



**TERMS AND CONDITIONS  
FOR USE OF FLVS LICENSED PRODUCT(S)**

**IMPORTANT: DO NOT ALLOW LICENSED PRODUCT (AS DEFINED BELOW) TO BE USED WITHOUT READING THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE NOT WILLING TO ACCEPT THESE TERMS AND CONDITIONS, PLEASE DO NOT USE THE LICENSED PRODUCT, AND NOTIFY FLORIDA VIRTUAL SCHOOL WITHIN TEN (10) DAYS OF RECEIPT OF THIS AGREEMENT. BY USING THE LICENSED PRODUCT AS PERMITTED BY THIS AGREEMENT, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT.**

This document contains terms and conditions applicable to the Florida Virtual School product line. The Florida Virtual School product line consists of a variety of virtual learning product offerings. The “Licensed Product Agreement” (the “Agreement”) portion of this document contains license terms that are applicable to all product offerings within the Florida Virtual School product line. The “Supplemental License Terms and Conditions” (the “Supplement”) portion of this document contains additional terms which are applicable to specific product offerings within this product line. Although the Supplement contains terms governing multiple offerings within the Florida Virtual School product line, Customer will receive licenses only to those offerings that Customer has actually ordered and for which Customer has agreed to pay Florida Virtual School’s applicable license fees. The “Support and Services Policies” (“Policies”) portion of this document contain additional terms relating to Florida Virtual School’s provision of support and services associated with the product offerings covered by this Agreement.

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**LICENSED PRODUCT AGREEMENT**

1. **DEFINITIONS.** This Agreement is between Florida Virtual School and the school, school district or other entity licensing Licensed Product from Florida Virtual School (“Customer/Licensee”). In addition, the following definitions shall apply:

**1.1 “Authorized Third Party.”** For certain Licensed Products, Customer/Licensee may purchase a license from Florida Virtual School for a Licensed Product that will be deployed in a learning management system (“LMS”) not hosted by Florida Virtual School or Florida Virtual School’s designee. Rather, the Customer/Licensee may license an LMS from a third party and have such third party host the LMS, or have the LMS locally deployed in the Customer/Licensee’s own networking environment. In either instance, the third party licensing the LMS to Customer/Licensee is referred to herein as an “Authorized Third Party.” The FLVS Approved LMS providers are subject to change and the list can be made available upon request.

**1.2 “Authorized Sites”** shall mean the schools, school districts or other entities named in the Order Documentation as being licensed to provide access to the Licensed Product to their Authorized Users.

**1.3 “Authorized Users”** shall mean (a) students enrolled at the Authorized Sites, and (b) teachers, administrative personnel or other instructional staff employed by the Authorized Sites or by a central administrative office responsible for the Authorized Sites.

**1.4 “Documentation”** shall mean all standard written user information, whether in electronic, printed or other format, delivered to Customer/Licensee by Florida Virtual School with respect to Licensed Product, now or in the future, including, but not limited to, instructions, manuals, training materials, and other publications provided by Florida Virtual School that contain, describe, explain or otherwise relate to Licensed Product.

**1.5 “Licensed Product”** shall mean the applicable virtual learning product offering(s) described in the Supplement and licensed to Customer/Licensee pursuant to this Agreement, as specified in the Order Documentation. Licensed Product shall be deemed to include all course content, LMS software (if applicable), hosting services (if applicable), and other materials provided or made available by Florida Virtual School to Customer/Licensee in connection with the virtual learning product offerings licensed by Customer/Licensee hereunder, including

all Documentation supplied by Florida Virtual School in connection with any such offerings.

**1.6 “Order Documentation”** shall mean a price quotation, invoice or other documentation provided by Florida Virtual School specifying the Licensed Product and associated support and/or services being offered to Customer/Licensee, which has been accepted by Customer/Licensee as evidenced by Customer/Licensee’s submission to Florida Virtual School of a purchase order or other written acknowledgment of Customer/Licensee’s order for Licensed Product or by Customer/Licensee’s payment of applicable fees.

2. **LICENSE GRANT.**

**2.1 Basic Terms.** Subject to the terms and conditions of this Agreement, Florida Virtual School grants to Customer/Licensee a restricted, non-exclusive, non-transferable license to use the Licensed Product for the applicable license term for which Customer/Licensee has paid Florida Virtual School’s applicable license fees. The Supplement contains additional licensing restrictions that are applicable to the various Licensed Products available to Customer/Licensee under this Agreement, and Customer/Licensee agrees to abide by such restrictions. Regardless of the specific Licensed Product being licensed by Florida Virtual School to Customer/Licensee, Customer/Licensee acknowledges and agrees that the Licensed Product may only be used by Authorized Users for educational purposes. **Under no circumstances may Customer/Licensee or Authorized Third Party utilize the Licensed Product(s) for or to any school, business, person, or entity other than Customer/Licensee’s delivery of direct instruction to Customer/Licensee’s students by Customer/Licensee’s employees.** In no event will Customer/Licensee use the Licensed Product, whether on a non-profit or for-profit basis, in a manner that services students of any schools or school districts that are not operated by Customer/Licensee, or for any schools or school districts that are operated by Customer/Licensee but for which Customer/Licensee has not paid Florida Virtual School’s applicable license fees for the applicable Licensed Product, without the prior written consent of Florida Virtual School. Customer/Licensee will not permit anyone to use or access the Licensed Product, other than (a) Authorized Users, and (b) if applicable, Authorized Third Parties, solely to the extent necessary to permit the use of the Licensed Product in conjunction with any LMS licensed by such Authorized Third Parties to Customer/Licensee.

**2.2 Software.** To the extent that the Licensed Product provided by Florida Virtual School to Customer/Licensee includes access to any LMS or other software hosted by Florida Virtual School or Florida Virtual School's designee, such software may be used in executable code form only. Source code to such software is not licensed to Customer/Licensee hereunder and will not be provided.

**2.3 Copies.** Customer/Licensee shall not make copies of or otherwise reproduce any Licensed Product, including Documentation, without the express written permission of Florida Virtual School, except that (a) Customer/Licensee's Authorized Users may print, for Customer/Licensee's internal use only, copies of any Documentation that is provided electronically, in order to support Authorized Users' use of the Licensed Product; (b) Customer/Licensee's Authorized Users may print copies of any instructional content that is provided electronically, for educational use only and only for the benefit of Customer/Licensee students receiving direct instruction by Customer/Licensee employees utilizing the Licensed Product(s) (e.g., course content may not be printed by teachers for use with students not enrolled in a Licensed Product); and (c) if Customer/Licensee is purchasing a Non-Hosted Course (as described in Section 3 of the Supplement), then Customer/Licensee may permit the applicable Authorized Third Party to make a backup copy of the Non-Hosted Course solely for use as part of Customer/Licensee's disaster recovery plan. Customer/Licensee (and, if applicable, any Authorized Third Party) shall retain and include all of Florida Virtual School's and its licensors' copyright and other proprietary rights notices on any copies of Licensed Product made pursuant to this Section 2.3 or otherwise made with the written permission of Florida Virtual School.

**2.4 License Term.** The Order Documentation shall specify the length of Customer/Licensee's license to the Licensed Product, which could be a specified term or perpetual. In all cases, Customer/Licensee's license to the Licensed Product is subject to termination in accordance with Section 8.3 of this Agreement.

### 3. RESTRICTIONS ON USE OF LICENSED PRODUCT.

**3.1 Intellectual Property Rights.** All Licensed Products are proprietary to Florida Virtual School and/or its licensors, and are protected by copyright, trade secret, and other intellectual property rights. The placement of a copyright notice on any portion of a Licensed Product does not mean that such portion has been published and will not derogate any claim of trade secret protection for the same. Title to all complete or partial copies and all applicable rights to copyrights, patents, trademarks and trade secrets in a Licensed Product, are and shall remain the property of Florida Virtual School or its licensors. Customer/Licensee shall not add to, modify, or customize any content within any Licensed Product, or provide any other party with the means to do so, except as expressly permitted for Hosted Courseware Packages and Non-Hosted Courses in the Supplement, or with Florida Virtual School's express written authorization. In addition, Customer/Licensee shall not, and shall not permit any other party to, decompile, disassemble or reverse engineer any software components of any Licensed Product, or otherwise attempt to create source code for any such software components.

