



ARLINGTON COUNTY, VIRGINIA  
OFFICE OF THE PURCHASING AGENT  
2100 CLARENDON BOULEVARD, SUITE 500  
ARLINGTON, VIRGINIA 22201

**CONTRACT AWARD COVERPAGE**

<b>TO:</b> SCHOLASTIC, INC. 557 BROADWAY NEW YORK, NEW YORK 10012	DATE ISSUED: 3/17/2022 CONTRACT NO: 22-LIB-SLA-627 CONTRACT TITLE: BOOKFLIX SOFTWARE LICENSES
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**THIS IS A NOTICE OF AWARD OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.**

The contract documents consist of the terms and conditions of AGREEMENT No. 22-LIB-SLA-627 including any attachments or amendments thereto.

**EFFECTIVE DATE:** 8/31/2022  
**EXPIRES:** 8/30/2023  
**RENEWALS:** 4 RENEWALS REMAINING  
**LIVING WAGE:** N

**EMPLOYEES NOT TO BENEFIT:**  
**NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.**

<b><u>VENDOR CONTACT:</u></b> KATHY BROWN	<b><u>VENDOR TEL. NO.:</u></b> (800) 621-1115
<b><u>EMAIL ADDRESS:</u></b> <a href="mailto:KMBROWN@SCHOLASTIC.COM">KMBROWN@SCHOLASTIC.COM</a>	
<b><u>COUNTY CONTACT:</u></b> PETE PETRUSKI (LIB)	<b><u>COUNTY TEL. NO.:</u></b> (703) 228-6339
<b><u>COUNTY CONTACT EMAIL:</u></b> <a href="mailto:PPETRUSKI@ARLINGTONVA.US">PPETRUSKI@ARLINGTONVA.US</a>	

**PURCHASING DIVISION AUTHORIZATION**

DocuSigned by:

*Lucas Alexander*

Title

Procurement officer

Date

3/17/2022

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**ARLINGTON COUNTY, VIRGINIA  
OFFICE OF THE PURCHASING AGENT  
SUITE 500, 2100 CLARENDON BOULEVARD  
ARLINGTON, VA 22201**

**AGREEMENT NO. 22-LIB-SLA-627**

THIS AGREEMENT is made, on the date of execution by the County, between Scholastic Inc., 557 Broadway, New York, New York 10012 ("Contractor") a New York corporation authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia. The County and the Contractor, for the consideration hereinafter specified, agree as follows:

**1. CONTRACT DOCUMENTS**

The "Contract Documents" consist of this Agreement, Exhibit A – Software License Agreement, Exhibit B – Pricing and Exhibit C –Product Terms.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either party has made any representation or promise with respect to the parties' agreement that is not contained in the Contract Documents. The Contract Documents may be referred to below as the "Contract" or the "Agreement".

**2. SCOPE OF WORK**

The Contractor agrees to perform the services described in the Contract Documents (the "Work"). The primary purpose of the Work is to provide Scholastic licenses for Bookflix software. The Contract Documents set forth the minimum work estimated by the County and the Contractor to be necessary to complete the Work. It will be the Contractor's responsibility, at its sole cost, to provide the services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents limits the Contractor's responsibility to manage the details and execution of the Work.

**3. PROJECT OFFICER**

The performance of the Contractor is subject to the review and approval of the County Project Officer, who will be appointed by the Director of the Arlington County department or agency requesting the Work under this Contract.

**4. CONTRACT TERM**

Time is of the essence. The Work will commence on August 31, 2022 and must be completed no later than August 30, 2023 ("Initial Contract Term"), subject to any modifications provided in the Contract Documents. Upon satisfactory performance by the Contractor the County may, through issuance of a unilateral Notice of Award, authorize continuation of the Agreement under the same contract prices for not more than 4 additional 12-month periods, from August 31, 2023, to August 30, 2027 (each a "Subsequent Contract Term"). The Initial Contract Term and any Subsequent Contract Term(s) are together the "Contract Term".

**5. CONTRACT PRICING**

Unless otherwise provided in the Contract Documents, the Contractor shall provide the goods and services at the prices in Exhibit B. The Contractor will submit yearly pricing to be accepted by the Project Officer before each renewal term.

**6. PAYMENT TERMS**

The Contractor must submit invoices to the County's Project Officer, who will either approve the invoice or require corrections. The County will pay the Contractor within 45 days after receipt of an invoice for completed work that is reasonable and allocable to the Contract and that has been performed to the satisfaction of the Project Officer. The number of the County Purchase Order pursuant to which goods or services have been delivered or performed must appear on all invoices.

**7. PAYMENT OF SUBCONTRACTORS**

The Contractor is obligated to take one of the two following actions within seven days after receipt of payment by the County for work performed by any subcontractor under this Contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or
- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment, with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Contract, interest will accrue at the rate of 1% per month.

The Contractor must include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

The County acknowledges that the Contractor will use no subcontractors for the services provided hereunder.

**8. NO WAIVER OF RIGHTS**

The County's approval or acceptance of or payment for any goods or services under this Contract will not waive any rights or causes of action arising out of the Contract.

**9. NON-APPROPRIATION**

All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia ("Board"). In the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.

**10. COUNTY PURCHASE ORDER REQUIREMENT**

County purchases are authorized only if the County issues a Purchase Order in advance of the transaction, indicating that the ordering County agency has sufficient funds available to pay for the purchase. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense. The County will not be liable for payment for any purchases made by its employees that are not authorized by the County Purchasing Agent.

**11. WARRANTY**

The Contractor guarantees against and will correct at its expense factory defects that occur during the manufacturer's standard warranty period. The Contractor will provide all manufacturers' warranties at the time of delivery.

All work is guaranteed by the Contractor against defects resulting from the use of inferior or faulty materials or workmanship for one (1) year from the date of final acceptance of the work by the County. No date other than the date of final acceptance shall govern the effective date of the Guaranty, unless that date is agreed upon by the County and the Contractor in advance and in a signed writing.

**12. FAILURE TO DELIVER**

If the Contractor fails to deliver goods or services in accordance with the Contract terms and conditions, the County, after notice to the Contractor, may procure the goods or services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. The County shall be entitled to offset such costs against any sums owed by the County to the Contractor. However, if public necessity requires the use of nonconforming materials or supplies, they may be accepted at a reduction in price to be determined solely by the County.

