

**LICENSE AGREEMENT PURSUANT TO  
STATE OF FLORIDA DEPARTMENT OF EDUCATION  
CONTRACT NO. 11-813**

This License Agreement (“Agreement”), made and entered into as of the date upon which it is signed by both parties, is, by and between the entity signing below (the “Agency”) and Houghton Mifflin Harcourt Publishing Company, (the “Contractor”). This Agreement is entered into pursuant to Contract No. 11-813 (the “Contract”) by and between the State of Florida Department of Education (“Department”) and the Contractor. Only the Department, or an LEA as defined in the Contract, may be considered Agency for purposes of this Agreement.

1. Definitions. The definitions of the Contract are hereby incorporated herein by reference. In addition, the following terms shall have the meanings so ascribed:
  - 1.1. Agency Contributions means original works of authorship prepared by the Agency that relate to the Contract, and shall include the original portions only of Agency Derivative Works (but not the underlying Pre-existing Materials, Contractor Derivative Works or New Materials).
  - 1.2. Agency Derivative Works means derivative works of Pre-existing Materials, Contractor Derivative Works or New Materials created by the Agency or its authorized subcontractors pursuant to Section 3.4.
  - 1.3. Contractor Party(ies) may in any instance refer to the Contractor, the Subcontractor, and/or one or more of their affiliates or licensors providing Pre-existing Materials, Contractor Derivative Works or New Contractor Materials under the Contract or this Agreement.
  - 1.4. Material Owner means the owner(s) of a particular component of the Pre-existing Materials, Contractor Derivative Works or New Contractor Materials.
  - 1.5. Pre-existing Materials means all pre-existing materials and programs that are being provided as part of, or related to, the goods and services provided by the Contractor pursuant to the Contract, whether owned by the Contractor, the Subcontractor or another Contractor party. This term also includes all updates, upgrades, improvements, modifications, versions, etc. to such made by the Contractor Parties in the ordinary course of their product development during the lifetime of the Contract.
  - 1.6. New Materials means all Deliverables or other goods and/or services that are being provided as part of, or related to the goods and services provided by the Contractor pursuant to the contract that are not Pre-existing Materials or Contractor Derivative Works. Other than Pre-existing Materials and Contractor Derivative Works, all submissions and participation on the website will be owned by the Florida Department of Education at the end of the Contract as New Materials.
  - 1.7. Contractor Derivative Works means derivative works of Pre-existing Materials created pursuant to the Contract and/or this Agreement by one or more Contractor Parties.

- 1.8. Subcontractor means Learning Sciences International, LLC and any other subcontractor of Contractor under the Contract.
2. Ownership.
  - 2.1. Notwithstanding any provision of the Contract or this Agreement, the Contractor Parties own and shall continue to own the Pre-existing Materials and Contractor Derivative Works.
  - 2.2. Notwithstanding any provision of the Contract or this Agreement, the Department shall own all New Materials.
  - 2.3. Notwithstanding any provision of the Contract or this Agreement, the Agency shall own all Agency Contributions.
3. Licenses of Intellectual Property.
  - 3.1. The Contractor hereby grants to the Agency a non-exclusive, non-transferable, non-sublicensable, perpetual, limited license for the Agency to use, reproduce, and modify Pre-existing Materials and Contractor Derivative Works and create Agency Derivative Works therefrom for the purposes identified in the Contract. Except as otherwise identified in the Contract or this Agreement, this limited license may be transferred or sub-licensed solely to the extent necessary for the Agency, Department and LEAs to implement Section 3.2 below.
  - 3.2. The Agency hereby grants to the the Department and all other LEAs a non-exclusive, non-transferable, non-sublicensable, perpetual, limited license for the the Department and all other LEAs to use, reproduce, modify, and create derivative works from Agency Contributions. Should the Department or any other LEAs themselves create any Agency Contributions and/or Agency Derivative Works based upon the limited license in this Section 3.2, then such Agency Contributions and/or Agency Derivative Works shall likewise be licensed to the Department and all other LEAs as stated in the first sentence of this Section 3.2.
  - 3.3. The Department hereby grants to the Contractor a non-exclusive, non-transferable, sublicenseable, perpetual, limited licenses for the Contractor to use, reproduce, modify, create derivative works (which shall be considered additional New Materials) from, and distribute the New Materials.
  - 3.4. The Agency hereby grants to the Contractor a non-exclusive, non-transferable, non-sublicensable, perpetual, limited licenses for the Contractor to use, reproduce, modify, create derivative works from (which shall be considered Agency Contributions and/or Agency Derivative Works, as applicable), and distribute to the Agencies (i.e., Department or LEAs), Agency Contributions and/or Agency Derivative Works, as applicable, for the limited purpose of implementing the Contract and this Agreement for the Agencies (i.e., Department/LEAs). In the event that the Department, Agency, and/or Contractor wishes to negotiate a license of broader scope, the Department, Agency and or Contractor, as applicable, will negotiate the terms and conditions in a separate agreement.