**3.2 Confidentiality.** Customer/Licensee shall use reasonable efforts to ensure that (i) Licensed Product is not disclosed to or used by anyone other than Authorized Users and, if applicable, Authorized Third Parties, and (ii) all usage of Licensed Product is consistent with this Agreement and any limitations on the scope of Customer/Licensee's license. Customer/Licensee shall ensure that, to the extent it provides any copies of or access to any Licensed Product to any Authorized Third Party, such Authorized Third Party is made aware and acknowledges in writing that such Licensed Product (a) is proprietary to Florida Virtual School and its licensors, (b) may be used by such Authorized Third Party solely in connection with such Authorized

Third Party's provision of LMS services to Customer/Licensee in support of Customer/Licensee's use of the Licensed Product, and (c) may not be disclosed to any party other than Customer/Licensee, or used in any manner by the Authorized Third Party for its own benefit or for the benefit of any party other than Customer/Licensee. Customer/Licensee shall not transfer, assign, provide or otherwise make Licensed Product or any component thereof available, in any form or via any medium, to any other party without the prior written consent of Florida Virtual School. Any attempted sublicense, assignment or transfer by Customer/Licensee of any rights, duties or obligations hereunder without Florida Virtual School's consent shall be void. Upon request, Customer/Licensee shall provide Florida Virtual School with access to Customer/Licensee's applicable records and computer systems to enable Florida Virtual School to audit Customer/Licensee's compliance with the provisions of this Agreement. Customer/Licensee shall provide notice to Florida Virtual School immediately, in writing, of any unauthorized use or distribution of Licensed Product of which Customer/Licensee becomes aware, and shall take all steps necessary to ensure that such unauthorized use or distribution is terminated. To the extent that any Licensed Product uses passwords, codes or other user identifications to access such Licensed Product, Customer/Licensee shall advise all users that such passwords, codes or user identifications must be maintained in confidence and not transmitted or shared. Florida Virtual School is not responsible for any failure of users to maintain the confidentiality of such information.

**4. SUPPORT AND SERVICES.** Florida Virtual School will supply support (whether included with Customer/Licensee's license of Licensed Product or purchased separately by Customer/Licensee) pursuant to the terms of Florida Virtual School's Support and Services Policies, a copy of which is attached hereto and incorporated herein by reference.

**5. MATERIALS.** Customer/Licensee's license to the applicable Licensed Product includes access to the virtual course content and such other course materials as are typically provided by Florida Virtual School with the applicable Licensed Product, which may vary depending on the Licensed Product selected. Information regarding required materials for each course, including whether they are provided by Florida Virtual School or whether they are Customer/Licensee's responsibility to provide, is available upon request. Florida Virtual School may provide a storefront through which Customer/Licensee may choose to purchase required materials not provided by Florida Virtual School. The purchase of storefront materials is limited to program administrative and support staff. Storefront materials are not available for purchase by Customer/Licensee's teachers, students, or student parents or guardians. Customer/Licensee must designate one administrator and one alternate as approved purchasers and provide the names of those individuals to Florida Virtual School. All Storefront transactions will be limited to those two individuals.

### 6. CHARGES AND PAYMENTS.

**6.1 Fees and Taxes.** Customer/Licensee agrees to pay Florida Virtual School the applicable fees charged for any Licensed Product and associated support and services ordered by Customer/Licensee, together with all applicable sales, use or other taxes, however designated, except for taxes based on Florida Virtual School's net income. If Customer/Licensee claims tax exempt status, Customer/Licensee agrees to provide Florida Virtual School with evidence of such tax exemption upon Florida Virtual School's request. To the extent that such tax exemption cannot be properly claimed or does not extend to certain taxes or transactions, Customer/Licensee shall be responsible for any and all taxes that arise from this Agreement (except for taxes based upon Florida Virtual School's net income). All pricing set forth in any Order Documentation supplied by Florida Virtual School is in United States dollars, unless otherwise specified.

**6.2 Overages.** Customer/Licensee is financially responsible for overages. An overage is any unit used in excess of the number of units licensed by Customer/Licensee at the beginning of or during the life of the license. Florida Virtual School reserves the right to audit, or request an audit from Customer/Licensee, of Customer/Licensee's usage and invoice Customer/Licensee for any overages that occur at any time during Customer/Licensee's use of the product. Customer/Licensee is financially responsible for all overages regardless of whether the overage is the result of enrollment by Customer/Licensee administrative staff, support staff, teachers, students, or student parents or guardians or any other party without the knowledge or consent of individuals responsible for the Customer/Licensee's program.

**6.3 Payment Terms.** All fees for Licensed Product and associated support and services shall be due and payable according to Florida Virtual School's invoice terms. Customer/Licensee 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.

## 7. WARRANTIES.

**7.1 Limited Warranty.** Florida Virtual School cannot assure that the performance of Licensed Product will be uninterrupted or error-free, or that all Licensed Product problems will be corrected, despite Florida Virtual School's reasonable efforts to do so. Florida Virtual School does, however, warrant for the applicable Warranty Period (as defined in Section 7.2 below) that the Licensed Product will substantially conform to the applicable description and specifications contained in the Documentation delivered with such Licensed Product. The foregoing warranty shall not apply to Licensed Product that has been modified by Customer/Licensee, or used in a manner that is inconsistent with this Agreement or that does not conform to the instructions and specifications contained in the Documentation for such Licensed Product. In the event that Licensed Product does not meet the requirements of this warranty, Customer/Licensee shall be responsible to so notify Florida Virtual School in writing during the Warranty Period and to provide Florida Virtual School with sufficient detail to allow Florida Virtual School to identify the problem. After receiving such notification, Florida Virtual School will undertake to correct the problem, either itself or through its licensors, by programming or content corrections, reasonable "work-around" solutions and/or Documentation corrections. If Florida Virtual School is unable to correct the problem after a reasonable opportunity, Florida Virtual School will refund the license fees paid for such Licensed Product during Customer/Licensee's current license term, and Customer/Licensee's license to use such Licensed Product will terminate. Any liability of Florida Virtual School under this warranty shall apply only to license fees paid by Customer/Licensee during Customer/Licensee's then-current license term, and not to any previous license terms during which Customer/Licensee used the Licensed Product. The foregoing states the complete and entire remedies that Customer/Licensee has under this warranty. Florida Virtual School shall have no responsibility for any warranty claims made outside of the applicable Warranty Period.

**7.2 Warranty Period.** For Licensed Product that is licensed to Customer/Licensee for a specified term (i.e., not perpetually licensed), the Warranty Period shall be the first ninety (90) days of each license term (whether an initial license term or a renewal license term). For Licensed Product that is licensed to Customer/Licensee on a perpetual license basis, the Warranty Period shall be the first one hundred twenty (120) days after Customer/Licensee is initially provided access to the applicable Licensed Product by Florida Virtual School. The Warranty Period for Licensed Product that is perpetually licensed to Customer/Licensee does not restart when an update to a course or new course version is provided pursuant to any support plan, nor do such updates come with a separate warranty.

**7.3 DISCLAIMER OF OTHER WARRANTIES AND CONDITIONS.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS IN RELATION TO THE LICENSED PRODUCT, SUPPORT OR SERVICES THAT ARE THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER IMPLIED WARRANTIES OR CONDITIONS ARISING BY LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE. THE LIMITED WARRANTIES SET FORTH ABOVE GIVE CUSTOMER/LICENSEE SPECIFIC LEGAL RIGHTS. CUSTOMER/LICENSEE MAY HAVE OTHER RIGHTS, WHICH VARY FROM JURISDICTION TO JURISDICTION.

## 8. TERM AND TERMINATION.

**8.1 Term.** The term of Customer/Licensee's access to a given Licensed Product may be perpetual, or for a specified term, depending on the Licensed Product and the deployment model. For Licensed Products for which the license term is perpetual, the license shall begin when Florida Virtual School has provided access to the Licensed Product and shall continue in effect unless terminated pursuant to Section 8.3. For Licensed Products for which the license term is a specified period, the license term shall begin on the date that Florida Virtual School has made the Licensed Product available for Customer/Licensee's use, and shall continue for a period consistent with the Order Documentation.

**8.2 Renewals.** For Licensed Products for which the term is a specified period (i.e., not perpetual), the license terminates at the end of the then-current license term. If, however, the parties agree to renew the license for an additional term (whether for the same or different quantities of students, courses, or other applicable licensing parameters), then the terms and conditions of this Agreement shall remain in effect for any such renewal term, unless Florida Virtual School provides updated terms and conditions to Customer/Licensee in connection with such renewal term, in which case such updated terms and conditions shall apply. Any renewal of a license to a Licensed Product shall be at Florida Virtual School's then-current rates as specified in the renewal Order Documentation.

**8.3 Suspension or Termination for Breach.** Florida Virtual School shall have the right to suspend performance under this Agreement in the event that Customer/Licensee is in breach of any of its obligations under this Agreement. In addition, 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 that Florida Virtual School shall have the right to terminate this Agreement immediately upon written notice in the event that Customer/Licensee breaches any of its obligations under Sections 2 or 3 hereof. If this Agreement is terminated due to non-payment by Customer/Licensee, and then Florida Virtual School subsequently reinstates Customer/Licensee's access to the applicable Licensed Product upon later receiving payment, any such reinstated access shall remain subject to the terms and conditions of this Agreement (unless Florida Virtual School provides new terms and conditions to Customer/Licensee at the time of such reinstated access, in which case such new terms and conditions shall apply).

