



This Online Educational Products and Services Order (this "Order"), dated as of July 1, 2015 (the "Order Effective Date"), is between SCHOOL BOARD OF SANTA ROSA COUNTY, 5086 Canal St., Milton, FL, 32570 ("Customer") and K12 Florida LLC ("K12"), 2300 Corporate Park Drive Herndon, VA 20171. This Order incorporates and is in all respects subject to the FuelEd Online Educational Products and Services Agreement Terms (the "Terms") attached hereto as Exhibit B, on the date that this Order bears the signatures of both Customer and K12. All capitalized terms that are not defined in this Order will have the meanings assigned to those terms in the Terms. I am authorized by Customer to enter into this Order for the products, services and licenses indicated herein, at the prices set forth below and pursuant to the Terms.

Accepted by Customer

\_\_\_\_\_ (Signature) \_\_\_\_\_ (Date)

\_\_\_\_\_ (Print Name) \_\_\_\_\_ (Title)

Accepted by K12:

\_\_\_\_\_ (Signature) \_\_\_\_\_ (Date)

\_\_\_\_\_ (Print Name) \_\_\_\_\_ (Title)

1. Period: July 1, 2015 through June 30, 2016 and is not eligible for a renewal period.
2. Territory: Santa Rosa, FL
3. For the Full-time School Comprehensive Services and/or Products provided under this Order, Customer shall pay to FuelEd and/or its Affiliates the following Fees:

(a) Florida VIP Program Products and Services Fees

Product	Product Description	Sales Price
Training: Annual User License	Access for one user to all asynchronous courses, continued education online training sessions, and on-demand training materials and video.	\$550.00
Student Desktop Computer	Desktop computers for students.	\$525.00
FTS Comprehensive 9-12 Student License (6 Courses, Instruction)	9-12 FTS Comprehensive Program with FuelEd teachers for 6 courses per student.	\$4,295.00
FTS Comprehensive K-8 Student License (4 Courses)	K-8 FTS Comprehensive Program for 4 courses per student.	\$1,820.00
K12 Instructor Materials K-8	K12 instructor course materials for six courses in a single grade, K-8.	\$400.00

FTS Comprehensive K-8 Student License (5 Courses)	K-8 FTS Comprehensive Program for 5 courses per student.	\$2,160.00
FTS Comprehensive K-8 Student License (6 Courses)	K-8 FTS Comprehensive Program for 6 courses per student.	\$2,500.00
FTS Comprehensive K-8 Student License (6 Courses, Instruction)	K-8 FTS Comprehensive Program with FuelEd teachers for 6 courses per student.	\$4,295.00
K12 K-8 Online Course Enrollment License (Content, Hosting)	License for a single student in a K12 Standard K-8 year course. Includes content and hosting.	\$340.00
K12 K-8 Online Course Enrollment License (Content, Hosting, Instruction)	License for a single student in a K12 Standard K-8 year course. Includes content, hosting and instruction.	\$590.00

(b) Standard (Non-VIP Program) Products and Services

Product	Product Description	Sales Price
AP Online Course Enrollment License (Content, Hosting, Instruction)	License for a single student in a FuelEd Online AP semester course. Includes content, hosting and instruction.	\$245.00
HS Online Course Enrollment License (Content, Hosting, Instruction)	License for a single student in a FuelEd Online Standard HS semester course (non-AP). Includes content, hosting and instruction.	\$225.00
MS Online Course Enrollment License (Content, Hosting, Instruction)	License for a single student in a FuelEd Online Standard MS semester course (non-AP). Includes content, hosting and instruction.	\$225.00
AP Online Course Enrollment License (Content, Hosting)	License for a single student in a FuelEd Online AP semester course. Includes content and hosting.	\$50.00
AP Exam Review Course Enrollment License (Content, Hosting)	License for a single student in an AP Exam Review course. Includes content and hosting.	\$35.00
CR Online Course Enrollment License (Content, Hosting)	License for a single student in a FuelEd Online Credit Recovery semester course. Includes content and hosting.	\$50.00
HS Online Course Enrollment License (Content, Hosting)	License for a single student in a FuelEd Online Standard HS semester course (non-AP). Includes content and hosting.	\$50.00
MS Online Course Enrollment License (Content, Hosting)	License for a single student in a FuelEd Online Standard MS semester course (non-AP). Includes content and hosting.	\$50.00

