

## LICENSE AGREEMENT FOR USE OF PRE-EXISTING MATERIALS AND INTELLECTUAL PROPERTY

This License Agreement (this "License Agreement") is entered into and effective as of the date signed below, and is by and between Houghton Mifflin Harcourt Publishing Company ("HMH") and Learning Sciences International, LLC ("LSI"; collectively with HMH, "Licensors"), and the party signing below ("Agency Sub-contractor"). This License Agreement is only valid and may only be signed by a sub-contractor hired by [blank to be filled in with Agency name at time of contract signing] ("the Agency") pursuant to the agreement titled "License Agreement Pursuant to State of Florida Department of Education Contract No. 11-813," (referred to herein as the "Agreement") of which this License Agreement is Attachment 1.

- (1) License. Subject to the terms and conditions contained herein and in the Agreement, Licensors grant Agency Sub-contractor a non-exclusive, non-transferrable, non-assignable, non sub-licensable, limited license, to act on behalf of Agency pursuant to the terms and conditions of the Agreement as regards to certain materials provided by Licensors under the Agreement ("Pre-existing Materials" and "Contractor Derivative Works").
- (2) Term and Termination. The term of this License Agreement ("Term") shall be concurrent with the term of the Agreement. Within twenty (20) days of the expiration of this License Agreement, Agency Sub-contractor will provide Licensors with written assurances that it has removed any copies of the Pre-existing Materials and Contractor Derivative Works, regardless of format, from its computers and any other platform, network or physical storage space on which or in which the Pre-existing Materials resided during the Term of this License Agreement.
- (3) Representations, Warranties, and Compliance with Laws. Agency Sub-contractor warrants and represents it has the full right, power, and authority to enter into this License Agreement and to perform its obligations hereunder and, that it will comply with all applicable federal, state, and local laws and regulations in the performance of the terms of this License Agreement.
- (4) Indemnification. Agency Sub-contractor shall defend, indemnify and hold the Department, Agency, and Licensors, their affiliates and their respective officers, directors, employees, and agents harmless against any losses, damages, liabilities, costs or expenses, including attorneys' fees and costs of settlement, asserted by any third party and arising out of any claim due to: (i) Agency Sub-contractor's breach of its representations, warranties or agreements hereunder; or (ii) Agency Sub-contractor's infringement of Licensors' copyright, trademark or any other intellectual property rights.
- (5) No Representations or Warranties; Defense of Claims. Licensors make no representations or warranties of any kind to Agency Sub-contractor, including without limitation any implied warranties of merchantability, fitness for a particular purpose or noninfringement. The Pre-existing Materials and Contractor Derivative Works are licensed to Agency Sub-contractor on an "as-is, where-is" basis. However, Licensors will defend or settle, at their sole discretion and expense, any third party claims made against the Agency Sub-contractor asserting that the Pre-existing Materials or Contractor Derivative Works licensed hereunder (and not any modifications thereof) infringe the copyright, trade secret, or U.S. patent of such third party. The Agency Sub-contractor shall promptly notify the Licensors of any such claim. The Licensors shall assume the handling, settlement, and/or

defense of any claim or litigation, and the Agency Sub-contractor shall cooperate in the defense thereof. The Licensors will not be liable for legal fees or other costs incurred prior to the Agency Sub-contractor giving notice of the claim for which defense is sought or for any separate counsel engaged by the Agency Sub-contractor.

(6) Entire Agreement; Amendment; Assignment. This License Agreement constitutes the entire understanding of the Agency Sub-contractor and Licensors, and revokes and supersedes all prior agreements between the parties relating to the subject matter hereof, and is intended as a final expression of the parties' agreement. This License Agreement shall not be modified or amended except in writing by authorized representatives of Licensors and Agency Sub-contractor. Approval of the Agency shall be first obtained. No party shall have the right to assign this License Agreement or any rights and privileges hereunder without the prior, written consent of the other parties, such consent not to be unreasonably withheld.

(7) Notices. All notices or other documents to be made under this License Agreement shall be in writing and shall be deemed to have been duly given or made when personally delivered, e-mailed, sent via facsimile, or, if mailed, postage prepaid, registered or certified mail, or by Federal Express, UPS or DHL to the parties at the addresses provided herein:

If to LSI:

with a copy to:

Learning Sciences International  
Michael Toth, CEO  
221 W. Philadelphia Street  
Suite 112E  
York, Pennsylvania 17401

Michael A. Doctrow, Esquire  
McNees Wallace & Nurick LLC  
100 Pine Street, P. O. Box 1166  
Harrisburg, PA 17108-1166

If to HMMH:

with a copy to:

Houghton Mifflin Harcourt  
Publishing Company  
222 Berkeley Street  
Boston, MA 02116  
Attn: David West

Houghton Mifflin Harcourt  
Publishing Company  
222 Berkeley Street  
Boston, MA 02116  
Attn: Kelly Riedel

If to Agency Sub-contractor:

with a copy to:

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Attention: \_\_\_\_\_

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\_\_\_\_\_  
Attention: \_\_\_\_\_

(8) Survival. Sections 2 through 8, inclusive hereof shall survive and continue in effect following the termination or expiration of this License Agreement.

**[name of Agency Sub-contractor]**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Signature: \_\_\_\_\_