**8.4 Effects of Termination.** In the event of termination of all or any portion of this Agreement, Customer/Licensee shall remain responsible to pay any fees or charges that have accrued prior to the date of termination. In addition, the provisions of Sections 3, 7.3, 8.4, 8.5, 10, and 11 of this Agreement, and Sections 3.3(b) and 3.3(c) of the Supplement, shall survive termination of this Agreement. If partially

terminated with respect to a particular product or service, this Agreement will remain in effect for all other products and services that have been provided hereunder to Customer/Licensee.

**8.5 Use of Licensed Product.** Immediately upon termination of a license of any Licensed Product, Customer/Licensee shall cease using, and shall promptly destroy any paper or other hard copies, and delete from its computer systems any electronic copies, of any components of any Licensed Product in Customer/Licensee's possession or control. In addition, Customer/Licensee shall require any Authorized Third Parties to cease using and to delete and destroy any such copies of any Licensed Product. Upon request, Customer/Licensee shall (a) forward written certification to Florida Virtual School that it has complied with the requirements of this Section 8.5, and (b) provide Florida Virtual School with access to Customer/Licensee's applicable records and computer systems including any Authorized Third Party(s) to enable Florida Virtual School to audit Customer/Licensee's compliance with the provisions of this Section 8.5.

**9. HOSTED PRODUCTS AND SERVICES.** For certain Licensed Products, Florida Virtual School provides hosting services and/or access to an LMS through which Customer/Licensee manages the use of the Licensed Product. To the extent that Customer/Licensee licenses a Licensed Product pursuant to which Florida Virtual School provides such hosting services and/or LMS access, the following terms shall apply.

**9.1 Availability.** Florida Virtual School will attempt to schedule any planned maintenance or upgrades within its hosting environment at times when usage is typically low (e.g., nights and weekends), and will attempt to communicate any outages associated with planned maintenance or upgrades to Customer/Licensee in advance. Customer/Licensee acknowledges that as the Florida Virtual School hosted deployment models are dependent on the Internet, information is 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 Florida Virtual School and which can be impaired or disrupted through no fault of Florida Virtual School. Customer/Licensee further acknowledges and agrees that the hosted Licensed Products or services may be inaccessible or inoperable from time to time due to unscheduled maintenance or causes beyond the control of Florida Virtual School or not reasonably foreseeable by Florida Virtual School, including, but not limited to: the interruption or failure of telecommunication or digital transmission links; hostile network attacks; network congestion; or other failures (collectively, "Downtime"). Florida Virtual School will use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the hosted Licensed Products or services, but FLVS shall have no liability should Downtime occur despite such commercially reasonable efforts, nor shall it be a breach of the terms and conditions, purchase order, or Order Documentation.

**9.2 Service Providers.** For Licensed Products where Florida Virtual School agrees to provide Customer/Licensee with LMS access and/or hosting services, Florida Virtual School may use in-house services or a third party service provider to provide such services.

**9.3 Compatibility.** Customer/Licensee shall be responsible to provide, or to ensure that Authorized Users have, a computing environment compatible with Florida Virtual School's standard specifications for the Licensed Product being licensed by Customer/Licensee. Copies of such specifications are available upon request. Such specifications are subject to change over time based on changes in technology or Licensed Product delivery methods. Florida Virtual School does not supply computers or Internet access as part of any Licensed Product.

**10. LIMITATION OF LIABILITY.** NEITHER FLORIDA VIRTUAL SCHOOL NOR ITS LICENSORS OR SERVICE PROVIDERS SHALL BE LIABLE TO CUSTOMER/LICENSEE FOR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; OR LOST PROFITS, LOST FUNDING, LOST SAVINGS, OR LOST OR DAMAGED DATA; OR FOR CLAIMS OF A THIRD PARTY; ARISING OUT OF THIS AGREEMENT, LICENSED PRODUCT, SUPPORT, SERVICES, OR OTHER ITEMS PROVIDED HEREUNDER, EVEN IF FLORIDA VIRTUAL SCHOOL OR ITS LICENSORS OR SERVICE PROVIDERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THEY ARE FORESEEABLE IN ANY EVENT, IN RESPECT OF ANY CLAIM, DEMAND OR ACTION ARISING OUT OF THIS AGREEMENT, CUSTOMER/LICENSEE SHALL BE LIMITED TO RECEIVING ACTUAL AND DIRECT DAMAGES IN A MAXIMUM AGGREGATE AMOUNT EQUAL TO THE CHARGES PAID BY CUSTOMER/LICENSEE TO FLORIDA VIRTUAL SCHOOL HEREUNDER FOR THE APPLICABLE LICENSED PRODUCT OR OTHER ITEM OR SERVICE ON WHICH THE CLAIM IS BASED DURING CUSTOMER/LICENSEE'S CURRENT LICENSE TERM FOR THE APPLICABLE LICENSED PRODUCT.

**11. GENERAL.**

**11.1 Governing Law.** THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF FLORIDA. VENUE FOR ANY CAUSE OF ACTION HEREUNDER SHALL BE IN A STATE OR FEDERAL COURT IN ORLANDO, FLORIDA.

**11.2 General Provisions.** Neither party shall be held liable to the other party for failure of performance where such failure is caused by supervening conditions beyond that party's control, including acts of God, civil disturbance, or labor disputes. If any provision of this Agreement is invalid or unenforceable under any applicable statute or rule of law, this Agreement shall be enforced to the maximum extent possible to effectuate the original express intent of the parties. Customer/Licensee may not assign this Agreement, in whole or in part, to any other party without the prior written consent of Florida Virtual School. Breach by Customer/Licensee of the provisions of Sections 2 or 3 could result in irreparable injury to Florida Virtual School; accordingly, Florida Virtual School shall be entitled to equitable relief against any such breach, without proving actual damages. Customer/Licensee may bring no action arising out of this Agreement, regardless of form; more than one (1) year after the cause of action has arisen. In the case of notices to Florida Virtual School, such notices shall be sent to: Florida Virtual School, General Counsel, 2145 Metrocenter Boulevard, Suite 100, Orlando FL 32835. In the case of notices to Customer/Licensee, such notices shall be sent to Florida Virtual School's address of record for Customer/Licensee. Either party may change its notice address by notifying the other in like manner. Customer/Licensee agrees that the terms of this Agreement and all pricing for Florida Virtual School products and services shall be kept confidential and not disclosed to any third party without the prior written consent of Florida Virtual School; provided, however, that Florida Virtual School's consent shall not be required if Customer/Licensee is required to disclose the provisions of this Agreement or any such pricing information in order to comply with applicable public records statutes or other laws or regulations.

**11.3 Personally Identifying Information.** To the extent that Customer/Licensee provides any personally identifying information (e.g., student or teacher data) to Florida Virtual School in the course of Florida Virtual School's performance of this Agreement, Florida Virtual School shall exercise commercially reasonable care to use such information only for the purposes of providing services to

Customer/Licensee as described herein and not to disclose or permit access to any such information to any third party, other than service providers with whom Florida Virtual School may contract to provide support or hosting services in connection with the Licensed Product, in which event Florida Virtual School shall require such third parties to maintain such information as confidential in accordance with this provision. Notwithstanding the foregoing, Florida Virtual School may disclose personally identifying information to third parties in the following situations: (a) in response to a subpoena, court order or legal process, to the extent permitted and required by law; (b) to protect user security or the security of other persons, consistent with applicable laws; (c) in connection with a sale, merger, joint venture or other transfer involving some or all of Florida Virtual School or the applicable assets of Florida Virtual School; or (d) as required by Federal or Florida Laws. In addition, Florida Virtual School may use and disclose aggregated, non-personally identifying information about the use of any Licensed Product for its business purposes (e.g., as part of a statistical analysis or study of the performance of students using the Licensed Product).

**11.4 Students with Disabilities.** Customer/Licensee is responsible for complying with all federal IDEA requirements and any other federal, state or local laws or regulations in connection with the use and implementation of any Licensed Product. Customer/Licensee acknowledges that virtual learning programs are not appropriate for all students, and it is Customer/Licensee's responsibility to ensure that a given Licensed Product is an appropriate placement for a particular student. For those Licensed Products where Florida Virtual School will provide access to a teacher in addition to course content, if Customer/Licensee provides access to such Licensed Products to students with disabilities, Customer/Licensee will allow the Florida Virtual School-supplied teacher (or other individuals designated by Florida Virtual School as appropriate) to participate in planning meetings to ensure that the particular Licensed Product is an appropriate placement for such students.