**4. Description of Educational Products.** Customer will be provided the Educational Products specified in this order.

**K12 Courses:** for student taking 1 to 3 courses, including, but not limited to, summer program enrollments.

**FuelEd Full-time School Comprehensive Program for Students Taking 4 to 6 courses** The full-time FuelEd program consists of three components: 1) courses, 2) materials and 3) educational tools and services.

**Courses:**

An enrollment portal into which Customer will enroll its students in the Territory into available K12 courses including Language Arts/English, Math, Science, History, Art, Music, available World Languages and, for grades 9 to 12, electives. Customer is responsible for determining the proper placement of students in appropriate courses. Within two (2) weeks following FuelEd's receipt of a completed account set-up form from Customer, FuelEd will provide access for Customer to enroll its students.

A Learning Management System (LMS) or "FuelEd Hosting Services" for the delivery of FuelEd courses and access to a synchronous collaboration tool and system generated reports on academic performance, attendance and progress.

**Materials:**

Instructional text or e-books, supplies and teaching tools (collectively, "Materials") for K-8 students. Materials for Customer's teachers and High School students are ordered separately. A complete list of required materials may be accessed at <http://www.getfueled.com/required-materials>. FuelEd will reclaim durable Materials by informing Customer and/or its students which Materials need to be returned and providing pre-paid return shipping labels. FuelEd Materials are intended solely for the use of the teachers and the students enrolled in FuelEd courses to whom FuelEd provides the Materials. Customer shall not transfer or resell the Materials to any other person. If a replacement component is required or a durable Material is not returned, the Customer will be invoiced for the component or Materials (plus shipping, if applicable). Customer will provide FuelEd with reasonable assistance in obtaining durable Materials from students and their parents.

**Educational Tools and Services:**

FuelEd will provide a variety of educational tools and services, depending on the individual needs of the Customer. Such tools and services may include, but are not limited to program launch and operational support, an online parent/mentor information session, learning management and technical support on FuelEd products and services. FuelEd will also provide supervision and implementation of year-end system rollovers.

Additional tools to assist teachers may include, but are not limited to, supplemental tests and study assistance, diagnostic tests, FuelEd's Strategies for Success, access to an online community, an orientation course package, a teacher hotline and support website ("Service Station"), access to a counseling system for high school students, a school messenger telephony service with automated alerts and a tool to assist identification of plagiarism.

**FuelEd Online Courses:** FuelEd's expansive course catalog covers all core subjects, six world languages, dozens of electives, and 19 high school credit recovery courses. This option enables students and educators to license courses on an individual basis. FuelEd may from time to time, in its sole discretion, deliver or otherwise make available to Customer certain updated courseware, which such updates shall also be subject to all of the Terms. Customer acknowledges and agrees that certain courseware and updates thereto may be designed to utilize separate textbook products or course materials and Customer shall be responsible for procuring such materials. A complete list of required materials may be accessed at <http://www.getfueled.com/required-materials>

A Learning Management System (LMS) or "FuelEd Hosting Services" for the delivery of FuelEd courses and access to a synchronous collaboration tool and system generated reports on academic performance, attendance and progress.

## **5.Description of Services.**

Instructional Services: Customer will be provided licensed teachers for instruction to enrolled students for selected courses.

FuelEd Hosting Solution: The set-up, configuration and hosting of the applicable courseware for the delivery of FuelEd courses, solely for the provision of educational services to its students in the Territory enrolled in Customer's educational programs.