**13. UNSATISFACTORY WORK**

The Contractor must within 15 days of written notice from the County remove and replace, at its expense, any goods that the County rejects as unsatisfactory. Otherwise, the County may choose to remove or replace the rejected goods at the Contractor's expense. The County may offset the costs against any amounts that it owes the Contractor. The County may also decide not to remove or replace the unsatisfactory goods and instead to adjust the Contract Amount to account for the unsatisfactory performance. This paragraph applies throughout the Contract Term and any warranty or guarantee period.

**14. SUPERVISION BY CONTRACTOR**

The Contractor shall at all times enforce strict discipline and good order among the employees and subcontractors performing under this Contract and shall not employ on the Work any person not reasonably proficient in the work assigned.

**15. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED**

During the performance of its work pursuant to this Contract:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age or disability or on any other basis prohibited by state law. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation will be deemed sufficient for meeting the requirements of this section.
- C. The Contractor will state in all solicitations or advertisements for employees that it places or causes to be placed that such Contractor is an Equal Opportunity Employer.
- D. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 ("ADA"), which prohibits discrimination against individuals with disabilities in employment and mandates that disabled individuals be provided access to publicly and privately provided services and activities.
- E. The Contractor must include the provisions of the foregoing paragraphs in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

**16. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED**

In accordance with §2.2-4311.1 of the Code of Virginia, as amended, the Contractor must not during the performance of this Contract knowingly employ an unauthorized alien, as that term is defined in the federal Immigration Reform and Control Act of 1986.

**17. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR**

During the performance of this Contract, the Contractor must: (i) provide a drug-free workplace for its employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violating such prohibition; and (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace.

For the purposes of this section, "workplace" means the site(s) for the performance of the work required by this Contract.

**18. TERMINATION**

The County may terminate this Contract at any time as follows: (1) for cause, if, as determined by the County, the Contractor is in breach or default or has failed to perform the Work satisfactorily; or (2) for the convenience of the County.

Upon receipt of a notice of termination, the Contractor must not place any further orders or subcontracts

for materials, services or facilities; must terminate all vendors and subcontracts, except as are necessary for the completion of any portion of the Work that the County did not terminate; and must immediately deliver all documents related to the terminated Work to the County.

Any purchases that the Contractor makes after the notice of termination will be the sole responsibility of the Contractor, unless the County has approved the purchases in writing as necessary for completion of any portion of the Work that the County did not terminate.

If any court of competent jurisdiction finds a termination for cause by the County to be improper, then the termination will be deemed a termination for convenience.

A. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE

1. Termination for Unsatisfactory Performance. If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure them within 15 days or any other period specified by the County ("Cure Period"). If the Contractor fails to cure within the Cure Period, the County may terminate the Contract for failure to provide satisfactory performance by providing written notice with a termination date. The Contractor must submit any request for termination costs, with all supporting documentation, to the County Project Officer within 30 days after the expiration of the Cure Period. The County may accept or reject the request for termination costs, in whole or in part, and may notify the Contractor of its decision within a reasonable time.

In the event of termination by the County for failure to perform satisfactorily, the Contractor must continue to provide its services as previously scheduled through the termination date, and the County must continue to pay all fees and charges incurred through the termination date.

2. Termination for Breach or Default. If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination will be immediate after notice of termination to the Contractor (unless the County provides for an opportunity to cure), and the Contractor will not be permitted to seek termination costs.

Upon any termination pursuant to this section, the Contractor will be liable to the County for costs that the County must expend to complete the Work, including costs resulting from any related delays and from unsatisfactory or non-compliant work performed by the Contractor or its subcontractors. The County will deduct such costs from any amount due to the Contractor; or if the County does not owe the Contractor, the Contractor must promptly pay the costs within 15 days of a demand by the County. This section does not limit the County's recovery of any other damages to which it is entitled by law.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt the notice of the termination.

B. TERMINATION FOR THE CONVENIENCE OF THE COUNTY

The County may terminate this Contract in whole or in part whenever the Purchasing Agent determines that termination is in the County's best interest. The County will give the Contractor at

least 15 days' notice in writing. The notice must specify the extent to which the Contract is terminated and the effective termination date. The Contractor will be entitled to termination costs plus any other reasonable amounts that the parties might negotiate; but no amount will be allowed for anticipatory profits.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt of the notice of the termination.

**19. INDEMNIFICATION**

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless and indemnify the County and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards and commissions (collectively the "County Indemnitees") from and against any and all claims made by third parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, demands or exposure resulting from, arising out of or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

**20. INTELLECTUAL PROPERTY INDEMNIFICATION**

The Contractor warrants and guarantees that in providing services under this Contract neither the Contractor nor any subcontractor is infringing on the intellectual property rights (including, but not limited to, copyright, patent, mask and trademark) of third parties.

If the Contractor or any of its employees or subcontractors uses any design, device, work or material that is covered by patent or copyright, it is understood that the Contract Amount includes all royalties, licensing fees, and any other costs arising from such use in connection with the Work under this Contract.

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless, and indemnify the County Indemnitees, as defined above, from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability or exposure for infringement of or on account of any trademark, copyright, patented or unpatented invention, process or article manufactured or used in the performance of this Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

**21. OWNERSHIP AND RETURN OF RECORDS**

This Contract does not confer on the Contractor any ownership rights or rights to use or disclose the County's data or inputs.

All drawings, specifications, blueprints, data, information, findings, memoranda, correspondence,

documents or records of any type, whether written, oral or electronic, and all documents generated by the Contractor or its subcontractors as a result of this Contract (collectively "Records") are the exclusive property of the County and must be provided or returned to the County upon completion, termination, or cancellation of this Contract. The Contractor will not use or willingly cause or allow such materials to be used for any purpose other than performance of this Contract without the written consent of the County.

The Records are confidential, and the Contractor will neither release the Records nor share their contents. The Contractor will refer all inquiries regarding the status of any Record to the Project Officer or to his or her designee. At the County's request, the Contractor will deliver all Records, including hard copies of electronic records, to the Project Officer and will destroy all electronic Records.

