its licensors. Title to all complete or partial copies, and all applicable rights to copyrights, patents and trade secrets in the Licensed Product and any derivative works thereof, are and shall remain the property of Pearson or its licensors.

3.2 Confidentiality. Customer shall maintain the confidentiality of the Licensed Product, and, except as expressly provided herein, Customer shall not, and shall not allow any other person or entity to, reproduce, copy, create derivative works, repost, distribute, download or otherwise transfer to any other system or media any portion of any Licensed Product without the written consent of Pearson; provided, however, that Customer may make printed copies of the Documentation for Customer's internal use. Customer shall not, and shall not allow others to, reverse engineer any software that is provided as part of the Licensed Product.

3.3 Customer and Third-Party Courses. It is permissible under this Agreement for the Customer, to the extent the Licensed Product contains such functionality, to import an online course developed by Customer on its own into the Licensed Product, or to create a course from Pearson-provided content and other content created or supplied by Customer, subject to Section 3.4. Such courses are referred to herein as “Custom Courses.” It is not permissible, however, for the Customer to license or purchase an online course from a third party and then import such course into the Licensed Product.

3.4 Customer Content and Customer Data.

(a) To the extent that the Licensed Product allows Customer or its end users to create Custom Courses or otherwise input any content into the system, Customer represents and warrants that the inclusion of any content input or otherwise included in the system by Customer or its end users will not infringe any patent, copyright, trade secret or other proprietary right of any other party. Customer shall defend, indemnify, and hold harmless Pearson and its licensors, and their respective directors, officers, employees and agents from and against any and all damages, losses, expenses, costs (including, without limitation, attorneys' fees), claims, suits, actions, judgments, or other liabilities arising out of or in any way

related to any breach or alleged breach of the foregoing warranty or any claim that any such content infringes any proprietary right of any third party. Customer acknowledges and agrees that Pearson has no obligation to screen, edit or review any content that Customer or its end users may include in the system as part of any Custom Courses or otherwise. However, Customer acknowledges and agrees that Pearson may delete, or require Customer to delete, any such content upon Pearson's determination, at its sole discretion, that such content (i) is or may be infringing upon the intellectual property rights of a third party, (ii) is interfering or may interfere in any way with the operation of the Licensed Product, or (iii) is indecent, obscene, libelous, slanderous, illegal, or otherwise inappropriate.

(b) Pearson and its licensors retain all copyrights and other intellectual property rights in and to all content and materials included in the Licensed Product as originally delivered by Pearson to Customer. To the extent any Custom Course includes any content provided by Pearson or its licensors, or is based on or derived from such content provided by Pearson or its licensors (i.e., such course was not developed entirely by Customer using its own content and/or other content not provided by Pearson or its licensors), Customer may not use or distribute such Custom Course in any manner other than within the Licensed Product pursuant to the terms of this Agreement.

(c) As part of its routine maintenance efforts, Pearson may delete any content input, uploaded or posted in the Licensed Product by Customer after one (1) calendar year, and student data that has remained inactive for at least one (1) calendar year. In addition, upon expiration or termination of this Agreement, Pearson may delete any of Customer's student data or any content input, uploaded or posted in the Licensed Product by Customer pursuant to Pearson's standard retention practices for the Licensed Product. It is Customer's responsibility to extract any reports or student data that Customer desires to retain prior to expiration or termination of its license to the Licensed Product.

3.5 Access. Pearson reserves the right to require Customer to suspend access to the Licensed Product to any end user (i) who inputs, uploads or posts inappropriate content; (ii) who attempts to “hack” the Licensed Product or otherwise use portions of the Licensed Product not intended to be accessed by such end user; (iii) who uses log-in credentials of another user without authorization; or (iv) whose actions otherwise violate the terms of this Agreement or any terms of use posted or made available to end users within the Licensed Product.

4. PAYMENT TERMS. Customer's Subscription Fees for the initial License Term, along with any fees for training, implementation or other services ordered by Customer, shall be due and payable in advance in accordance with Pearson's invoice terms. Fees for any renewal License Terms are invoiced in advance of the renewal date and are due prior to commencement of the renewal term. Customer agrees to pay to Pearson all such fees, and all applicable sales, use or other taxes, however designated, except for taxes based on Pearson's income. Customer shall pay a monthly charge of 1.5% (18% annually) on all amounts not paid when due, or, if a lower maximum rate is established by law, then such lower maximum rate. Customer shall provide Pearson with

proof of any claimed tax exemption, and shall be responsible for the payment of all applicable penalties, taxes and costs that may arise if the tax exemption proves inapplicable.