## **6.Billing Terms.**

K12 Course Terms: Special course material fee applies to lab sciences, advanced placement and technology courses. A complete list of required materials may be accessed at <http://www.getfueled.com/required-materials>

FuelEd Course Terms Florida: FuelEd provides a 28-day grace period for students who enroll. If a student withdraws within 28 days from when the student enrolls, FuelEd will refund 100% of the course fees but only if this withdrawal was received in writing by FuelEd by fax or email before the grace period ended. Enrollments under the subscription license model will be invoiced on a monthly basis.

## EXHIBIT A

### FLORIDA AMENDMENT TO THE ONLINE EDUCATIONAL PRODUCTS AND SERVICES ORDER

This Amendment is entered into between Customer and K12, 2300 Corporate Park Drive, Herndon, VA 20171 as of the date on which it bears the authorized signatures of both parties and is intended to amend only the terms and conditions of the Online Educational Products and Services Order ("Order") and the K12 Online Educational Products and Services Agreement Terms (the "Terms") that are incorporated into said Order (Exhibit B, below).

The following Florida Virtual Instruction Program Requirements §1002.45 shall be added to the K12 Online Educational Products and Services Agreement Terms (the "Terms"). In the event of a conflict between the Amendment and the Order or Terms, this Amendment shall control. **Note: This Amendment is only applicable to products and services ordered under the Florida Virtual Instruction Program delineated in Section 3(b).**

1. K12 shall comply with all statutory requirements of § 1002.45 F. S.
2. K12 represents that to the best of its knowledge, all curriculum provided complies in all material respects to the Florida Next Generation Sunshine State Standards for Each grade level and subject. Detailed course, and unit descriptions for grades K-8 are available at <http://www.k12.com/courses/k-8-courses> and for high school at <http://www.k12.com/courses/high-school-courses> and <http://aventallearning.com/state-standards/florida>

All courses include detailed assessments to ensure student mastery of Florida requirements. Details about the assessments are available from the Florida Department of Education in the K12 Florida LLC provider application.

3. In the event K12 provides products and services to students in grades 9 through 12, as required by § 1003.428, s. §1003.429, or s. §1003.43 K12 shall provide a method for determining that a student has satisfied graduate requirements for an applicable course. K12 provides a percentage grade to the customer and the customer can use these percentage grades within their own system. K12 does not assign letter grades. Schools can make the determination regarding how best to use the information supplied.
4. **TEACHER RATIOS:** K<sup>12</sup> takes into account the needs of the individual students, families, schools and teachers in assigning teacher loads. Student-teacher ratios will vary program to program. An average ratio for grades K-3 full-time is 65:1, grades K-3 part-time (0.5 teacher) is 30:1, 4<sup>th</sup>-8<sup>th</sup> grade full-time is 65:1, 4<sup>th</sup>-8<sup>th</sup> grade part-time (0.5 teacher) is 30:1. In high school grades 9<sup>th</sup>-12<sup>th</sup> core courses with full-time teachers have an average ratio of 200:1. Part-time teacher ratios for 9<sup>th</sup>-12<sup>th</sup> grade core courses are broken down as follows: 0.75 part-time teachers have a 150:1 ratio, 0.5 part-time teachers have a 100:1 ratio, and 0.25 part-time teachers have a 50:1 ratio. 9<sup>th</sup>-12<sup>th</sup> grade elective courses with full-time teacher ratios are 250:1.
5. Method for resolving conflicts among parties:  
**DISPUTE RESOLUTION:** The parties agree that they will use their best efforts to settle any and all disputes arising out of, under or in connection with this Agreement, including without limitation the validity, interpretation, performance and breach hereof, prior to initiating any legal proceeding, whether judicial or administrative in nature. The efforts shall be primarily between the Executive Vice President of Operations for K12 and the Superintendent of the Customer or their respective designees. The laws of the State of Florida, without regard to its conflict of laws provisions, will govern all disputes arising out of or related to this Agreement, including the validity, enforceability or construction thereof. Each party submits to the jurisdiction of the state and federal courts located in the State of Florida for purposes of any action, suit or proceeding arising out of or related to this Agreement and agrees not to plead or claim that any action, suit or proceeding arising out of or related to this Agreement that is brought in such courts has been brought in an inconvenient forum.
6. Authorized reasons for termination of contract:

**NOTICE OF NON-RENEWAL:** The period of this Agreement is as specified in the Order ("Period"). Following the Subscription Period, this Agreement will automatically extend for successive additional Subscription Periods of one (1) year (each such period a "Renewal Period"), unless (a) either party provides the other with written notice of non-renewal at least six (6) months before the expiration of the then-current Subscription Period or Renewal Period (as applicable); (b) the Agreement is sooner terminated under the section labeled Termination; or (c) the Customer (as defined in the Order) provides K12 with written notice of non-renewal as set forth under the section of these K12 Online Educational Products and Services Agreement Terms labeled Price And Payment.

**TERMINATION FOR CAUSE:** Either party may terminate this Agreement at any time with ninety (90) days' prior written notice to the other party for cause. Termination for cause may be used if a party breaches any material term or fails to

fulfill any representation, warranty, or material condition, term, provision or obligation contained in this Agreement and fails to cure within thirty (30) days of such notice from the terminating party. Upon termination, the non-breaching party shall be entitled to seek any remedies to which it shall be entitled at law or in equity. If any change in applicable law that is enacted after the date hereof could reasonably be expected to have a material adverse effect on the ability of any party to carry out its obligations under this Agreement, such party, upon written notice to the other party may request renegotiation of this Agreement. Such renegotiation shall be undertaken in good faith. If the parties are unable to renegotiate and agree upon revised terms within 120 days of such notice of renegotiation, then this Agreement shall be terminated effective at the end of the school year in which such notice was given. Termination of this Agreement does not relieve Customer of any obligations for payments outstanding to K12 as of the date of termination and does not relieve either party of any obligations that continue upon termination.

**TERMINATION DUE TO ANNUAL FEE INCREASE:** K12 reserves the right to change the prices set forth in any Order no more often than once per Renewal Period (if any). K12 will provide written notice of any price increase to Customer at least ninety (90) days' prior to the start of the Renewal Period (if any) for which it would be applicable. Customer may, in its sole discretion, terminate the Agreement within thirty (30) days of such notice. Such termination will be effective at the end of the then-current Period or Renewal Period (if any).

7. As required by Florida statute, K12 shall be responsible for all debts for the Customer's virtual instruction program that arise out of K12's performance of this contract if the contract is not renewed or is terminated. This does not excuse the Customer from paying any obligations incurred resulting from its obligations under this contract or from the payment of any debts incurred under this contract for termination, unless such termination is as provided for under the clause titled Termination for Cause.

8. The Section of the Terms labeled **Price and Payment** is revised to read:

**PRICE AND PAYMENT:** The prices and billing terms for the products, services, and licenses will be as set forth in this Amendment. Invoices shall be submitted to Customer by K12 and full payment of such invoices shall be due by Customer no more than forty five (45) days from the date of an invoice. If full payment is not timely received, K12, in its sole discretion, may cease the provision of any or all products, services and licenses. Customer agrees to pay interest at one percent (1%) per month on any unpaid balance from 30 days after the due date in accordance with the Local Governmental Prompt Payment Act, Fla. St. Chapter 218. If Customer wishes to dispute any charge invoiced to Customer by K12 or its Affiliates, Customer must submit a good faith claim regarding the Disputed Amount, in a format clearly delineated to coincide with the format of the disputed invoice and with documentation as may reasonably be required by K12 and its Affiliates to support the claim no later than ninety (90) days after the date of the invoice.. K12 will provide written notice of any price increase to Customer at least ninety (90) days' prior to the start of the Renewal Period (if any) for which it would be applicable. Customer may, in its sole discretion, terminate the Agreement within thirty (30) days of such notice. Such termination will be effective at the end of the then-current Period or Renewal Period (if any).