The Contractor agrees to include the provisions of this section as part of any contract or agreement related to this Contract into which it enters with subcontractors or other third parties.

The provisions of this section will survive any termination or cancellation of this Contract.

## **22. CONFIDENTIAL INFORMATION**

The Contractor and its employees, agents and subcontractors will hold as confidential all County information obtained under this Contract. Confidential information includes, but is not limited to, nonpublic personal information; personal health information (PHI); social security numbers; addresses; dates of birth; other contact information or medical information about a person; and information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans and expertise. The Contractor must take reasonable measures to ensure that all of its employees, agents and subcontractors are informed of and abide by this requirement. With respect to confidential information other than personally identifiable information, the provisions of this paragraph shall not apply to a specific item of Confidential Information that (a) is now, or later becomes, through no breach of this Agreement, general public knowledge, or (b) prior to disclosure, dissemination or use, was lawfully acquired by the Contractor without any obligation to retain the information in confidence, or (c) or is later furnished to the Contractor by a third party who, to the Contractor's knowledge, has no obligation of confidentiality, or (d) was independently developed by the Contractor without use of Confidential Information or breach of this Agreement.

## **23. ETHICS IN PUBLIC CONTRACTING**

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its bid was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor; and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

## **24. COUNTY EMPLOYEES**

No Arlington County employee may share in any part of this Contract or receive any benefit from the Contract that is not available to the general public.



**25. FORCE MAJEURE**

Neither party will be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to a fire, riot, rebellion, natural disaster, war, act of terrorism or act of God that is beyond the control of the party and that makes performance impossible or illegal, unless otherwise specified in the Contract.

**26. AUTHORITY TO TRANSACT BUSINESS**

Neither party will be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to a fire, riot, rebellion, natural disaster, war, act of terrorism or act of God that is beyond the control of the party and that makes performance impossible or illegal, unless otherwise specified in the Contract, provided that the affected party gives notice to the other party as soon as practicable after the force majeure event, including reasonable detail and the expected duration of the event's effect on the party.

**27. COVID-19 VACCINATION POLICY FOR CONTRACTORS**

Due to the ongoing COVID-19 pandemic, the County has taken various steps to protect the welfare, health, safety, and comfort of the workforce and public at large. As part of these steps, the County has implemented various requirements with respect to health and safety including policies with respect to social distancing, the use of face-coverings and vaccine mandates. To protect the County's workforce and the public at large, all employees and subcontractors of the Contractor who are assigned to this Contract, should be fully vaccinated against COVID-19. Any contractor employee or subcontractor who is not fully vaccinated should be following a weekly testing protocol as established by the Contractor unless exempt pursuant to a valid reasonable accommodation under state or federal law.

**28. RELATION TO COUNTY**

The Contractor is an independent contractor, and neither the Contractor nor its employees or subcontractors will be considered employees, servants or agents of the County. The County will not be responsible for any negligence or other wrongdoing by the Contractor or its employees, servants or agents. The County will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes or Social Security tax or for any other benefits. The County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation.

**29. AUDIT**

The Contractor must retain all books, records and other documents related to this Contract for at least five years after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within 30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

**30. ASSIGNMENT**

The Contractor may not assign, transfer, convey or otherwise dispose of any award or any of its rights,

obligations or interests under this Contract without the prior written consent of the County.

**31. AMENDMENTS**

This Contract may not be modified except by written amendment executed by persons duly authorized to bind the Contractor and the County.

**32. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES**

Nothing in this Contract waives any provision of the Arlington County Purchasing Resolution, which is incorporated herein by reference, or any applicable County policy.

**33. DISPUTE RESOLUTION**

All disputes arising under this Agreement or concerning its interpretation, whether involving law or fact and including but not limited to claims for additional work, compensation or time, and all claims for alleged breach of contract must be submitted in writing to the Project Officer as soon as the basis for the claim arises. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than 60 days after the final payment. The time limit for a final written decision by the County Manager is 30 days. Procedures concerning contractual claims, disputes, administrative appeals and protests are contained in the Arlington County Purchasing Resolution. The Contractor must continue to work as scheduled pending a decision of the Project Officer, County Manager, County Board or a court of law.

**34. APPLICABLE LAW, FORUM, VENUE AND JURISDICTION**

This Contract is governed in all respects by the laws of the Commonwealth of Virginia; and the jurisdiction, forum and venue for any litigation concerning the Contract or the Work is in the Circuit Court for Arlington County, Virginia, and in no other court.

**35. ARBITRATION**

No claim arising under or related to this Contract may be subject to arbitration.

**36. NONEXCLUSIVITY OF REMEDIES**

All remedies available to the County under this Contract are cumulative, and no remedy will be exclusive of any other at law or in equity.

**37. NO WAIVER**

The failure to exercise a right provided for in this Contract will not be a subsequent waiver of the same right or of any other right.

**38. SEVERABILITY**

The sections, paragraphs, clauses, sentences, and phrases of this Contract are severable; and if any section, paragraph, clause, sentence or phrase of this Contract is declared invalid by a court of competent jurisdiction, the rest of the Contract will remain in effect.

**39. NO WAIVER OF SOVEREIGN IMMUNITY**

Notwithstanding any other provision of this Contract, nothing in this Contract or any action taken by the County pursuant to this Contract shall constitute or be construed as a waiver of either the sovereign or governmental immunity of the County. The parties intend for this provision to be read as broadly as possible.

**40. SURVIVAL OF TERMS**

In addition to any statement that a specific term or paragraph survives the expiration or termination of this Contract, the following sections also survive: INDEMNIFICATION; INTELLECTUAL PROPERTY INDEMNIFICATION; RELATION TO COUNTY; OWNERSHIP AND RETURN OF RECORDS; AUDIT; COPYRIGHT; WARRANTY; DISPUTE RESOLUTION; APPLICABLE LAW AND JURISDICTION; ATTORNEY'S FEES, AND CONFIDENTIAL INFORMATION.

**41. HEADINGS**

The section headings in this Contract are inserted only for convenience and do not affect the substance of the Contract or limit the sections' scope.