Notwithstanding the foregoing, Florida Virtual School will not be responsible for making any modifications to a Licensed Product's technology or content, or any other accommodations in connection with a Licensed Product or any associated instructional services, or third-party sites or materials associated with a course, if the standard Licensed Product is not appropriate for, or is not readily usable by, a given student.

**11.5 Third Party Requirements.** To the extent that Customer/Licensee uses any Licensed Product, Customer/Licensee is responsible for ensuring that the courses meet the requirements of any third party organization that Customer/Licensee 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/Licensee accepts responsibility for these criteria to the extent that Customer/Licensee uses any Licensed Product for students who desire to meet NCAA eligibility criteria. Similarly, Customer/Licensee is responsible for completing any College Board audit procedures required with respect to any Advanced Placement ("AP") courses if Customer/Licensee intends to offer any Licensed Product courses as AP courses.

**11.6 Entire Agreement.** This Agreement, including the Supplement and the Policies attached hereto and the Order Documentation, constitutes the complete and entire agreement between the parties with respect to its subject matter, and supersedes all prior discussions, understandings, arrangements, proposals, negotiations and agreements with respect to same. The terms and conditions of this Agreement shall prevail notwithstanding any variance with the terms and conditions of any purchase order or other documentation submitted by Customer/Licensee. Except as otherwise expressly provided herein, this Agreement shall not be modified or amended in whole or in part without the written agreement of both parties.

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## SUPPLEMENTAL LICENSE TERMS AND CONDITIONS

These Supplemental License Terms and Conditions ("Supplement") supplement the terms of the Licensed Product Agreement between Florida Virtual School and Customer/Licensee to which they are attached. Capitalized terms not defined in this Supplement shall have the same meanings ascribed to them elsewhere in the Agreement. Note that in addition to the terms set forth below for particular Licensed Products, minimum quantities may apply to purchase a license to certain Licensed Products.

To the extent that Customer/Licensee is granted a license under the Agreement to any of the Licensed Products named or described below, the following provisions set forth additional terms and conditions specific to such Licensed Products

**1. GLOBAL SCHOOL COURSES AND GLOBAL SCHOOL-CREDIT RECOVERY COURSES (HOSTED COURSES WITH TEACHER INSTRUCTION).** Florida Virtual School offers a license to certain Licensed Products in which Customer/Licensee is granted access to course content in a hosted LMS environment accompanied with teacher instruction provided by Florida Virtual School ("FLVS"), the provider of the course content used in the Florida Virtual School product line. Licensed Products licensed in this fashion are referred to herein as "Global School Courses" or "Global School-Credit Recovery Courses." The following terms apply to the licensure by Customer/Licensee of Global School Courses and Global School-Credit Recovery Courses (in addition to the terms of the Agreement to which this Supplement is attached):

**1.1 Pricing.** A license to a Global School Course or Global School-Credit Recovery Course is priced on a per-student, per-course basis. Customer/Licensee will pay Florida Virtual School's applicable fees for each student enrolled in a Global School Course or Global School-Credit Recovery Course. The license fee may vary based on whether the Course is a full-credit or half-credit course, as well as whether the student resides within or outside the continental United States of America.

**1.2 License/Payment Terms.** Unless otherwise stated in the Order Documentation, for each Global School Course or Global School-Credit Recovery Course license Customer/Licensee agrees to: (a) pay the then current list price according to the quotation or Order Documentation; and (b) be invoiced after a student has been enrolled in a Global School Course or Global School-Credit Recovery Course for twenty-eight (28) consecutive days after the date the student was initially enrolled or upon completion of twenty (20) percent of the half credit course segment, whichever occurs first. Once enrolled in a Global School Course, the student will have 27 weeks to complete each half credit. Once enrolled in a Global School-Credit Recovery Course, the student will have 10 weeks to complete each half credit. Unless otherwise stated in the Order Documentation, payment is due as of the due date noted on the invoice, and payment is considered late fifteen (15) days after the invoice due date. Florida Virtual School retains the right to suspend Customer/Licensee service and student access to a Global School Course or Global School-Credit Recovery Course without notice if payment is overdue. Florida Virtual School retains the right to decline a Customer/Licensee request for an Official Transcript relating to a student account for which payment is overdue. If Customer/Licensee pays for Global School Licenses in advance of enrollment, then Customer/Licensee will have (1) year from the date

the order is placed to enroll students in licensed Global School Courses or Global School- Credit Recovery Courses. If not activated within 1 year, the Global School Course or Global School-Credit Recovery license will be deemed expired. If a Global School Course or Global School- Credit Recovery Course is offered as part of a specific term offering with specified dates, for example Summer School, then Customer/Licensee must fully utilize the licenses, meaning students must have completed the course(s) in which they were enrolled, by the last day of the specified term, otherwise the licenses will be deemed expired and Customer/Licensee will not be eligible for a refund. In order for Customer/Licensee to enroll a student in a Global School-Credit Recovery Course, the student must have previously taken the equivalent course prior to enrolling.

**1.3 Withdrawals.** Unless otherwise stated in the Order Documentation, during the first twenty-eight (28) consecutive days after enrolling a student or prior to a student’s completion of twenty (20) percent, whichever occurs first, in a Global School Course or Global School-Credit Recovery Course, Customer/Licensee may withdraw the student at no charge. A withdrawal request must be received from Customer/Licensee in writing to Florida Virtual School by email before the end of the twenty- eight (28) consecutive day period or prior to the student’s completion of twenty (20) percent, whichever occurs first, for a Global School Course or Global School-Credit Recovery Course. After the twenty-eight (28) consecutive day period or upon the student’s completion of twenty (20) percent of the half credit course segment, whichever occurs first, Customer/Licensee will be invoiced as per the terms outlined in section “1.2 Payment/License Terms.” If payment is made in advance, Customer may withdraw the student and enroll another student at no additional charge during the first twenty-eight (28) consecutive day period or prior to the student’s completion of twenty (20) percent of the half credit course segment, whichever occurs first, for a Global School Course or Global School- Credit Recovery Course. After the (28) day period or upon student’s completion of twenty (20) percent or more of the half credit course segment, whichever occurs first, there is no credit or refund for not completing a course.

**1.4 Training.** Florida Virtual School may provide, at its discretion, online training via asynchronous videos for Customer/Licensee personnel (e.g., Facilitators, as defined in Section 1.5 below, guidance counselors, or others) who will be supporting Customer/Licensee’s students taking a Global School Course or Global School-Credit Recovery Course.

**1.5 Course Maintenance; Administrative and Teacher Support.** Upon enrollment in a Global School Course or Global School-Credit Recovery Course, students will have access to the most current version of that course. A FLVS administrator will be designated as Customer/Licensee’s point of contact for administrative and support issues, and the FLVS teachers assigned to Customer/Licensee’s students will assess and evaluate student progress and provide monthly progress reports that will be made available to Customer/Licensee.

**1.6 Facilitator.** Customer/Licensee must designate one or more Customer/Licensee personnel to act as a “Facilitator.” The Facilitator will be the primary contact between Customer/Licensee and FLVS with respect to the students taking Global School Courses or Global School-Credit Recovery Courses. The Facilitator will generally perform the following functions: (a) reviewing progress reports for each student at least once a month; (b) overseeing students to ensure participation in coursework and completion of assignments; (c) acting as a liaison between students or parents and FLVS teachers as needed; (d) assisting students in registering for AP exam reviews and exams, if applicable; (e) proctoring exams as necessary; (f) providing data and responses to surveys and other inquiries about students taking the Global School Courses or Global School-Credit Recovery Courses as may be reasonably requested by Florida Virtual School; and (g) communicating

with the designated FLVS school administrator if questions or problems arise.

**1.7 Grading; Credit.** Upon completion of a Global School Course or Global School-Credit Recovery Course, the teacher will issue a grade to the student. Although FLVS has obtained accreditation as a provider of virtual courses, by one or more recognized accreditation organizations, certain Global School Courses may not fall under FLVS’ accreditation. Regardless of whether a Global School Course or Global School-Credit Recovery Course falls under FLVS’ accreditation, however, Florida Virtual School may not grant credit to Customer/Licensee’s students. It is ultimately Customer/Licensee’s decision whether to issue credit for successful completion of a Global School Course or Global School-Credit Recovery Course as part of Customer/Licensee’s official records for such student. Additional information regarding FLVS’s accreditation is available upon request.

**1.8 NCAA Restrictions.** The National Collegiate Athletic Association (NCAA) has specific guidelines regarding the acceptance of distance learning or credit recovery courses for student athletes. **Global School- Credit Recovery Courses do not meet the current NCAA eligibility criteria.** Pursuant to section 11.5 of the Florida Virtual School Licensed Product Agreement, Customer/Licensee is responsible for ensuring any Global School Course satisfies the National Collegiate Athletic Association’s (NCAA) eligibility criteria.