9. All other terms, conditions and provisions of the Order and Terms remain in full force and effect.

For K12:

\_\_\_\_\_(signature)  
\_\_\_\_\_(title)  
\_\_\_\_\_(date)

For Customer:

\_\_\_\_\_(signature)  
\_\_\_\_\_(title)  
\_\_\_\_\_(date)

## **EXHIBIT B**

### **K12 / FuelEd Products and Services Agreement Terms**

**PERIOD:** The period of this Agreement is as specified in the Order ("Period"). Following the Subscription Period, this Agreement will automatically extend for successive additional Subscription Periods of one (1) year (each such period a "Renewal Period"), unless (a) either party provides the other with written notice of non-renewal at least six (6) months before the expiration of the then-current Subscription Period or Renewal Period (as applicable); (b) the Agreement is sooner terminated under the section labeled Termination; or (c) the Customer (as defined in the Order) provides K12 Florida LLC ("K12") with written notice of nonrenewal as set forth under the section of these K12 Online Educational Products and Services Agreement Terms labeled Price And Payment.

**DESCRIPTION OF SERVICES:** Customer will be provided with those products and services, including where applicable a limited, non-exclusive, nontransferable license, without sublicense rights, for access to K12 or its Affiliates online courses, curriculum, learning management system and applicable instructional tools and online services, for the Period and Renewal Period (if any).

**PRICE AND PAYMENT:** The prices and billing terms for the products, services, and licenses will be as set forth on the Order, except as set forth herein. Invoices shall be submitted to Customer by K12 or its Affiliates and full payment of such invoices shall be due by Customer no more than thirty (30) days from Customer's receipt of an invoice. If full payment is not timely received, K12, in its sole discretion, may cease the provision of any or all products, services, and licenses. Customer agrees to pay interest at one and one quarter percent (1.25%) per month on any unpaid balance from the due date. If Customer wishes to dispute any charge invoiced to Customer by K12 or its Affiliates, Customer must submit a good faith claim regarding the Disputed Amount, in a format clearly delineated to coincide with the format of the disputed invoice and with documentation as may reasonably be required by K12 and its Affiliates to support the claim no later than ninety (90) days after the date of the invoice. K12 reserves the right to change the prices set forth in any Order no more often than once per Renewal Period (if any). K12 will provide written notice of any price increase to Customer at least ninety (90) days' prior to the start of the Renewal Period (if any) for which it would be applicable. Customer may, in its sole discretion, terminate the Agreement within thirty (30) days of such notice. Such termination will be effective at the end of the then-current Period or Renewal Period (if any).

**TAXES:** Customer represents that it is exempt from sales and use taxes imposed by the state and local governmental divisions in which it is located. Customer must provide K12 with Customer's exemption certificates or other proof of Customer tax-exempt status reasonably acceptable to K12.

**TERMINATION:** Either party may terminate this Agreement at any time with ninety (90) days' prior written notice to the other party for cause. Termination for cause may be used if a party breaches any material term or fails to fulfill any representation, warranty, or material condition, term, provision or obligation contained in this Agreement and fails to cure within thirty (30) days of such notice from the terminating party. Upon termination, the non-breaching party shall be entitled to seek any remedies to which it shall be entitled at law or in equity. If any change in applicable law that is enacted after the date hereof could reasonably be expected to have a material adverse effect on the ability of any party to carry out its obligations under this Agreement, such party, upon written notice to the other party may request renegotiation of this Agreement. Such renegotiation shall be undertaken in good faith. If the parties are unable to renegotiate and agree upon revised terms within 120 days of such notice of renegotiation, then this Agreement shall be terminated effective at the end of the school year in which such notice was given. Termination of this Agreement does not relieve Customer of any obligations for payments outstanding to K12 as of the date of termination and does not relieve either party of any obligations that continue upon termination.

**INFORMATION REQUIREMENTS:** Customer will provide K12 with all information reasonably required by K12 to provide the products, services, and licenses.