**42. AMBIGUITIES**

The parties and their counsel have participated fully in the drafting of this Agreement; and any rule that ambiguities are to be resolved against the drafting party does not apply. The language in this Agreement is to be interpreted as to its plain meaning and not strictly for or against any party.

**43. NOTICES**

Unless otherwise provided in writing, all legal notices and other communications required by this Contract are deemed to have been given when either (a) delivered in person; (b) delivered by an agent, such as a delivery service; or (c) deposited in the United States mail, postage prepaid, certified or registered and addressed as follows:

**TO THE CONTRACTOR:**

Kathy Brown  
Scholastic Inc.  
557 Broadway  
New York, NY 10012  
Phone: (800) 621-1115  
Email: [kmbrown@scholastic.com](mailto:kmbrown@scholastic.com)

**TO THE COUNTY:**

Peter Petruski, Project Officer  
Arlington County Government  
1015 N Quincy Street  
Arlington, Virginia 22201  
Phone: (703) 228-6339  
Email: [ppetruski@arlingtonva.us](mailto:ppetruski@arlingtonva.us)

**AND**

Sharon T. Lewis, Purchasing Agent  
Arlington County, Virginia  
2100 Clarendon Boulevard, Suite 500  
Arlington, Virginia 22201

**44. ARLINGTON COUNTY BUSINESS LICENSES**

The Contractor must comply with the provisions of Chapter 11 (“Licenses”) of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this Contract, the Contractor must contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060.

**45. NON-DISCRIMINATION NOTICE**

Arlington County does not discriminate against faith-based organizations.

**46. LIMITED ENGLISH PROFICIENCY**

The Contractor must comply with Executive Order 13166, Title VI of the Civil Rights Act of 1964 and make reasonable efforts to ensure that as part of the services that it provides, adequate communication services, including interpretation and translation, are available to persons who have limited English proficiency. If such services are not included in the Contract’s scope of services and pricing, the Contractor will use a County-contracted service provider, and the County will pay the fees.

**47. INSURANCE REQUIREMENTS**

Before beginning work under the Contract or any extension, the Contractor must provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force at a minimum the coverage below. The Contractor must maintain this coverage until the completion of the Contract or as otherwise stated in the Contract Documents. All required insurance coverage must be acquired from insurers that are authorized to do business in the Commonwealth of Virginia, with a rating of “A-” or better and a financial size of “Class VII” or better in the latest edition of the A.M. Best Co. Guides.

- a. Workers Compensation - Virginia statutory workers compensation (W/C) coverage, including Virginia benefits and employer’s liability with limits of \$100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b. Commercial General Liability - \$1,000,000 per occurrence, with \$2,000,000 annual aggregate covering all premises and operations and including personal injury, completed operations, contractual liability, independent contractors, and products liability. The general aggregate limit must apply to this Contract. Evidence of contractual liability coverage must be typed on the certificate.
- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).
- d. Additional Insured – The County and its officers, elected and appointed officials, employees and agents must be named as additional insureds on all policies except workers compensation and automotive and professional liability; and the additional insured endorsement must be typed on the certificate.
- e. Cancellation - If there is a material change or reduction in or cancellation of any of the above coverages during the Contract Term, the Contractor must notify the Purchasing Agent immediately and must, with no lapse in coverage, obtain replacement coverage that is consistent with the terms of this Contract. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.

f. Claims-Made Coverage - Any "claims made" policy must remain in force, or the Contractor must obtain an extended reporting endorsement, until the applicable statute of limitations for any claims has expired.

g. Contract Identification - All insurance certificates must state this Contract's number and title.

The Contractor must disclose to the County the amount of any deductible or self-insurance component of any of the required policies. With the County's approval, the Contractor may satisfy its obligations under this section by self-insurance for all or any part of the insurance required, provided that the Contractor can demonstrate sufficient financial capacity. In order to do so, the Contractor must provide the County with its most recent actuarial report and a copy of its self-insurance resolution.

The County may request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible and may require a lower deductible; that funds equal to the deductible be placed in escrow; a certificate of self-insurance; collateral; or another mechanism to guarantee the amount of the deductible and ensure protection for the County.

The County's acceptance or approval of any insurance will not relieve the Contractor from any liability or obligation imposed by the Contract Documents.

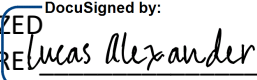
The Contractor is responsible for the Work and for all materials, tools, equipment, appliances and property used in connection with the Work. The Contractor assumes all risks for direct and indirect damage or injury to the property used or persons employed in connection with the Work and for of all damage or injury to any person or property, wherever located, resulting from any action, omission, commission or operation under the Contract or in connection in any way whatsoever with the Work. The Contractor's insurance shall be the primary non-contributory insurance for any work performed under this Contract.

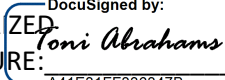
The Contractor is as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons whom the Contractor employs directly.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON  
COUNTY, VIRGINIA

SCHOLASTIC INC.

AUTHORIZED SIGNATURE  DocuSigned by:  
5D2342428F9D4B4...

AUTHORIZED SIGNATURE  DocuSigned by:  
A41E31FF336347B...

NAME: Lucas Alexander

NAME: Toni Abrahams

TITLE: Procurement Officer

TITLE: VP of Operations

DATE: 3/17/2022

DATE: 3/17/2022

## EXHIBIT A - SOFTWARE LICENSE AGREEMENT

By accessing or using the Licensed Products (as defined below), or by signing the agreement to which this Exhibit A is attached, Customer is agreeing to be bound by this Agreement.

- **1. Definitions.**

- § 1.1 "Customer" means the County Board of Arlington County, Virginia.
- § 1.2 "Customer Data" means user data (including Personally Identifiable Information) provided by or on behalf of Customer to Scholastic or received by Scholastic from Users in connection with the Licensed Products.
- § 1.3 "Customer Materials" means any data, information, content and materials provided by or on behalf of Customer to Scholastic or submitted or otherwise posted or uploaded to the Licensed Products, which are used in connection with the Licensed Products, including, for example, technical information, functional specifications and Customer Data.
- § 1.4 "Licensed Products" means those Scholastic products and services as set forth in the applicable Order.
- § 1.5 "Personally Identifiable Information" means any information regarding or that identifies (or that could be used to identify) any individual, including, for example, any individual's name, address, personal identifiers, and any other information or combination of information that would make the identity of an individual easily traceable, or any other information that is defined as personally identifiable or as "personal information" by applicable law.
- § 1.6 "Subscription Period" means, with respect to each Licensed Product, the applicable subscription time period set forth on the applicable Order.
- § 1.7 "Territory" means the territory set forth on the applicable Order.
- § 1.8 "User" means any individual who accesses or uses the Licensed Products.

