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Premium Content Site License Agreement

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4. **Subscription Fee and Terms of Activation**

a) **Subscription Fee.** Licensee shall pay EPE the following annual subscription fee in U.S. dollars: $000 for IP site license plan.

b) **Activation of Licensee Account.** Within five (5) business days of EPE’s receipt of all information to be provided by Licensee, Licensee’s account shall be activated and Licensee and Authorized Users shall be provided with access to Licensed Content. Upon activating Licensee’s account, EPE shall issue an invoice to Licensee, requesting payment of the subscription fee set forth in Section 4(a). Licensee shall pay this subscription fee in full within thirty (30) days following the date of the invoice. If Licensee fails to pay any initial, adjusted or additional subscription fee in full in a timely manner, EPE shall be entitled to terminate this Agreement and disable Licensee’s access to Licensed Content.

c) **Adjustment of Subscription Fee, Subscription Plan, or Number of Authorized Users or Authorized Sites upon Renewal.** By providing the other party with sixty (60) days’ notice prior to the applicable renewal date, EPE may adjust the subscription fee to be paid by Licensee upon each renewal term, and Licensee may freely change its subscription plan or number of Authorized Users or Authorized Sites. Payment for each renewal term will be due and payable upon the renewal date, which shall be the applicable anniversary of the Effective Date. If Licensee wishes to add Authorized Users or Authorized Sites, Licensee shall so request EPE so that EPE can calculate any appropriate additional subscription fee. Within five (5) business days of an addendum to this Agreement adding the new Authorized Users or Authorized Sites, access for the additional Authorized Users or Authorized Sites shall be granted with a corresponding invoice issues to Licensee for payment in full within thirty (30) days following the date of the invoice.

d) **Taxes.** Except as otherwise exempt from taxes, Licensee shall be responsible for paying all applicable taxes resulting from its receipt of access to Licensed Content and services relating to the Licensed Content pursuant to this Agreement, except for any taxes that may be based on EPE’s income.

5. **Term and Termination**
a) **Term and Renewal.** The initial term of this Agreement will begin on the Effective Date and continue for one (1) year. Thereafter, the Agreement will automatically renew for successive one (1) year terms, with each renewal date corresponding to the anniversary of the Effective Date, unless either party gives the other written notice of non-renew at least thirty (30) days prior to the conclusion of the then-current term.

b) **Termination.** Either party may terminate this Agreement effective immediately, if the other party breaches a material provision of the Agreement and fails to cure such breach for a period of seven (7) days after receiving notice of such breach from the non-breaching party. If Licensee terminates the Agreement pursuant to this Section 5(b), then Licensee shall be entitled to receive a refund of a portion of the subscription fee already paid by Licensee for the term in which the Agreement is terminated, calculated by pro-rating the fee from the Effective Date or the applicable anniversary thereof through the date upon which Licensee gave notice of EPE’s breach. On the other hand, if EPE terminates the Agreement pursuant to this Section 5(b), then Licensee shall remain obligated to pay the subscription fee for the entire annual term of the Agreement during which the Agreement was terminated, and Licensee shall not receive a refund of any portion of any subscription fee previously paid by Licensee.

6. **Contact Information**

a) **Administrator and Network Contact.** Licensee agrees to designate on its behalf a license administrator and a network contact in association with this Agreement. The names, addresses, phone numbers, and e-mail addresses of such license administrator and network contact shall be provided on Attachment A to this Agreement. Licensee shall provide EPE with prompt notice of any change in the identity or contact information of the license administrator or network contact via electronic mail addressed to SiteLicense@epe.org.

b) **Authorized Users.** Licensee shall complete Attachment B to specify Authorized Users in accordance with the Individual User Access Plan and Attachment C for the Site Access Plan. For the Individual User Access Plan, Licensee’s administrator shall notify Authorized Users of their user IDs and passwords. For the Site Access Plan where Licensee makes use of a proxy server to provide access to Licensed Content, Licensee agrees that use of such proxy server shall be in accordance with the quantity of Authorized Users. Licensee agrees to maintain the security of such access by authenticating Authorized Users before allowing use of the proxy server by any remote or on-site user. Licensee shall promptly notify EPE in the event any of the Authorized Users becomes disaffiliated with Licensee. To change Authorized Users, Licensee shall contact EPE at SiteLicense@epe.org.

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b) **Support.** EPE will provide Licensee with reasonable technical support by e-mail and telephone during EPE’s normal business hours (Monday-Friday, 9:00 a.m. to 5:00 p.m. Eastern Time, except for official U.S. government holidays). The contact information to be used by Licensee when seeking support is SiteLicense@epe.org or telephone number (800) 346-1834. Licensee’s administrator or primary network contact shall be responsible for seeking support on behalf of Licensee. EPE shall not be required to respond to support inquiries from individual Authorized Users.