5. SUPPORT AND SERVICES. During the term of this Agreement, Customer shall have access to customer support for the Licensed Product via Pearson's on-line utilities and a toll-free number (which support is available during Pearson's normal business hours on weekdays, excluding Pearson holidays). Support is available to Customer's employees only, and not to students or their parents. In addition, neither Pearson nor its licensors shall have any obligation to provide support with respect to any Custom Courses or any content otherwise input by Customer or its end users into the system. If requested by Customer, Pearson shall provide training, implementation or other services at mutually agreed upon times and rates. All such services must be scheduled and delivered within twelve (12) months of purchase; any portion of amounts prepaid for such services that have not actually been rendered within this twelve (12) month period shall be forfeited.

6. COMPATIBILITY. Customer shall be responsible for the provision of a computing environment compatible with Pearson's standard specifications for the Licensed Product, including maintaining all necessary connections to the Internet as may be required to access the Licensed Product. Specifications relating to the foregoing are available upon request. Such specifications are subject to change over time based on changes in technology or Licensed Product delivery methods.

7. HOSTING SERVICES; SYSTEM AVAILABILITY. The Licensed Product will be hosted for Customer by Pearson (or by Pearson's designee; Pearson may use in-house services or a third party service provider to provide any hosting services in connection with the Licensed Product). Pearson will attempt to schedule any planned maintenance or upgrades at times when usage of the Licensed Product in the continental United States is typically low, and will attempt to communicate any outages associated with planned maintenance or upgrades to its customers in advance through its support website, via email, or through notifications within the Licensed Product. In addition, Customer acknowledges that Pearson may take the Licensed Product down from time to time as necessary to perform unscheduled maintenance in response to emergencies or other unforeseen circumstances. Customer further acknowledges that the Licensed Product is Internet accessible and that as such, in connection with Customer's use of the Licensed Product, some information may be transmitted over local exchange and Internet carrier lines, as well as through routers, switches and other devices owned, maintained and serviced by third parties, all of which are beyond the control of Pearson and which can be impaired or disrupted through no fault of Pearson. Pearson cannot control the flow of data over the Internet and assumes no liability for or relating to the delay, failure, interruption or corruption of any data or other information transmitted in connection with use of the Licensed Product.

8. TERM AND TERMINATION.

8.1 Term and Renewal. The initial License Term for Customer's license to the Licensed Product shall begin on the date

that Pearson has made the Licensed Product available for Customer's use, and shall continue for a period consistent with the Subscription Fees paid to Pearson. Either party may terminate this Agreement as of the end of the then-current License Term by providing written notice to the other party prior to the end of such License Term that such party does not wish to renew this Agreement. If no notice of non-renewal is given by either party, then Pearson will invoice Customer for the applicable renewal Subscription Fees for Customer's applicable number of licenses for a subsequent renewal License Term. Renewal terms are generally for a period of one (1) year, although other terms may apply in certain circumstances; the applicable renewal period will be stated on Pearson's invoice. If Customer pays the applicable Subscription Fees stated on Pearson's renewal invoice, then this Agreement will renew for the applicable renewal License Term stated on the invoice; otherwise, this Agreement will terminate at the end of Customer's current paid-up License Term. If this Agreement is terminated due to non-payment, and then Pearson subsequently reinstates Customer's access to the Licensed Product upon later receiving payment, any such reinstated access shall remain subject to the terms of this Agreement (unless Pearson provides new terms and conditions to Customer at the time of such reinstated access, in which case such new terms and conditions shall apply). The Subscription Fee for each renewal License Term shall be at Pearson's then-current applicable rates.

8.2 Termination. Either party shall have the right to terminate this Agreement in whole or in part upon thirty (30) days written notice to the other party, in the event the other party materially breaches this Agreement and fails to correct such breach within such thirty (30) day period; provided, however, that Pearson shall have the right to suspend performance under this Agreement at any time that Customer is not current in its payment obligations, and Pearson may terminate this Agreement immediately upon written notice in the event Customer breaches, or threatens to breach, any of its obligations under Section 3. If another party is responsible for payment on Customer's behalf, Customer acknowledges that the failure of such other party to pay fees for Customer's access to the Licensed Product when due is grounds for termination under this Section. Upon termination or expiration of this Agreement, Customer's ability to use the Licensed Product, including any Custom Courses which contain, or are based on or derived from, content from Pearson or its licensors, shall cease immediately. Sections 3.1, 3.2, 4, 10, 11 and 14 shall survive the termination of this Agreement.