**FERPA AND CONFIDENTIALITY:** If Customer is a public entity receiving federal Title I funds, Customer represents that K12 is a "school official" with a "legitimate educational interest" under the definitions of those terms set forth in the Customer's Family Educational Rights and Privacy Act ("FERPA") notification(s) to students and parents during the Period and Renewal Periods (if any) of this Agreement. K12 agrees to develop, implement, maintain and use

appropriate administrative, technical or physical security measures to the full extent required by FERPA in order to maintain the confidentiality of "education records" as that term is defined by FERPA. Customer recognizes and agrees that for purposes of all applicable laws, K12 has a legitimate educational interest for purposes of Customer disclosing to K12 students' education records. Regardless of whether Customer is a public entity receiving federal Title I funds, to the extent permitted by applicable law K12 or its affiliates may provide Customer with confidential information (as designated by K12) required by Customer in writing for its internal use or reporting to regulatory authorities. Customer agrees to develop, implement, maintain and use appropriate administrative, technical or physical security measures to maintain the confidentiality of such confidential information.

**SPECIAL EDUCATION AND DISABILITIES:** If Customer is a public entity receiving federal Title I funds, Customer agrees that it is the Local Educational Agency responsible for the provision of special education. The provision of special education, the creation, implementation or provision of Individualized Education Programs, the provision of reasonable accommodations or any services of any nature under the Individuals with Disabilities Education Act, the Americans with Disabilities Act, section 504 of the Rehabilitation Act or any similar law, whether federal, state or local are not services provided under this Agreement. Notwithstanding the foregoing, during the Period and Renewal Period (if any) of this Agreement, K12 will discuss, formulate and make adjustments and accommodations in furtherance of IEPs or reasonable accommodations established by Customer, but solely to the extent that K12 may do so without incurring direct or indirect costs.

**PUBLICITY:** During the Period and Renewal Period (if any) of this Agreement, Customer hereby agrees that K12 and its Affiliates shall have the right, but not the obligation, to list Customer as a customer in other materials promoting the Content. K12 will remove Customer's name from any such list within thirty (30) days after any termination of this Agreement.

**AUDIT RIGHTS:** This paragraph shall only be applicable if a Non-Hosted Solution is applicable to the order. Customer shall maintain books and records in connection with its use of the non-hosted courses for the Period of this Agreement and for at least three (3) years after the date this Agreement terminates or expires. K12 or its representatives may audit the relevant books and records of Customer during the Period of this Agreement, and for three (3) years after the expiration of this Agreement to ensure compliance with this Agreement. Any such audit shall be conducted during regular business hours at Customer's facilities and shall not unreasonably interfere with Customer's business activities. Audits shall be conducted no more than once annually. If an audit reveals that Customer has underpaid fees due to K12 or its Affiliates, all such fees shall be paid immediately, together with interest at the rate of prime plus one percent (1%); and in the event such underpayment is in excess of five percent (5%) of the total owed to K12 or its Affiliates for any given audit period, then Customer shall, in addition, reimburse to K12 or its Affiliates the reasonable costs of conducting the audit. In connection with the license grants set forth in these Terms, (i) K12 or its Affiliates may monitor actual usage of the courses and (ii) at periodic intervals designated by K12 or its Affiliates in accordance with its then current practices, may request that Customer deliver to K12 or its Affiliates in writing a summary of the actual number of students that are currently enrolled and using the courses. Unless otherwise set forth in the applicable Order, all license Fees shall be payable in accordance with the number of students determined pursuant to the Reporting Process.

**WARRANTY:** K12 warrants that the services will be performed in a professional and workmanlike manner in accordance with commercially reasonable industry standards. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND K12 MAKES NO GUARANTEES AS TO THE RESULTS OR ACHIEVEMENTS OF THE STUDENTS. WITHOUT LIMITING THE FOREGOING, K12 MAKES NO GUARANTEES AND SHALL NOT BE LIABLE FOR OUTAGES OR OTHER NON-ACCESSIBILITY TO THE K12 WEBSITE, END-USER CONNECTION SPEED OR CONNECTIVITY PROBLEMS REGARDLESS OF THE CAUSE. K12 OFFERS NO WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCTS OR SERVICES PROVIDED PURSUANT TO THIS AGREEMENT. K12 DOES NOT WARRANT THAT USE THE SITE OR CONTENT WILL BE UNINTERRUPTED OR ERROR-FREE, THAT ERRORS WILL BE CORRECTED OR THAT IT WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