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a) **Limitation of Liability.** IN NO EVENT SHALL EPE BE LIABLE TO LICENSEE, AUTHORIZED USERS, OR ANY THIRD PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS, OR PROFITS) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE WEB SITE, OR THE LICENSED CONTENT, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT EPE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. LICENSEE ACKNOWLEDGES THAT THE WEB SITE AND LICENSED CONTENT MAY BE UNAVAILABLE AT TIMES DUE TO EQUIPMENT, SERVICE, OR GENERAL NETWORK FAILURE OUTSIDE THE CONTROL OF EPE, AND LICENSEE AGREES IN SUCH CASES THAT EPE WILL NOT BE LIABLE FOR CREDITS OR REFUNDS OF SUBSCRIPTION FEES, THOUGH EPE AT ITS SOLE DISCRETION MAY CHOOSE TO PROVIDE SUCH CREDITS OR REFUNDS. IN CASES WHERE INTERRUPTION IS FOR MORE THAN 24 HOURS AND IS DUE TO FAILURE OF EPE, THEN LICENSEE SHALL BE ENTITLED TO LICENSEE’S CHOICE OF A CREDIT TO BE APPLIED TO A RENEWAL OR AN EXTENSION OF SUBSCRIPTION TERM, ALL PROPORTIONATE TO THE INTERRUPTION IN SERVICE.

b) **Total Liability.** TO THE EXTENT THAT THE FOREGOING LIMITATION OF LIABILITY IS PROHIBITED OR FAILS OF ITS ESSENTIAL PURPOSE, EPE’S TOTAL AGGREGATE LIABILITY FOR ANY LOSSES, INJURIES, CLAIMS, LIABILITIES, OR DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL NOT EXCEED THE ANNUAL SUBSCRIPTION FEE PAID BY LICENSEE TO EPE FOR THE TERM IN WHICH SUCH CAUSE OF ACTION OCCURRED.
c) **Indemnification.** Each party shall indemnify and hold the other harmless for any losses, claims, damages, awards, penalties, or injuries incurred by any third party, including reasonable attorney’s fees, which arise from any alleged breach of such indemnifying party’s representations and warranties made under this Agreement, provided that the indemnifying party is promptly notified of any such claims. The indemnifying party shall have the sole right to defend such claims at its own expense. The other party shall provide, at the indemnifying party’s expense, such assistance in investigating and defending such claims as the indemnifying party may reasonably request. This indemnity shall survive the termination of this Agreement.

d) **Attorney’s Fees.** If any action at law or in equity is necessary to construe, interpret, or enforce the terms of this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorneys’ fees, costs, and disbursements, in addition to any other relief to which the prevailing party may be entitled.

e) **Remedies.** In the event either party shall fail or refuse to perform its obligations under this Agreement, the other party shall have, in addition to any other remedy available at law or in equity, including but not limited to monetary damages, the right to an injunction or specific performance, as the case may require.

11. **General**

a) **Entire Agreement.** This Agreement constitutes the entire agreement of the parties and it supersedes any prior proposal or agreement between the parties relating to the subject matter hereof. Except as set forth otherwise, this Agreement may only be amended through a written instrument signed by both parties.

b) **Confidentiality.** Both parties agree that this Agreement will remain confidential, subject to applicable laws.

c) **Governing Law and Choice of Forum.** This Agreement will be governed by the laws of the State of Texas. Any action arising out of or relating to this Agreement shall be brought in courts located within Texas, and the parties consent to the jurisdiction of such courts and waive all objections to the jurisdiction and venue of such courts.

d) **Waiver.** The failure of a party to enforce any provision of this Agreement shall not constitute a waiver of such provision or of the right to enforce such provision.

e) **Force Majeure.** Neither party will be liable to the other for any failure or delay in performance under this Agreement due to circumstances beyond its reasonable control.

f) **Assignment.** This Agreement shall not be assigned by Licensee to any other person or entity without EPE’s prior written consent, which consent may be withheld by EPE in its sole discretion. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective successors and approved assigns.

g) **Notices.** All notices and other communications pursuant to this Agreement shall be in writing sent to the following addresses, or to such other address as a party may designate by giving written notice hereunder:

**To EPE:**
Attention: Michele J. Givens, General Manager
Editorial Projects in Education, Inc.
6935 Arlington Road, Suite 100
h) Survival. The provisions of Section 3 (Prohibited Uses of Licensed Content), Section 7 (Copyright and Proprietary Rights), Section 8 (Preventing Unauthorized Use) and Section 10 (Liability) shall survive the expiration or termination of this Agreement, regardless of the cause for such expiration or termination, and remain valid and binding in perpetuity.
ACCEPTED:

I have read this Agreement, and agree, on behalf of Licensee, to adhere to the terms of the Agreement; and I certify that I am authorized to sign this Agreement on behalf of Licensee.

Licensee:

Printed Name: _____________________________ Title: _____________________________

Signature: _____________________________ Date: _____________________________

Organization: _____________________________

Licensee will mail or fax the entire signed Agreement with the applicable completed attachments to EPE’s sales representative:

Name: Ryan Lanier
Address: 6935 Arlington Road, Bethesda MD 20814
Phone: 301-280-3223
Fax: 301-280-3250
Email: rlanier@epe.org

EPE:

Printed Name: Ryan Lanier Title: Digital Content Sales & Marketing Manager

Signature: _____________________________ Date: _____________________________
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