- **2. Fees; Payment Terms.** Customer will pay to Scholastic, for each Subscription Period, the fees and other amounts for the Licensed Products as set forth on the applicable Order (the "Fees") in accordance with the payment terms set forth therein.

- **3. Licenses.**

- § 3.1 *Scholastic License Grant.* Subject to the terms and conditions of this Agreement, Scholastic hereby grants to Customer a limited, non-exclusive, non-sublicensable and non-transferable right for Customer to access and use the Licensed Products in the Territory, and to permit Users to access and use the Licensed Products in the Territory, solely for the personal, non-commercial use of Customer and such Users, and solely during each Subscription Period with respect to which Customer has paid to Scholastic all applicable Fees, subject to the terms and conditions of this Agreement and any other applicable terms and conditions, restrictions or instructions provided by Scholastic to Customer and/or any User, including any eligibility criteria for Users. At the end of each Subscription Period, Customer shall have sixty (60) calendar days to run any final, read-only usage reports for certain Customer Data with respect to the applicable Licensed Products. Following such sixty (60) calendar day period, Scholastic may delete or retain any or all Customer Materials associated with such Licensed Products, but Customer shall have no further access to any such retained Customer Materials, except as otherwise required by law. Any rights not

- expressly granted by Scholastic in this Agreement are expressly reserved to Scholastic.
- **§ 3.2 Customer License Grant.** Customer, on behalf of Customer and each User, hereby grants to Scholastic a non-exclusive, worldwide, royalty-free, perpetual, irrevocable, fully sublicensable (through multiple tiers) and transferable license to reproduce, adapt, modify, create derivative works based upon, store, host, publish, display and perform (publicly or otherwise), distribute, maintain and otherwise retain, analyze and use the Customer Materials in connection with the Licensed Products and as otherwise permitted in this Agreement, in any format or media now known or hereafter developed. Customer understands and agrees that Scholastic may be accessing the Customer Materials, including Customer Data, in order to provide the Licensed Products and as otherwise permitted by this Agreement. For clarity, as between Customer and Scholastic, and subject to Section 3.3 below, Customer retains any ownership rights that Customer has in any Customer Materials.
  - **4. Customer Obligations.**
    - **§ 4.1 Security; Passwords.** Customer will take all reasonable security measures to prevent unauthorized access to the Licensed Products. Customer is responsible for all activities that occur under Customer's or any User's account in connection with the Licensed Products. Such accounts are non-transferable and are solely for the personal use of Customer or the applicable User to which such account is assigned. Customer agrees to immediately notify Scholastic of any unauthorized use of any such account, or any other actual or suspected breach of security or confidentiality with respect to any such account, and, in such event, Scholastic may terminate such account without liability and without limiting any other remedy under this Agreement or applicable law. Customer assumes all responsibility, liability and risk associated with the use of any Licensed Product feature that does not require passwords, with the failure of Customer or any User to set a password where there is an option to do so, and with the level of strength or security of any password selected by Customer or any User.
    - **§ 4.2 Personally Identifiable Information (PII).** Customer acknowledges and agrees that Personally Identifiable Information and other information collected by or on behalf of Scholastic in connection with the Licensed Products shall be governed by the Scholastic Privacy Policy (as updated from time to time), currently available at <http://www.scholastic.com/privacy.htm>, or as otherwise set forth in such Privacy Policy.
    - **§ 4.3 Customer Materials and PII.** In the event that any Customer Materials contain Personally Identifiable Information, Customer agrees only to provide or otherwise make available to Scholastic such Customer Materials (a) in compliance with all applicable laws, rules, regulations and privacy policies ("Applicable Law"), and (b) in accordance with all necessary permissions, rights and consents as required by and in full compliance with all Applicable Law. With respect to any Customer Materials that may be accessed, obtained, received, extracted or otherwise used by Scholastic (or which may otherwise be disclosed in any manner to Scholastic by or on behalf of Customer), in individualized or aggregate form, in connection with the Licensed Products provided pursuant to this Agreement, Customer hereby: (1) acknowledges and agrees that Scholastic can rely, is relying and will continue to rely on Customer's full compliance with the applicable obligations imposed by Applicable Law, as any such obligations may be amended or modified from time to time; and (2) expressly waives and releases Scholastic from and against any and all claims, actions, damages and liability arising in connection with Customer's provision of such Customer Materials to Scholastic (and any required consents in connection therewith) and Scholastic's receipt and use of such Customer Materials on behalf of Customer in accordance with the provisions of Applicable Law and the terms and conditions of this

Agreement.

- **6. Warranties.** *Customer Warranties.* Customer represents and warrants that: (a) for all Customer Materials, and for all User access to and use of the Licensed Products, Customer is solely responsible for obtaining, and Customer hereby represents and warrants to Scholastic that it has previously obtained, all of the necessary and applicable rights, permissions and consents, to make available (and to permit Users and other third parties, such as Customer's third-party data hosting providers, to make available) the Customer Materials to Scholastic, and for Scholastic to use such Customer Materials in accordance with this Agreement, including Scholastic's use of Customer Data in accordance with the Scholastic Privacy Policy; (b) Customer is and will continue to be in compliance in all respects with all Applicable Law in connection with its and its Users' use of the Licensed Products; (c) the Customer Materials shall not include any Social Security Numbers;; and (d) all information provided by or on behalf of Customer in connection with any Order is, to the best of Customer's knowledge, and will remain complete and accurate.
- **7. Publicity.** No public statement, press release or other announcement relating to this Agreement, the Licensed Products or the other party shall be issued by either party hereunder, nor shall either party use any name, trademark or logo of the other party (which, with respect to Scholastic, includes the SCHOLASTIC mark and the Red Bar logo) without the prior written consent of such other party. Notwithstanding the foregoing, Scholastic may use Customer's name and logo in Scholastic's customer lists, including publicly available lists.