**1.9 Disciplinary History.** With regard to any student it desires to enroll in a Global School Course or Global School-Credit Recovery Course, Customer/Licensee will, upon request, disclose the students’ disciplinary background to FLVS. Customer/Licensee shall notify FLVS of any student that Customer/Licensee is seeking to enroll who has been expelled or is being considered for expulsion from one of Customer/Licensee’s schools. FLVS shall have the sole authority and discretion to accept or deny a student’s participation therein. Further, any student enrolled in a Global School Course or Global School-Credit Recovery Course shall have the obligation while so enrolled to self-report any arrest and/or convictions for criminal activity.

**2. HOSTED COURSEWARE PACKAGES (HOSTED COURSES WITHOUT TEACHER INSTRUCTION).** Florida Virtual School offers a license to certain Licensed Products in which Customer/Licensee is granted access to a specific bundle of courses hosted by Florida Virtual School or its designee, but for which Customer/Licensee is responsible to provide its own teachers. Licensed Products licensed in this fashion are referred to herein as “Hosted Courseware Packages,” and each course within a Hosted Courseware Package is referred to as a “Hosted Course.” A Hosted Courseware Package may be limited to a particular set of courses (e.g., middle school courses; electives; or AP courses), or may include the entire catalog of available courses. For Hosted Courseware Packages, the following terms shall apply (in addition to the terms of the Agreement to which this Supplement is attached):

**2.1 Access.** Florida Virtual School will provide Customer/Licensee with access for the loading of students and teachers into the applicable LMS that is used to host the Hosted Courseware Package via the use of student and teacher codes, unless otherwise provided with additional administrative access that may be made available at an additional cost. Customer/Licensee’s Authorized Users will be provided a unique identity for access to hosted systems, for which Customer/Licensee must implement reasonable security measures to protect access to the hosted system.

**2.2 License Model and Term.** Hosted Courseware Packages are available in a variety of licensing models. The Order Documentation will include specific information on the type of license Customer/Licensee is purchasing for the Hosted Courseware Package, any license use restrictions, as well as the length of the license term.

**2.3 Content Modifications.** For each Hosted Courseware Package, the LMS functionality permits Customer/Licensee personnel to add new pages of content to the Hosted Courses, or hide content that Customer/Licensee chooses to skip. However, other than adding new content or hiding content in this manner, modification or editing of a Hosted Course is prohibited. Customer/Licensee is prohibited from adding course content that is derived from Florida Virtual School or its Licensors course content in appearance, wording, style, or framework.

Data associated with any Customer/Licensee content additions may not exceed fifty (50) percent of the original master course size.

**2.4 Training.** Upon initial license, for each Hosted Courseware Package, Florida Virtual School will provide a product orientation session which includes basic training on the use of the third party LMS platform that is used by Florida Virtual School to facilitate the hosting of the applicable Hosted Courseware Package. Additional teacher training options are available at an additional cost.

**2.5 Support.** Customer/Licensee's license to a Hosted Courseware Package includes access to Florida Virtual School's Support Plan (as described in the Support and Services Policies) for the duration of Customer/Licensee's license.

**2.6 Record Retention.** As each state has specific guidelines regarding the retention of student educational records, the Customer/Licensee is responsible for retaining its own student records for permanent retrieval in accordance with their State and District requirements. Florida Virtual School's Hosted Courseware Package permanently retains all student data; however, Florida Virtual School's Hosted Courseware Package should not be considered the system of record for Customer/Licensee student data. Florida Virtual School is not responsible for records deleted by clients that prove to be irretrievable through reasonable efforts.

### **3. NON-HOSTED COURSES (CUSTOMER/LICENSEE HOSTED COURSES WITHOUT TEACHER INSTRUCTION).**

Florida Virtual School offers a license to certain Licensed Products in which Customer/Licensee is provided the Licensed Product for use within an LMS that Customer/Licensee has licensed separately from a third party. Licensed Products licensed in this fashion are referred to herein as "Non-Hosted Courses." For a Non-Hosted Course, Florida Virtual School provides no LMS services. For Non-Hosted Courses, Florida Virtual School's default deployment method includes delivery of LTI links to FLVS-Hosted lesson content as well as delivery of assessments, assignments, and discussion prompts to a Customer/Licensee's Florida Virtual School-approved LMS. If Customer/Licensee wishes to have the Non-Hosted Courses deployed via any other method, then additional fees may apply. Except for the lesson content components for which Florida Virtual School may provide hosting, managing the Non-Hosted Course within Customer/Licensee's LMS is Customer/Licensee's responsibility. In addition, Florida Virtual School does not provide teacher instruction with Non-Hosted Courses. For Non-Hosted Courses, the following terms shall apply (in addition to the terms of the Agreement to which this Supplement is attached):

**3.1 Approved LMS Providers.** For quality assurance purposes, Florida Virtual School requires that Customer/Licensee procure and maintain a licensing relationship with a Florida Virtual School-approved LMS provider as well as utilize a specified LMS version where applicable in order to license a Non-Hosted Course, unless Florida Virtual School has agreed in writing to the use of an unapproved LMS provider in a particular instance. Use of an approved LMS provider and version will allow Florida Virtual School to deploy Non-Hosted Courses into Customer/Licensee's LMS. The FLVS approved LMS providers are subject to change and can be made

available upon request. Ultimately, however, Customer/Licensee (and not Florida Virtual School) is responsible for any issues related to the functionality or use of Customer/Licensee's chosen LMS. If Florida Virtual School agrees to permit Customer/Licensee to license a Non-Hosted Course for use with an unapproved LMS provider, then Florida Virtual School will not be responsible for importing the Non-Hosted Course into Customer/Licensee's LMS, unless Florida Virtual School agrees to do so, nor shall it be responsible for the performance of Licensed Product as it relates to issues caused or created by any unapproved LMS. Further, FLVS cannot be held responsible for issues of the License Product when created by Customer/Licensee migrating, upgrading, or otherwise changing Customer Licensee LMS or LMS version. Customer/Licensee shall be responsible for notifying FLVS in writing (120) days prior to migrating to a new LMS or LMS version so as to provide FLVS with sufficient time to determine if Licensed Product can be supported in the new LMS or LMS version. If FLVS determines additional work is required beyond what is included in the support plan to make Licensed Product operational in the Customer/Licensee systems, this work will be priced and quoted by FLVS at its then applicable rates. In addition, Florida Virtual School reserves the right to remove an LMS or LMS version from its approved list at its sole discretion, in which case Florida Virtual School will provide notice to Customer/Licensee of such removal. Florida Virtual School will provide support of the now unapproved LMS or LMS Version to Customer/Licensee for 90 days following notification.

**3.2 Security.** Customer/Licensee must implement reasonable security measures to protect courses within Customer/Licensee's LMS environment. Such measures include, but are not limited to, the LMS environment being hosted on a secure server in a secure facility, behind an Internet firewall, with role-based password protection (student, teacher, administrator) for access to the Non-Hosted Course.

**3.3 Content Modifications.** Customer/Licensee is permitted to make revisions to the course content included in a Non-Hosted Course and also may be allowed to combine other content with a Hosted or Non-Hosted Course (collectively, "Revisions"). Customer/Licensee may develop Revisions itself, or may request that Florida Virtual School assist Customer/Licensee in developing Revisions, in which case, if Florida Virtual School agrees to develop such Revisions, additional fees will apply.

(a) If Customer/Licensee creates Revisions, then any such Revisions are Customer/Licensee's sole responsibility. Neither Florida Virtual School nor its licensors will have any responsibility or liability for any reason with respect to Customer/Licensee Revisions. Customer/Licensee represents and warrants that any Revisions will not infringe any patent, copyright, trade secret, or other proprietary right of any other party, and that such Customer/Licensee shall, to the extent permitted by law, indemnify and defend Florida Virtual School and its licensors, their parents, affiliates and subsidiaries, and their respective officers, directors, employees, contractors, and agents and their successors and assigns from any and all claims, actions, damages, expenses, obligations, losses, liabilities, and liens imposed on, incurred from, or asserted regarding the Revisions. Customer/Licensee shall be prohibited from distributing any course or any Revisions based on or derived from a licensed course, to any third parties, and shall use such materials strictly for internal purposes within the authorized sites during the license term. Customer/Licensee will not provide any such Revisions to a third party (other than an Authorized Third Party, solely in connection with such Authorized Third Party's support of Customer/Licensee's use of the Non-Hosted Course). If Florida Virtual School makes subsequent modifications to any course that are incompatible with Customer/Licensee-created Revisions, Florida Virtual School will have no obligation to alter or retrofit any such modifications to make them compatible with such Customer/Licensee-created Revisions.