9. LIMITED WARRANTY. During the term of this Agreement, Pearson shall attempt to correct any material failure of the Licensed Product to conform substantially to the applicable description and specifications contained in the standard user Documentation delivered with the Licensed Product (collectively, "Errors"), after receiving written notification of such Error from Customer. If Pearson is unable to correct the Error after a reasonable opportunity, Pearson shall, at Customer's request, reimburse Customer for a prorated portion of the Subscription Fees paid to Pearson hereunder for Customer's current License Term, computed from the date of Customer's notice as described above through the scheduled expiration date of the current License Term, and Customer's license to use the Licensed Product shall terminate. The

foregoing remedy shall not apply to Errors resulting from Customer's acts or omissions. The foregoing states the complete and entire remedies that Customer has under this warranty. In no event will Pearson have any liability under this limited warranty to provide a refund or credit with respect to amounts paid by Customer for license periods prior to the then-current License Term.

10. DISCLAIMER OF OTHER WARRANTIES. THE WARRANTIES SET FORTH IN SECTION 9 ABOVE CONSTITUTE THE ENTIRE STATEMENT OF PEARSON AS TO WARRANTIES FOR THE LICENSED PRODUCT, SUPPORT, SERVICES AND OTHER ITEMS PROVIDED HEREUNDER. PEARSON AND ITS LICENSORS DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. FURTHERMORE, PEARSON DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE RESULTS OF USING THE LICENSED PRODUCT IN TERMS OF ITS CORRECTNESS, PEDAGOGICAL EFFECTIVENESS OR OTHERWISE.

11. LIMITATION OF LIABILITY. PEARSON AND ITS LICENSORS SHALL NOT BE LIABLE TO CUSTOMER FOR ANY LOST PROFITS, LOST FUNDING, LOST SAVINGS OR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING FROM THIS AGREEMENT, THE LICENSED PRODUCT, SUPPORT, SERVICES OR OTHER ITEMS PROVIDED HEREUNDER, OR ARISING FROM THE USE OF OR INABILITY TO USE THE LICENSED PRODUCT, EVEN IF PEARSON OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL THE LIABILITY OF PEARSON AND ITS LICENSORS FOR ANY CLAIM UNDER THIS AGREEMENT EXCEED THE FEES PAID FOR THE LICENSED PRODUCT OR OTHER ITEM OR SERVICE ON WHICH THE CLAIM IS BASED DURING CUSTOMER'S THEN-CURRENT LICENSE TERM.

12. THIRD PARTY REQUIREMENTS. To the extent that Customer uses any Licensed Product offering, Customer is responsible for ensuring that the courses meet the requirements of any third party organization that Customer or its students desire to satisfy. For example, the National Collegiate Athletic Association ("NCAA") has specific guidelines regarding the acceptance of distance learning or credit recovery courses for student athletes. Customer accepts responsibility for these criteria to the extent that Customer uses any Licensed Product offering for students who desire to meet NCAA eligibility criteria. Pearson is a curriculum provider, not an accredited or credit-granting educational institution. Further, the Licensed Product may include certain courses that are designed to support Customer's implementation of an Advanced Placement ("AP") program; however, the courses have not been approved by the College Board as AP courses. If Customer desires to use any Licensed Product courses as part of an approved College Board AP curriculum, then it is Customer's

responsibility to complete all applicable College Board audit procedures with respect to Customer's AP program.

13. PRODUCT MONITORING AND RESEARCH. In accordance with Pearson's privacy statement for the Licensed Product, Pearson tracks a variety of data regarding usage of the Licensed Product. Among other things, Pearson may use cookies to measure traffic patterns, personalize content and control security. Pearson may record IP addresses or other information (such as the browser type used to access the Licensed Product's website; the country, state and telephone area code where the user's Internet service provider's servers are located; and the pages that users viewed during their visit). Collection of IP addresses is generally for system administration and security purposes, to gather broad demographic information and to monitor the level of activity on the website. Pearson may also use a variety of analytical tools to obtain aggregated data (not including any personally identifiable information regarding Customer's students or other users) regarding usage of the Licensed Product and any content accessed through the Licensed Product, in order to assist Pearson in providing, maintaining, improving and promoting Pearson's products and services.

14. GENERAL. THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MINNESOTA. This Agreement, including the Supplemental Terms and Conditions attached hereto, constitutes the complete agreement between Customer and Pearson, and supersedes all prior discussions, understandings, arrangements and negotiations between the parties with respect to its subject matter. Any additional or variant terms and conditions submitted by Customer, in a purchase order or otherwise, with respect to the Licensed Product or any support or other services shall be of no effect. No action, regardless of form, may be brought by Customer more than one year after the cause of action has arisen. In the case of notices to Pearson, such notices shall be sent to: NCS Pearson, Inc., Attn.: Contracts Department, 3075 W. Ray Road, Suite 200, Mailstop 315, Chandler, AZ 85226. In the case of notices to Customer, such notices shall be sent to Pearson's address of record for Customer. Either party may change its notice address by notifying the other in like manner.