Scholastic Library Publishing

**EXHIBIT B - CONTRACT PRICING****Renewal Subscription Statement for Scholastic Digital Products Do Not Discard**

SOLD TO:

ARLINGTON CO PUBLIC LIBRARY  
1015 N QUINCY ST  
ARLINGTON, VA 22201-4603**Number of Sites: 8****ACCOUNT: 600024242**

Dear Valued Partner, **Your subscriptions to Scholastic Library Publishing Programs are about to expire!** Take this opportunity to renew your access to award-winning Online literacy content from Scholastic.

**RENEW YOUR SUBSCRIPTION TODAY!  
THIS IS NOT AN INVOICE***(If you have already renewed, please disregard.)*

Please return this form via fax or email.

**Fax:** 1-800-560-6815**Email:** [digitalservice@scholastic.com](mailto:digitalservice@scholastic.com)**Mail:** Scholastic Library Publishing  
2315 Dean St., Ste. 600  
St. Charles, IL 60175**STEP 1:** Review your account and subscription information below for accuracy.

Start Date	End Date	Product	ISBN	Cost
8/31/2022	8/30/2023	BookFlix	157079	\$ 8964.00
			<b>Tax if Applicable</b>	
<b>Total</b>				<b>\$ 8964.00</b>

**STEP 2:** Return this form via mail, e-mail or fax using the contact information above.

Please confirm your site administrator contact information below:

<b>Contact Name:</b> _____	<b>Title:</b> _____
<b>Email Address:</b> _____	<b>Phone:</b> _____

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

PO # and/or Method of Payment: \_\_\_\_\_

Below does not apply to BookFair Customers

Please choose your billing option :  Check here to be billed immediately  Check here to be billed on the renewal date

QUESTIONS? CALL YOUR SCHOLASTIC DIGITAL REPRESENTATIVE AT 1-800-387-1437

## Exhibit C

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### PRODUCT TERMS

Please read these Product Terms (the "Terms") carefully. Your use of the Site or Scholastic Products (as defined below) constitutes your consent to these Terms.

These Terms are between you and Scholastic Inc. and/or any affiliated entities set forth in an applicable Order ("Scholastic" or "we") concerning your use of (including any access to) the text, images, audio and audiovisual recordings, software, databases, documentation and other information, content, material and services (the "Scholastic Products") made available to you through the Scholastic websites and mobile apps displaying a link to these Terms (together with any successor website(s) and app(s) thereto, the "Site"). These Terms hereby incorporate by this reference any additional terms and conditions posted by Scholastic through the Site, or otherwise made available to you by Scholastic.

If you have entered into an Individual Customer Agreement or Institutional Customer Agreement with Scholastic (currently available upon request as described in the "*Information or Complaints*" section below, and referred to herein as a "Customer Agreement"), then please note that (1) these Terms are incorporated into such Customer Agreement, and (2) as used in these Terms, the word "you" means both Customer and any other Users permitted to use the Site and Scholastic Products under the applicable Order, as defined in the Customer Agreement.

- For example, if an Individual Customer Agreement has been entered into by a teacher or librarian, then the word "you" in these Terms may include such teacher or librarian and his or her students or library patrons, as applicable.
- Further, if an Institutional Customer Agreement has been entered into by a school or school district, then the word "you" in these Terms may include such school or district and its teachers and students.

BY USING THE SITE OR THE SCHOLASTIC PRODUCTS, YOU AFFIRM THAT YOU ARE OF LEGAL AGE TO ENTER INTO THESE TERMS, OR, IF YOU ARE NOT, THAT YOU HAVE OBTAINED PARENTAL/GUARDIAN OR TEACHER/LIBRARIAN CONSENT TO DO SO.

**1. Changes.** We may change these Terms by notifying you of such changes by any reasonable means, including by posting revised Terms through the Site. Any such changes will not apply to any dispute between you and us arising prior to the date on which we posted the revised Terms incorporating such changes, or otherwise notified you of such changes.

Your use of the Site or Scholastic Products following any changes to these Terms will constitute your acceptance of such changes. The “*Last Updated*” legend above indicates when these Terms were last changed. We may, at any time and without liability, modify or discontinue all or part of the Site or Scholastic Products (including access to the Scholastic Products via any third-party links, and including any titles available through the Scholastic Products and any other content or functionality availability restrictions); charge, modify or waive any fees required to use the Site or Scholastic Products; or offer opportunities to some or all users.

**2. Information Submitted.** Your submission of information through the Site or the Scholastic Products is governed by the Scholastic Privacy Policy, currently available at <https://www.scholastic.com/edtechprivacy.htm>, or as otherwise set forth in such Privacy Policy.

**3. Jurisdictional Issues.** The Site and the Scholastic Products are controlled or operated (or both) from the United States, and are not intended to subject Scholastic to any non-U.S. jurisdiction or law. The Site and the Scholastic Products may not be appropriate or available for use in some non-U.S. jurisdictions. Any use of the Site and the Scholastic Products is at your own risk, and you must comply with all applicable laws, rules and regulations in doing so. We may limit the availability of the Site or the Scholastic Products at any time, in whole or in part, to any person, geographic area or jurisdiction that we choose.

**4. Rules of Conduct.** You will not: (a) copy, modify, create derivative works of, publicly display or perform, distribute, download, mirror, sell, rent, lease, loan, sublicense or timeshare the Site or the Scholastic Products; (b) decompile, disassemble or reverse engineer the Site or the Scholastic Products; (c) disrupt the operation of the Site or the Scholastic Products, or any third party’s use of the same; (d) remove any proprietary notices from the Site or the Scholastic Products; (e) use any robot, spider, or other device to retrieve, index, “scrape,” “data mine” or otherwise gather content from the Site or the Scholastic Products, or reproduce or circumvent the navigational structure or presentation of the same; (f) use the Site or the Scholastic Products for any commercial purpose or for the purposes of any third party, or exploit the Site or Scholastic Products except as expressly authorized herein; or (g) permit or facilitate any unauthorized access to the Site or Scholastic Products. You must cease using the Site and the Scholastic Products if you violate these Terms, or upon our reasonable request.