- 3.5. The Agency may store, reproduce or modify the Pre-existing Materials and Contractor Derivative Works in any form, format or medium (now known or hereafter developed), provided that any Pre-existing Materials and Contractor Derivative Works (including when part of Agency Derivative Works) that are stored electronically or on the Internet will be protected by digital or logical security controls (e.g., required username and password) that are reasonably designed to ensure that the Pre-existing Materials and Contractor Derivative Works are accessible only to Agency and LEA employees or their sub-contractors as authorized herein.
- 3.6. The Agency, including without limitation its employees, agents and contractors, will not remove or alter any copyright or other proprietary rights notices contained within or on the Pre-existing Materials, Contractor Derivative Works and New Materials, including when reproduced as part of an Agency Derivative Work. Ensuring proper initial placement of copyright or other proprietary notices within or on the Pre-existing Materials, Contractor Derivative Works and New Materials is the responsibility of Contractor.
- 3.7. Upon the Agency contracting with a third party, and the third-party's execution of the license agreement attached hereto as Attachment "1", the Contractor grants the limited right to the third-party to act on behalf of the Agency pursuant to this Agreement and Attachment 1.
4. Public Records Requests. If a public records request is made for Pre-existing Materials or Contractor Derivative Works, including when reproduced as part of an Agency Derivative Work, the Agency will notify Contractor of such request in a timely manner so the Contractor or Materials Owner may intervene or otherwise come to an agreement with the Agency, regarding the release or refusal to release such records (provided that Contractor or Materials Owner shall in no case be required to consent to such release if such release is not required by law). Notwithstanding the foregoing, the Pre-existing Materials and Contractor Derivative Works shall be disclosed if otherwise required by law.
5. Parties Bound. This Agreement shall be binding on and inure to the benefit of the Agency and the Contractor, and their respective successors and assigns.
6. Additional Provisions. Paragraphs VIII, XIV, XXI, XXIII, XXIV, XXVII, XXVIII, and XXIX of Attachment C of the Contract are incorporated by reference herein and shall apply as if the Agency were the Department. Nothing herein shall be construed as waiving the sovereign immunity of the State of Florida.
7. Entire Contract. This Agreement constitutes the entire agreement between the Agency and the Contractor with respect to the subject matter hereof; all prior agreements, representations, statements, negotiations, and undertakings, with the exception of the Contract as applicable, are superseded hereby.

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the date upon which it is signed by both parties.

**AGENCY**

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
Date

NAME \_\_\_\_\_

TITLE \_\_\_\_\_

AGENCY NAME \_\_\_\_\_

**HOUGHTON MIFFLIN HARCOURT PUBLISHING COMPANY**

By: \_\_\_\_\_  
Agent authorized to sign on behalf of the Contractor

\_\_\_\_\_  
Date