In an effort to minimize the infrastructure impact of custom course development changes, data associated with any Customer/Licensee content additions or Revisions may not exceed fifty (50) percent of the original master course size or exceed twenty-five (25) percent of files in the course. Failure to adhere to this limit may result in additional fees being assessed. Customer/Licensee is responsible for ensuring that Customer/Licensee staff responsible for making revisions to the FLVS-hosted content has reviewed the FLVS training for such revisions.

In addition to the terms of this section, any course designated as an “eDynamic Learning Course (EDL),” which is defined as a course developed by a Florida Virtual School licensor, whereby Florida Virtual School is authorized to distribute such courses to its customers, the following additional terms apply; (i) All course content included, or incorporated into any Revisions by Customer/Licensee into any eDynamic Learning Course (EDL) and all rights, rights of authorship, copyrights, trademarks and all other intellectual property rights arising therefrom or otherwise associated therewith shall remain exclusively with eDynamic Learning Inc. (ii) Upon termination of the Customer/Licensee license, Customer/Licensee shall cease using the courses, including any courses containing Revisions, and any Revisions based on or derived from any eDynamic Learning (EDL) Course content.

(b) If Customer/Licensee requests, and Florida Virtual School agrees to, assist in creating Revisions to a Non-Hosted Course, then other than content specifically provided by Customer/Licensee to Florida Virtual School for inclusion in any Revisions, Florida Virtual School retains all copyrights and other intellectual property rights in and to all content and materials included in any Revisions, and all ideas, processes, procedures and know-how embodied or used in any Revisions. Accordingly, Florida Virtual School shall have the right to use any Revisions it develops at Customer/Licensee’s request for any purpose whatsoever, including, but not limited to, providing all or any portion of such Revisions to other Customer/Licensees and/or reusing all or any portion of such Revisions in other products. Notwithstanding the foregoing, Florida Virtual School shall not, without Customer/Licensee’s written permission, use any Confidential Information provided by Customer/Licensee in any materials that it licenses to other Customer/Licensees or includes in other products; provided, however, that Customer/Licensee’s permission shall not be required in the case of Florida Virtual School’s reuse of such Customer/Licensee-provided content if such content is freely available for Florida Virtual School to use (e.g., public domain content), or if Florida Virtual School has obtained the right to use such content independently from a source other than Customer/Licensee. If Florida Virtual School develops Revisions for Customer/Licensee as described herein, then after those Revisions have been developed and made available to Customer/Licensee for use within the Non- Hosted Course, Florida Virtual School shall have no obligation to update or modify such Revisions. If Florida Virtual School makes subsequent modifications to any course for its user base generally that are incompatible with Revisions previously developed by Florida Virtual School for Customer/Licensee, Florida Virtual School will have no obligation to alter or retrofit any such modifications to make them compatible with such Revisions previously created for Customer/Licensee.

(c) For any content that Customer/Licensee includes in any Customer/Licensee-created Revisions, or provides to Florida Virtual

School for inclusion in any Revisions that Customer/Licensee engages Florida Virtual School to create, Customer/Licensee represents and warrants that it has sufficient right, title and interest in and to such content to allow Florida Virtual School, its licensors and service providers, to reproduce such content within the Revisions. Customer/Licensee further represents and warrants that the inclusion of such content in the Revisions will not infringe any patent, copyright, trade secret or other proprietary right of any other party. Customer/Licensee shall defend, indemnify, and hold harmless Florida Virtual School, its 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. Florida Virtual School may suspend access in any Florida Virtual School or Customer/Licensee system to any Revisions and/or remove any such Customer/Licensee-provided content from any Revisions upon Florida Virtual School’s determination, in its sole discretion, that such content is or may be infringing upon or misappropriating the intellectual property rights of a third party. Customer/Licensee will provide Florida Virtual School access to any Authorized Third Party system in order to execute the terms of this section.

**3.4 Implementation and Other Fees.** Customer/Licensee may be required to pay an implementation fee for each Non-Hosted Course being deployed into Customer/Licensee’s LMS in addition to the applicable license fees for the Non-Hosted Course. The Order Documentation will contain specific information on the type of license the Customer/Licensee is purchasing to include implementation fees if applicable. Upon initial license, Florida Virtual School will provide a product orientation session at no charge; additional teacher training options are available at an additional cost.

**3.5 License Model and Term.** Non-Hosted Courses are available in a variety of licensing models. The Order Documentation will include specific information on the type of license Customer/Licensee is purchasing for the Non-Hosted Courses, any license use restrictions, as well as the length of the license term. For any model whereby pricing is determined based on the population of the Authorized Sites, as described in the Order Documentation, pricing of the license fee is based on the population at the time of the license, or its renewal. The scope of the license is limited to the Authorized Sites that were in place at the time of the license purchase. Therefore, if the population of the Authorized Sites grows or additional sites are annexed, the Customer/Licensee may be required to pay additional license fees. For example, if Customer/Licensee purchased a license for its school district, and the district annexes a neighboring school district, the license will not encompass the schools and population added by the annexation; additional license fees must be paid to expand the license to cover this additional population. Customer/Licensee may be audited by Florida Virtual School at any time and may be required to report population or enrollment/seat numbers either quarterly, semi- annually, or annually at Florida Virtual School’s discretion.

**3.6 Support.** For Non-Hosted Courses, access to a Support Plan (as described in the Support and Services Policies) may be included with the license fees, or may be available at an additional cost as stated in the Order Documentation.



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## SUPPORT AND SERVICE POLICIES

These Support and Services Policies (“Policies”) supplement the terms of the Licensed Product Agreement between Florida Virtual School and Customer/Licensee to which they are attached. Capitalized terms not defined in these Policies shall have the same meanings ascribed to them elsewhere in the Agreement.

**1. DEFINITIONS.** For purposes of these Policies, the following additional definitions shall apply:

**1.1 “Error”** shall mean a reproducible failure of Licensed Product to operate in accordance with its standard Documentation, despite the proper installation and use of Licensed Product in a proper operating environment and on hardware and system software sufficient to meet Florida Virtual School’s minimum requirements, which are subject to change from time to time as Updates are released. User mistakes are not Errors as defined herein. Errors may be due to problems with the Licensed Product, the Documentation, or both.

**1.2 “Update”** shall mean a modification to a Licensed Product that Florida Virtual School, at its discretion, deems ready for distribution and makes generally available to Customer/Licensees who are currently maintaining a subscription to a Support Plan described below. Updates may include product fixes to any software hosted by Florida Virtual School to remedy Errors in the software, and updates to course content to fix Errors or to provide additional or enhanced material. Updates do not include New Courses or New Versions of an existing course.

**2. SUPPORT PLAN.** For Hosted Courseware Packages, as described in Section 2 of the Supplement, access to Florida Virtual School’s Support Plan is included in the price of the Licensed Product. For Non-Hosted Courses, as described in Section 3 of the Supplement, Florida Virtual School offers two kinds of product models with regard to support: those models for which support is included with the annual licensing fee and those models that require a support plan at an additional cost. The Order Documentation will include specific information on the license model and whether or not support is included with the license fee or is available at an additional cost. For license models whereby support is not included with the annual license fee, Support, Updates, and delivery of New Course Versions will be included with the initial license fee for 12 months after the initial Non-Hosted Course deployment completion date. After the initial 12 month period has expired the Support Plan is available at an additional charge, and thereafter access to the plan may be renewed at Florida Virtual School’s then-current rates for as long as Florida Virtual School continues to offer the plan. Plan prices and terms may vary depending on the Customer/Licensee’s chosen deployment method. Support Plans includes call center support and Updates, as described below. The plan is also subject to the exclusions and Customer/Licensee responsibilities described below.

**2.1 Call Center Support.** Call center support services are limited to Monday through Friday, during Florida Virtual School’s normal business hours, exclusive of Florida Virtual School holidays. Call center support services include a variety of methods of contact, including telephone, and online help ticket submission. Call center support services for Licensed Product are limited to program administrative and technical staff. Call center support is not available to Customer/Licensee’s teachers, students, or student parents or guardians except for Global School Courses. Call center support is limited to support for technical issues that Customer/Licensee experiences in use of a Licensed Product. Call center support is not a substitute for training, nor is it intended to provide curriculum or other instructional support (e.g., suggestions for how best to teach a topic in a virtual environment). Customer/Licensee personnel with such questions should contact Florida Virtual School regarding potential professional development options.