You are responsible for obtaining, maintaining and paying for all hardware, telecommunications and other services and resources needed to use the Site and the Scholastic Products.

**5. Prohibited Materials.** You will not post any material that is: (a) threatening, harassing or otherwise disrespectful; (b) false, defamatory or fraudulent; (c) obscene, indecent, profane, discriminatory or otherwise objectionable; (d) a promotion, advertisement, solicitation, or offer to buy or sell any product or service; (e) infringing or violating any copyright, trademark, trade secret, right of publicity, right of privacy or other proprietary right; (f) violating any confidentiality or other contractual or fiduciary obligation; (g) intended to harm or disrupt any software, hardware or network; or (h) otherwise tortious or illegal.

**6. Registration; User Names and Passwords.** You may need to register to use all or part of the Site or Scholastic Products. You represent and warrant that any information you provide in connection with any such registration is complete and accurate, and that you will promptly update any such information as necessary from time to time. We may reject, or require that you change, any user name, password or other information that you provide to us in registering. Your user name and password are for your personal use only, and should be kept confidential; you, and not Scholastic, are responsible for any use or misuse of your user name or password, and you must promptly notify us of any actual or suspected confidentiality breach or unauthorized use of your user name or password, or your account.

**7. Submissions.** Users of the Site and the Scholastic Products may make available certain materials (each, a "Submission") through or in connection with the Site or the Scholastic Products, including on profile pages or on interactive services that may make such Submissions available to other users within a designated user group and/or to the general public. Scholastic has no control over and, except to the extent expressly provided otherwise by applicable law or by the Scholastic Privacy Policy, Scholastic is not responsible for any use or misuse (including any distribution) by any third party of Submissions, including the further distribution of Submissions by any user in a designated user group and/or by the general public. IF YOU CHOOSE TO MAKE ANY OF YOUR PERSONALLY IDENTIFIABLE OR OTHER INFORMATION PUBLICLY AVAILABLE THROUGH THE SITE OR THE SCHOLASTIC PRODUCTS, YOU DO SO AT YOUR OWN RISK.

**8. License; Feedback.** You hereby grant to Scholastic a non-exclusive, worldwide, royalty-free, perpetual, irrevocable, fully sublicensable (through multiple tiers) and transferable license to reproduce, adapt, modify, create derivative works based upon, store, host, publish, display and perform (publicly or otherwise), distribute, maintain and otherwise retain, analyze and use your Submissions in connection with the Site and/or Scholastic Products,

and as otherwise permitted in these Terms, in any format or media now known or hereafter developed.

In addition, you agree to assign and hereby do assign to Scholastic, and Scholastic shall exclusively own, all right, title and interest in any ideas, enhancement requests, feedback, recommendations, testimonials and other similar information related to the Site and/or Scholastic Products provided by you or on your behalf ("Feedback"), and you acknowledge that Scholastic will have no confidentiality, fiduciary or other obligations with respect to any Feedback.

You represent and warrant that you have all rights necessary to grant the rights granted in this Section 8, and that your Submissions and Feedback are not fraudulent, tortious or otherwise in violation of any applicable law or any right of any third party. You further irrevocably waive any "moral rights" or other rights with respect to attribution of authorship or integrity of materials regarding any Submissions and Feedback that you may have under any applicable law under any legal theory.

**9. Monitoring.** We may (but have no obligation to) monitor any use of the Site or Scholastic Products, and monitor, evaluate, alter or remove Submissions before or after they appear on the Site or the Scholastic Products.

**10. Scholastic's Proprietary Rights.** As between you and Scholastic, the Site and the Scholastic Products, and any corrections, modifications, additions, improvements and enhancements thereto, and all intellectual property rights therein, are owned exclusively by Scholastic and its licensors. Subject to these Terms, you may access and use the Site and the Scholastic Products solely for your personal, non-commercial use during the term of the applicable Subscription Period under the applicable Customer Agreement, and solely in accordance with any applicable documentation or usage restrictions that Scholastic may make available to you or that are otherwise set forth in such Customer Agreement. For clarity, the word "you" in this Section 10 and elsewhere in these Terms includes (a) your classroom's students or your library's patrons, if you are a teacher or librarian, respectively, who is a party to an Individual Customer Agreement, or (b) your school district's or school's teachers or students or your library's patrons, as applicable, if you are a party to an Institutional Customer Agreement.

All other rights in the Site and Scholastic Products not expressly granted herein are expressly reserved by us. All trade names, trademarks, service marks and logos on the Site or the Scholastic Products not owned by us are the property of their respective owners. You may not use our or our licensors' trade names, trademarks, service marks or logos (including our SCHOLASTIC mark and our Red Bar logo) in connection with any product or service that is not ours, or in any manner that is likely to cause confusion. Nothing contained on the Site or

the Scholastic Products should be construed as granting any right to use any trade names, trademarks, service marks or logos without the express prior written consent of the owner.

**11. Third Party Materials; Links.** Certain Site or Scholastic Products functionality may make available access to materials made available by third parties, including Submissions (“Third Party Materials”), or allow for the routing or transmission of such Third Party Materials, including via links.

We neither control nor endorse, nor are we responsible for, any Third Party Materials, including the accuracy, integrity, quality, legality, usefulness or safety of Third Party Materials, or any intellectual property rights therein. Nothing in these Terms shall be deemed to be a representation or warranty by Scholastic with respect to any Third Party Materials. We have no obligation to monitor Third Party Materials, and we may block or disable access to any Third Party Materials (in whole or part) through the Site or Scholastic Products at any time. In addition, the availability of any Third Party Materials through the Site or Scholastic Products does not imply our endorsement of, or our affiliation with, any provider of such Third Party Materials, nor does such availability create any legal relationship between you and any such provider.

YOUR USE OF THIRD PARTY MATERIALS IS AT YOUR OWN RISK AND IS SUBJECT TO ANY ADDITIONAL TERMS, CONDITIONS AND POLICIES APPLICABLE TO SUCH THIRD PARTY MATERIALS (SUCH AS TERMS OF SERVICE OR PRIVACY POLICIES OF THE PROVIDERS OF SUCH THIRD PARTY MATERIALS).