**INTELLECTUAL PROPERTY:** Customer acknowledges and agrees that all courses, content, software, graphics, pictures, documents, licenses, designs, and materials, and any and all derivatives thereof (collectively, Works) made

available to Customer pursuant to this Agreement are protected by copyrights, trademarks, service marks, patents, trade secrets, or other proprietary rights and laws and K12 (or its Affiliates or licensors) own all right, title and interest in and to the Works. Customer acknowledges and agrees that it has no intellectual property interest or claims in the Works and has no rights to make any use of such Works except as expressly granted herein. Except as expressly authorized in writing by an officer of K12, Customer agrees not to sell, license, sublicense, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit, or create derivative works from any of the Works. Customer will not act or permit any action that would impair any of K12's (or its Affiliates' or licensors') rights in the Works. Customer agrees not to: (a) disassemble, reverse compile, reverse engineer or otherwise attempt to discover the source code of or trade secrets embodied in the Works (or any portion thereof); (b) distribute, lend, rent, sell, transfer, or grant sublicenses to, or otherwise make available the Works (or any portion thereof) to third parties, including, but not limited to, making such Works available (i) through resellers, OEMs, other distributors, or (ii) as an application service provider, service bureau, or rental source, unless expressly permitted in the Order; (c) embed or incorporate in any manner the Works (or any element thereof) into other applications of Customer or third parties; (d) use or transmit the Works in violation of any applicable law, rule or regulation, including any export/import laws, (e) in any way access, use, or copy any portion of the Works (including the logic and/or architecture thereof and any trade secrets included therein) to directly or indirectly develop, promote, distribute, sell or support any product or service that is competitive with the Works, (f) remove, obscure or alter any copyright notices or any name, logo, tagline or other designation of K12 or its Affiliates displayed on any portion of the Works. Customer shall not permit any third party to perform any of the foregoing actions and shall be responsible for all damages and liabilities incurred as a result of such actions. Customer acknowledges that in the event Customer breaches any provision contained in this paragraph, K12's interests will be irreparably injured, the full extent of K12's damages may be impossible to ascertain, and monetary damages will not be an adequate remedy. Customer agrees that K12 will be entitled to enforce this agreement by an injunction or other legal or equitable relief in any court of its choice without the necessity of posting bond or security, in addition to its right to seek monetary damages or any other remedy.

**INDEMNIFICATION AND LIMITATION OF LIABILITY:** K12 agrees to defend, indemnify, and hold harmless Customer and its employees, contractors, officers, and board members from and against any and all liabilities, claims, damages, injuries, judgments, demands and expenses, including court costs and attorney's fees, that arise out of or in connection with any acts or omissions of K12 related to or arising from this Agreement (collectively "Claims") except to the extent that such Claims arise out of actions or omissions of Customer and subject to the conditions precedent that a) Customer provide written notice to K12 within thirty (30) days of its receipt of the Claim and b) Customer permits K12 to assume the control and defense of the Claim with counsel selected by K12. **IN NO EVENT SHALL K12'S LIABILITY TO CUSTOMER AND ITS EMPLOYEES, CONTRACTORS, OFFICERS AND BOARD MEMBERS UNDER THIS AGREEMENT OR FOR ANY MATTER OR CAUSE OF ACTION ARISING IN CONNECTION HERewith EXCEED THE AMOUNT PAID BY CUSTOMER TO K12 HEREUNDER. IN NO EVENT SHALL K12 BE LIABLE TO CUSTOMER, WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR SPECIAL DAMAGES (INCLUDING ANY DAMAGE TO BUSINESS REPUTATION, LOST PROFITS OR LOST DATA), WHETHER FORESEEABLE OR NOT AND WHETHER K12 IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.** To the extent permitted by law, Customer agrees to defend, indemnify, and hold harmless K12 and its Affiliates and all of their employees, contractors, officers, and board members from and against any and all liabilities, claims, damages, injuries, judgments, demands and expenses, including court costs and attorney's fees, that arise out of or in connection with any acts or omissions of Customer related to or arising from this Agreement (collectively "Claims") except to the extent that such Claims arise out of actions or omissions of K12 and subject to the conditions precedent that a) K12 provide written notice to Customer within thirty (30) days of its receipt of the Claim and b) K12 permits Customer to assume the control and defense of the Claim with counsel selected by Customer.