**2.2 Updates.** For as long as Customer/Licensee maintains an active subscription to a Support Plan, whether it is included as part of the Customer/Licensee annual license fees, or is licensed at an additional cost, Customer/Licensee will be entitled to receive notifications of all Updates to the Licensed Products licensed by Customer/Licensee. If required by Customer/Licensee’s chosen method of course deployment and as specified in the Order Documentation, Customer/Licensee will provide Florida Virtual School access to Customer/Licensee Master Course Copies in order to make said updates. Updates will not be made to Customer/Licensee teacher copies or any other copy other than Customer/Licensee master FLVS Course copy. Updates do not include New Courses or New Versions of an existing course (as described in the next sentence). If Florida Virtual School or its licensors have built a new version of an existing course, or have significantly redesigned an existing course by adding significant new features and content, Florida Virtual School reserves the right at its discretion to designate such course as a “New Course” or “New Course Version” rather than an “Update,” in which case, depending on the Customer/Licensee’s designated support plan, additional license fees may apply if Customer/Licensee desires to license such New Course or New Course Version. Florida Virtual School will only provide a support plan to Customer/Licensees using the most current course version and one version prior. Customer/Licensees using one course version prior to the most current course version and who have a current support plan will only receive support for a period of 12 months from the most current course version release date, unless Florida Virtual School at its discretion deems there are circumstances beyond its control or unless Florida Virtual School deems that the prior course version no longer meets industry education standards (i.e. Advanced Placement) or is no longer in the best interest of Customer/Licensee students, which would require Florida Virtual School to discontinue support for a course before the 12 month period. In this circumstance, Florida Virtual School will notify Customer/Licensee of the support end date and provide Customer/Licensee options.

**2.3 Course Retirement.** During its normal course of business or as New Courses or New Course Versions are released, and at its sole discretion, Florida Virtual School may find it necessary to retire course versions or entire courses titles and may cease to make the courses, updates, and support for these courses available to Customer/Licensee. Upon retiring of a course, and if Customer/Licensee has a current support plan, Florida Virtual School may provide Customer/Licensee with support for the retired course for a maximum of 12 months from the retire date, unless Florida Virtual School at its discretion deems there are circumstances beyond its control or unless Florida Virtual School deems that the retired course no longer meets industry education standards (i.e. Advanced Placement) or is no longer in the best interest of Customer/Licensee students, which would require Florida Virtual School to discontinue support for a course before the 12 month period. In this circumstance, Florida Virtual School will notify Customer/Licensee of the support end date and provide Customer/Licensee options.

**2.4 Exclusions.** Florida Virtual School shall not be required to provide any support in connection with (i) any Revisions made to any Licensed Product by Customer/Licensee pursuant to Section 3.3 of the Supplement; (ii) any failure of any Revisions created by Customer/Licensee, or by Florida Virtual School or its designee for Customer/Licensee, pursuant to Section 3.3 of the Supplement to be compatible with future releases of the applicable Licensed Product; or

(iii) any problems or issues that Customer/Licensee encounters with any LMS or other system not licensed to Customer/Licensee by Florida Virtual School as part of the applicable Licensed Product.

**2.5 Customer/Licensee Responsibilities.** In order to receive support services under a Support Plan, Customer/Licensee shall:

(a) supply Florida Virtual School with sufficient information and data to reproduce any Error or problem that is the subject of a support request; (b) procure, install, operate and maintain computer systems and operating systems that are compatible with and meet the minimum requirements for the version of Licensed Product to be supported; (c) maintain an operating environment free of any programming that might interfere with the functioning of Licensed Product as supplied by Florida Virtual School; and (d) notify FLVS in writing (120) days prior to migrating to a new LMS or LMS version so as to provide FLVS with sufficient time to determine if Licensed Product can be supported in the new LMS or LMS version. If FLVS determines additional work is required beyond what is included in the support plan to make Licensed Product operational in the Customer/Licensee systems, this work will be priced and quoted by FLVS at its then applicable rates.

**3. RENEWALS OF THE SUPPORT PLAN.** For Non-Hosted Courses, access to a Support Plan may be available at an additional charge depending on the license model, and must be renewed annually for continued access to the plan. With respect to such renewals, the following terms shall apply:

**3.1 Terms and Conditions.** If Florida Virtual School offers to renew the Support Plan for subsequent periods, then the components of the plan will continue to be as described in these Policies, unless Florida Virtual School provides new terms and conditions to Customer/Licensee at the time of renewal, in which case such new terms and conditions shall apply.

**3.2 Rates.** All renewals of the Support Plan shall be at Florida Virtual School's then-current rates.

**3.3 Dropped Subscriptions.** If Customer/Licensee does not renew or otherwise discontinues its subscription to the Support Plan at any time, then to resume the plan at a later date, Customer/Licensee may be required to pay all charges that would have been due under the plan for the period from the termination of Customer/Licensee's subscription to the plan to the present, plus a minimum 12-month subscription to the plan going forward (at Florida Virtual School's then-current rates for same). In addition, Customer/Licensee may be required to pay the then current list price or a percent of the then current list price for any New Course Version of a previously licensed course.

#### **4. PROVISION OF PROFESSIONAL SERVICES.**

**4.1 Professional Services.** In addition to those services that comprise a Support Plan, Florida Virtual School will provide such other training, consulting or other professional services that are specified in the Order Documentation, or subsequently requested by Customer/Licensee and agreed to be performed by Florida Virtual School, provided that Florida Virtual School may, at its option, arrange for any such services to be performed by another entity on behalf of Florida Virtual School. Customer/Licensee agrees to pay for such services at the rates and charges specified in the Order Documentation. Florida Virtual School reserves the right to require a purchase order or equivalent documentation from Customer/Licensee prior to performing any services, or to require prepayment of certain services. Unless otherwise specified, all rates quoted are for services to be performed during Florida Virtual School's normal business hours; additional charges may apply for evenings, weekends or holidays. The rates and charges specified in the Order Documentation shall apply to

those services originally ordered; however, Florida Virtual School reserves the right to change service rates or other terms as a condition of entering into any subsequent service engagement. Florida Virtual School reserves the right to limit the number of participants in any service engagement, whether delivered on-site or remotely, as Florida Virtual School deems appropriate in order to deliver the service effectively. All services ordered 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.

**4.2 On-Site Services.** For any professional services to be delivered at Customer/Licensee's location (or in person at such other Customer/Licensee-selected location as the parties may agree), Customer/Licensee agrees to the following:

(a) Customer/Licensee agrees to provide, at Customer/Licensee's expense, utilities, work space and other on-site accommodations reasonably necessary to enable Florida Virtual School to perform such services, and shall provide unencumbered access to all servers, workstations and other equipment with respect to which any work is to be performed.

(b) If specified in writing by Florida Virtual School in the Order Documentation, Customer/Licensee shall, in addition to the fees charged for performance of services hereunder, pay Florida Virtual School for travel expenses, lodging, meals and other related expenses incurred in the performance of such services. All such additional charges will be due and payable concurrently with payment for services.

**4.3 Remotely Delivered Services.** Florida Virtual School may deliver certain services remotely (e.g., via webinar), in which case Customer/Licensee is responsible for providing its participants with appropriate access to the necessary technology to participate.

**4.4 Service Packages.** Florida Virtual School offers a variety of service packages in connection with the Licensed Products. Specific descriptions for the available services packages are available upon request. Additional terms and/or restrictions may apply to certain packages. For example, with certain training packages, Customer/Licensee may be required to schedule consecutive training days; for other packages, Customer/Licensee may be allowed to schedule training days consecutively or separately, subject to a cap on the total number of trips by Florida Virtual School to deliver the total number of days of training.

**4.5 Cancellation.** Once scheduled, any on-site service days may be cancelled only with the written consent of Florida Virtual School, and only upon payment of reasonable cancellation charges that take into account expenses already incurred and commitments made by Florida Virtual School.

**5. CONFIDENTIALITY.** To the extent that, in performing any support or services pursuant to these Policies, Florida Virtual School has access to any Customer/Licensee confidential information, Florida Virtual School agrees to use commercially reasonable efforts to maintain the confidentiality of such Customer/Licensee confidential information, and to use such information solely for purposes of performing services hereunder. Florida Virtual School shall require its employees, agents and subcontractors performing work hereunder to do likewise. For purposes of this Section, "Customer/Licensee confidential information" shall mean any of Customer/Licensee's student or personnel data or records, and any other Customer/Licensee information or data labeled or identified as confidential at the time of disclosure; provided, however, that this definition and the obligations of this Section shall not extend to any information that: (a) is or becomes publicly known through no fault or negligence of Florida

Virtual School, its employees, agents or subcontractors; (b) is or becomes lawfully available from a third party without restriction; (c) is independently developed by Florida Virtual School, its employees, agents or subcontractors at any time; or (d) is disclosed without restriction by Customer/Licensee to any third party at any time; (e) or is required to be disclosed by law.