**12. DISCLAIMER OF WARRANTIES**

THE SITE, THE SCHOLASTIC PRODUCTS AND THIRD PARTY MATERIALS ARE MADE AVAILABLE TO YOU “AS IS” WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY. SCHOLASTIC DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE SITE, THE SCHOLASTIC PRODUCTS AND THIRD PARTY MATERIALS TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE. ALL DISCLAIMERS OF ANY KIND (INCLUDING IN THIS SECTION AND ELSEWHERE IN THESE TERMS) ARE MADE ON BEHALF OF BOTH SCHOLASTIC AND ITS PARENT, SUBSIDIARIES AND OTHER AFFILIATES AND THEIR RESPECTIVE SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, REPRESENTATIVES, LICENSORS, SUPPLIERS AND SERVICE PROVIDERS (COLLECTIVELY, THE “AFFILIATED ENTITIES”).

While we try to maintain the timeliness, integrity and security of the Site and the Scholastic Products, we do not guarantee that they are or will remain updated, complete, correct or secure, or that access to the Site or Scholastic Products will be uninterrupted. The Site and

Scholastic Products may include inaccuracies, errors and materials that violate or conflict with these Terms. Additionally, third parties may make unauthorized alterations to the Site or Scholastic Products. If you become aware of any such alteration, contact us at [atm&c@scholastic.com](mailto:atm&c@scholastic.com) with a description of such alteration and its location.

### **13. LIMITATION OF LIABILITY**

SCHOLASTIC WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND, UNDER ANY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHER THEORY, INCLUDING DAMAGES FOR LOSS OF PROFITS, USE OR DATA, LOSS OF OTHER INTANGIBLES, LOSS OF SECURITY OF SUBMISSIONS (INCLUDING UNAUTHORIZED INTERCEPTION BY THIRD PARTIES OF ANY SUBMISSIONS), EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES. WITH THE EXCEPTION OF CLAIMS FOR INTELLECTUAL PROPERTY INDEMNIFICATION, THE MAXIMUM AGGREGATE LIABILITY OF SCHOLASTIC FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL BE THE TOTAL AMOUNT, IF ANY, ACTUALLY PAID BY YOU TO SCHOLASTIC TO USE THE SITE OR THE SCHOLASTIC PRODUCTS WITH RESPECT TO THE TWELVE (12) MONTHS PRECEDING THE DATE ON WHICH THE FIRST APPLICABLE CLAIM AROSE. ALL LIMITATIONS OF LIABILITY OF ANY KIND (INCLUDING IN THIS SECTION AND ELSEWHERE IN THESE TERMS) ARE MADE ON BEHALF OF BOTH SCHOLASTIC AND THE AFFILIATED ENTITIES.

Applicable law may not allow for limitations on certain implied warranties, or exclusions or limitations of certain damages; solely to the extent that such law applies to you, some or all of the above disclaimers, exclusions or limitations may not apply to you, and you may have certain additional rights.

**14. Information or Complaints.** If you have a question or complaint regarding the Site or the Scholastic Products, please send an e-mail to [custserv@scholastic.com](mailto:custserv@scholastic.com). You may also contact us by writing to Scholastic Inc, Teacher Store, 557 Broadway, New York, NY 10012, Attn: EVP & General Counsel, or by calling us at 1-800-SCHOLASTIC. Please note that e-mail communications will not necessarily be secure; accordingly you should not include credit card information or other sensitive information in your e-mail correspondence with us.

**15. Copyright Infringement Claims.** Notification of a copyright infringement claim must be submitted to the following:

Legal Dept.  
Scholastic Inc.

557 Broadway  
New York, NY 10012  
Phone: 212-343-6726

Email: [tm&c@scholastic.com](mailto:tm&c@scholastic.com)

The notification must be in writing and include: (a) a signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; (b) identification of each alleged infringing copyrighted work or works; (c) identification of the allegedly infringing material and information reasonably sufficient to enable us to locate such material; (d) information reasonably sufficient to enable us to contact the party complaining of an alleged infringement (*e.g.*, an address, telephone number, and e-mail address); a statement that the complaining party has a good-faith belief that use of the allegedly infringing material in the manner complained of is not authorized by the copyright owner, its agent or the law; and (e) a statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

**16. Export Controls.** You agree not to directly or indirectly export or re-export the Scholastic Products or any code found therein, except as authorized by the laws and regulations of the United States and any other applicable jurisdiction. You will not permit the Scholastic Products to be accessed or used at any location or by any person that would violate such laws or regulations. To the extent permitted by law, you will defend, indemnify and hold Scholastic harmless from and against any violation of such laws or regulations by you or any of your agents, officers, directors or employees.

**17. Apple-Specific Terms.** In addition to your agreement with the foregoing terms and conditions, and notwithstanding anything to the contrary herein, the following provisions apply with respect to your use hereunder of any version of any Scholastic mobile app compatible with Apple Inc.'s iOS operating system (an "App"). Apple Inc. is not a party to these Terms and does not own and is not responsible for any App. Apple Inc. is not providing any warranty for any App except, if applicable, to refund the purchase price for it. Apple Inc. is not responsible for maintenance or other support services for any App and shall not be responsible for any other claims, losses, liabilities, damages, costs or expenses with respect to any App, including any third-party product liability claims, claims that an App fails to conform to any applicable legal or regulatory requirement, claims arising under consumer protection or similar legislation, and claims with respect to intellectual property infringement. Any inquiries or complaints relating to the use of an App, including those pertaining to intellectual property rights, must be directed to Scholastic in accordance with the "*Information or Complaints*" section above. The license you have been granted herein is limited to a non-transferable license to use the App(s) on an Apple-branded product that



runs Apple Inc.'s iOS operating system and is owned or controlled by you, or as otherwise permitted by the Usage Rules set forth in Apple's App Store Terms of Service. In addition, you must comply with the terms of any third-party agreement applicable to you when using any App, such as your wireless data service agreement. Apple Inc. and its subsidiaries are third-party beneficiaries of these Terms and, upon your acceptance of the terms and conditions of these Terms, will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third-party beneficiary thereof; notwithstanding the foregoing, Scholastic's right to enter into, rescind or terminate any variation, waiver or settlement under these Terms is not subject to the consent of any third party.