**DISPUTE RESOLUTION:** The parties agree that they will use their best efforts to settle any and all disputes arising out of, under or in connection with this Agreement, including without limitation the validity, interpretation, performance and breach hereof, prior to initiating any legal proceeding, whether judicial or administrative in nature. The efforts shall be primarily between the President of K12 and the Superintendent of the Customer or their respective designees. The laws of the Commonwealth of Virginia, without regard to its conflict of laws provisions, will govern all disputes arising out of or related to this Agreement, including the validity, enforceability or construction thereof. Each party submits to the jurisdiction of the state and federal courts located in the Commonwealth of Virginia for purposes

of any action, suit or proceeding arising out of or related to this Agreement and agrees not to plead or claim that any action, suit or proceeding arising out of or related to this Agreement that is brought in such courts has been brought in an inconvenient forum.

MISCELLANEOUS: a) A waiver of any part of this Agreement in one instance is not a waiver of any other part or any other instance; b) If any part of this Agreement is held invalid or if the applicability of any part of this Agreement is held invalid to a particular set of circumstances for any reason, such holding or declaration shall not in any way affect or impair the remaining provisions or the application to a different set of circumstances; c) Except as otherwise provided in this Agreement, neither party may assign or delegate any rights or obligations under this Agreement without the prior written consent of the other party and any such assignments shall be void and of no effect, except that K12 may assign all of its rights and obligations under this Agreement to any person or entity that controls K12, is controlled by K12, or is under common control with K12 or to any successor in interest that acquires all or substantially all of the assets of K12; d) This Agreement does not create any legal or equitable rights on the part of any third party, as a third party beneficiary or otherwise; e) K12 is not a division or any part of Customer. Customer is not a division or any part of K12. Nothing herein is intended to be construed as or to create a partnership or joint venture by or between K12 and Customer; f) Notwithstanding any other section of this Agreement, no party will be liable for any delay in performance or, except with respect to payment hereunder, inability to perform due to acts of God or due to war (declared or undeclared), riot, terrorism, civil war, embargo, fire, flood, explosion, sabotage, labor strike, internet outage or other acts beyond its reasonable control and unrelated to its fault or negligence; g) Customer and all users of licensed products shall comply with the terms and conditions of the Terms of Use pertaining to the use of courseware, web sites and learning management systems, as such terms are set forth therein; h) All representations, warranties and indemnities made in this Agreement will survive termination of this agreement; i) This Agreement and the documents to which it refers form the entire Agreement between the parties with respect to the subject matter herein. Customer may not rely on any other documents, proposals, statements, or representations by any sales or service representatives or other parties, unless expressly contained herein; j) Fuel Education LLC will provide all services, licenses and materials under this Agreement either directly or in conjunction with its Affiliates. An "Affiliate" of Fuel Education LLC is an entity that controls, is controlled by, or under common control with, Fuel Education LLC and "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of an entity, whether through the ownership of securities, by contract or otherwise. Fuel Education LLC and its Affiliates shall be referred to collectively as K12; k) All written notices required by the terms of this Agreement will be sent to the Superintendent of the Customer at the address set forth above and to the General Counsel of K12 at 2300 Corporate Park Drive, Herndon, VA 20171 (and such addresses may be changed upon proper notice to such addressees). Notice may be given by either certified or registered mail, postage prepaid, return receipt requested, or reputable overnight carrier, postage prepaid and is deemed to have been given three days after mailing or, as to overnight delivery, on the date of personal delivery to the address stated thereon.