**6. Public Records.** Florida Virtual School is a public agency subject to Chapter 119, Florida Statutes. The Customer/Licensee shall comply with Florida's Public Records Law including: (a) keeping and maintaining public records that ordinarily and necessarily would be required by the FLVS Board of Trustees in order to perform the service; (b) providing the public with access to public records on the same terms and conditions that the FLVS Board of Trustees would provide the records and at a cost that does not exceed the cost provided in chapter or as otherwise provided by law; (c) ensuring that public records that are exempt or that are confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meeting all requirements for retaining public records and transfer at no cost to the FLVS Board of Trustees, all public records in possession of the

Customer/Licensee upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the FLVS Board of Trustees in a format that is compatible with the information technology systems of the FLVS Board of Trustees. The parties agree that if the Customer/Licensee fails to comply with a public records request, then Florida Virtual School must enforce the contract provisions in accordance with the contract and as required by Section 119.0701, Florida Statutes.

**IF THE CUSTOMER/LICENSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CUSTOMER/LICENSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT [CustodianofRecords@flvs.net](mailto:CustodianofRecords@flvs.net) OR BY PHONE 407-513-3325, OR BY MAIL TO: 2145 METROCENTER BLVD., SUITE 100, ORLANDO, FL 32835.**

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## MARKETING TERMS AND CONDITIONS

**1. MANAGEMENT RESPONSIBILITY.** FLVS will provide to Customer/Licensee certain tools, methods and resources that are intended to help Customer/Licensee grow and build its business. However, Customer/Licensee is fully and exclusively responsible for its own business performance and Customer/Licensee satisfaction. In addition, Customer/Licensee has full and exclusive responsibility for understanding and ensuring compliance with any regulatory, legal or contractual obligations related to Customer/Licensee's business, including without limitation, data held by Customer/Licensee and its clients, information provided by Customer/Licensee to its clients and/or other third parties and any safeguarding and security measures that may be required. Customer/Licensee is solely responsible for the final outcomes, actions taken and results produced by use of the products delivered by FLVS.

**2. INTELLECTUAL PROPERTY.** All content produced by FLVS within the scope of Services rendered, including software and web code, contents, graphics and design, or material developed or licensed by FLVS for Customer/Licensee as part of the Services is copyrighted by FLVS and remains the exclusive property of FLVS. Upon termination of this Agreement, all copyrights and other intellectual property rights shall remain with FLVS. This use will be restricted to the Customer/Licensee use only, and Customer/Licensee does not have any rights to resell, license or otherwise allow third party use of the content.

All Content included on the FLVS Website is the property of FLVS, our affiliates, or other relevant third parties. By continuing to use the Website, Users acknowledge that such Content is protected by copyright, trademarks, database rights and other intellectual property rights. Nothing on the site shall be construed as granting, expressly or by implication, estoppel, or otherwise, any license or right to use any trademark, logo or service mark displayed on the site without the owner's prior written permission.

Customer/Licensees are expressly forbidden to download, store, reproduce, transmit, display (including without limitation via an intranet or extranet site), copy, sell, publish, distribute or provide access to Content for any purposes other than as set out herein or to sub-license, rent, lease, transfer or assign any rights in Content, to any other person or to commercially exploit Content or to use Content for any unlawful purpose.

The Customer/Licensee shall include the registered trademark ® symbol after the first mention of Florida Virtual School or FLVS on all marketing pieces and include the following trademark statement: "Florida Virtual School and FLVS are registered trademarks of Florida Virtual School, a public school district of the State of Florida." The Customer/Licensee should also link to the FLVS website ([www.flvs.net](http://www.flvs.net)) in digital marketing and promotional activities.

Any specific use of FLVS trademarks or trade names in any advertising copy, Web copy, marketing materials, literature, and promotional material or on Customer/Licensee letterhead shall be submitted in advance to the Customer/Licensee's FLVS Account Manager for written approval.

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## DEMO ACCESS – MUTUAL NONDISCLOSURE AGREEMENT

Florida Virtual School (FLVS) and the Company agree as follows:

1. **Purpose.** The parties wish to explore a business opportunity of mutual interest and in connection with this opportunity, each party may disclose to the other certain confidential technical and business information that the disclosing party desires the receiving party to treat as confidential.

2. **"Confidential Information"** means any information disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects (including without limitation documents, prototypes, samples, plant and equipment), which is designated as "Confidential," "Proprietary" or some similar designation. Information communicated orally shall be considered Confidential Information if such information is confirmed in writing as being Confidential Information within a reasonable time after the initial disclosure. Confidential Information may also include information disclosed to a disclosing party by third parties. Confidential Information shall not, however, include any information which: (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party's files and records immediately prior to the time of disclosure; (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; (v) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession; or (vi) is required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

3. **Non-use and Non-disclosure.** Each party agrees not to use any Confidential Information of the other party for any purpose except to evaluate and engage in discussions concerning a potential business relationship between the parties. Each party agrees not to disclose any Confidential Information of the other party to third parties or to such party's employees, except to those employees of the receiving party who are required to have the information in order to evaluate or engage in discussions concerning the contemplated business relationship. Neither party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information and which are provided to the party hereunder.

4. **Maintenance of Confidentiality.** Each party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other party. Without limiting the foregoing, each party shall take at least those measures that it takes to protect its own most highly confidential information and shall ensure that its employees who have access to Confidential Information of the other party have signed a non-use and non-disclosure agreement in content similar to the provisions hereof, prior to any disclosure of Confidential Information to such employees. Neither party shall make any copies of the Confidential Information of the other party unless the same are previously approved in writing by the other party. Each party shall reproduce the other party's proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original.

5. **No Obligation.** Nothing herein shall obligate either party to proceed with any transaction between them, and each party

reserves the right, in its sole discretion, to terminate the discussions contemplated by this Agreement concerning the business opportunity.

6. **No Warranty.** ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS". EACH PARTY MAKES NO WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING ITS ACCURACY, COMPLETENESS OR PERFORMANCE.

7. **Return of Materials.** All documents and other tangible objects containing or representing Confidential Information which have been disclosed by either party to the other party, and all copies thereof which are in the possession of the other party, shall be and remain the property of the disclosing party and shall be promptly returned to the disclosing party upon the disclosing party's written request.

8. **No License.** Nothing in this Agreement is intended to grant any rights to either party under any patent, mask work right or copyright of the other party, nor shall this Agreement grant any party any rights in or to the Confidential Information of the other party except as expressly set forth herein.

9. **Term.** The obligations of each receiving party hereunder shall survive until such time as all Confidential Information of the other party disclosed hereunder becomes publicly known and made generally available through no action or inaction of the receiving party.

10. **Remedies.** Each party agrees that any violation or threatened violation of this Agreement may cause irreparable injury to the other party, entitling the other party to seek injunctive relief in addition to all legal remedies.

11. **Solicitation of Employees.** Each Party (FLVS and Customer/Licensee) agrees that, during the Term of this Agreement and for a period of twelve months following the termination of this Agreement for any reason, such Party shall not, directly or indirectly, on its own behalf or as a representative of any other person or entity, solicit or induce any employee of the other Party to terminate his or her employment relationship or to enter into employment with any other person or entity.

12. **Public Records.** Florida Virtual School is a public agency subject to Chapter 119, Florida Statutes. The Customer/Licensee shall comply with Florida's Public Records Law including: (a) keeping and maintaining public records that ordinarily and necessarily would be required by the FLVS Board of Trustees in order to perform the service; (b) providing the public with access to public records on the same terms and conditions that the FLVS Board of Trustees would provide the records and at a cost that does not exceed the cost provided in chapter or as otherwise provided by law; (c) ensuring that public records that are exempt or that are confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meeting all requirements for retaining public records and transfer at no cost to the FLVS Board of Trustees, all public records in possession of the Customer/Licensee upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the FLVS Board of Trustees in a format that is compatible with the information technology systems of the FLVS Board of Trustees. The parties agree that if the Customer/Licensee fails to comply with a public records request, then Florida Virtual School must enforce the contract provisions in accordance with the contract and as required by Section 119.0701, Florida Statutes.

**IF THE CUSTOMER/LICENSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CUSTOMER/LICENSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT [CustodianofRecords@flvs.net](mailto:CustodianofRecords@flvs.net) OR BY PHONE 407-513-3325, OR BY MAIL TO: 2145 METROCENTER BLVD., SUITE 100, ORLANDO, FL 32835.**

13. **Miscellaneous.** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one instrument. This Agreement shall bind and inure to the benefit of the parties hereto and their successors and assigns. This Agreement shall be governed by the laws of the State of Florida, without reference to conflict of laws principles. In any action arising out of or related to this Agreement, the parties hereto consent to the exclusive jurisdiction and venue in the courts located in the Orange County of Florida. This document contains the entire agreement between the parties with respect to the subject matter hereof, and neither party shall have any obligation, express or implied by law, with respect to trade secret or proprietary information of the other party except as set forth herein. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both parties hereto.