

BASE Education, LLC



LICENSE AGREEMENT AND TERMS OF PURCHASE & USE

1. AGREEMENT.

This License Agreement and Terms of Purchase and Use (“Agreement”) is a legal agreement between you (“you” or “Licensee”) and BASE Education, LLC (“BASE” or “BASE Education”) that describes the terms and conditions of your use of the Software as a Service (“SAAS”), BASE SAAS System, BASE Software, and Content provided to you by BASE (together “SAAS Services”) as specified in an order form or any invoice from BASE (“Order Form”). By reviewing, installing and/or using the SAAS Services accompanying this Agreement, you indicate that you have read, understood and agree to be bound by all of the terms and conditions set forth herein.

2. DEFINITIONS.

- (a) "Software" means the computer program, delivered as a Software as a Service (SAAS) offering, and all modules, updates, modifications, enhancements, or new versions thereto.
- (b) "Use" means accessing the SAAS System as a hosted software application solely for its intended purpose.

3. GRANT; SCOPE OF LICENSE.

- (a) Subject to the terms and conditions of this Agreement, including the payment of applicable license fees, BASE Education hereby grants to Licensee a nonexclusive, nontransferable, limited license, without the right to sublicense, to access and Use of the SAAS Services, including the Software hosted by BASE Education, without modification, subject to the terms, conditions and limitations set forth in this Agreement.
- (b) Licensee shall Use the Software for its internal business purposes only.
- (c) Licensee shall limit access to the Software to its employees and students who are registered users. NO SHARING (MORE THAN ONE PERSON PER USER NAME) OF USERNAMES OR PASSWORDS IS PERMITTED AND SHALL BE A MATERIAL BREACH OF THIS AGREEMENT.
- (d) Unless otherwise agreed to in writing by BASE, Licensee shall not: (i) copy or reproduce the Software; (ii) republish, upload, post, transmit, resell or distribute in any way the Software; (iii) sublicense, assign, or otherwise transfer any of the rights granted to Licensee under this Agreement; (iv) decompile, disassemble, or otherwise reverse engineer the Software; (v) permit any third party to benefit from the use or functionality of the Software via a rental, lease, or resale of Licensee’s use of the Software, or provide “software as a service”, service bureau facilities, time-sharing, or similar services to or through any third party, or provide supporting operations for any third party, using the SAAS Services, including but

- not limited to access to the BASE SAAS System and BASE Software or access to the Software; or (vi) otherwise use the Software except as expressly allowed pursuant to this Agreement.
- (e) No specific provision allowing or limiting use of the Software shall be interpreted as permitting any other uses. Any uses of the Software not expressly permitted under the terms of this Agreement are expressly prohibited. Licensee shall make no copies of the Software and related documentation except as authorized for one backup copy and for security purposes. Licensee agrees to use the operating manuals, charts, tables, written descriptions and handbooks in any medium related to the Software (“Related Documentation”), if any, only in conjunction with Licensee’s Use of the Software. Related Documentation may not be reproduced or redistributed without the written consent of BASE;
 - (f) BASE will have no obligation to provide support for any failure of the Software to operate substantially in accordance with the then-current specifications that:
 - (i) cannot be reasonably remedied;
 - (ii) is due to use of the Software in combination with third-party products, equipment, software, or data;
 - (iii) is due to any release of the Software other than the most current release;
 - (iv) is due to any modifications to the Software not provided by BASE; or (v) is due to breach of this License Agreement or is caused by Licensee’s negligence, abuse, misapplication, or use or misuse of the Software.

4. LICENSE TERM; ACCEPTANCE; AUTHORITY.

- (a) If no Subscription Agreement (“Subscription Agreement”) or Term, Pricing and Payments Addendum (“Addendum”) has been executed, use of the SAAS Services and any Software by any person using administrator-level credentials assigned to Licensee shall constitute acceptance by Licensee of this Agreement and all terms and conditions contained herein. The Agreement created pursuant to this Section 5(a) shall be effective upon acceptance by Licensee pursuant to the preceding sentence and shall remain in force for the Initial Term and any Renewal Term, renewing each and every contract year, unless terminated by either party by giving written notice to the other party at least sixty (60) days prior to the next scheduled renewal date or if earlier terminated by BASE Education according to the terms of Section 8 of this Agreement.
- (b) Upon execution of an Addendum, except as modified by the Addendum, all terms of this Agreement (including any Initial Term and any Renewal Term) shall remain in full force and effect.

5. LICENSE FEES AND PAYMENT.

- (a) In consideration of the license granted to Licensee, Licensee agrees to pay BASE the License fees (the “Fees”) in accordance with this Agreement and any subsequent Addendum. In the event of a conflict between the Addendum and this Agreement, the Addendum shall govern.
- (b) In the event BASE determines that User names and/or passwords are being shared among multiple users in violation of Section 3(c), BASE reserves the right to charge additional Fees and collect such Fees dating back to the time of the violation or the beginning of the Term or Renewal Term, whichever is longer.

Further, BASE may, in its sole discretion, terminate the License or seek any other remedy available to it at law.

(c) All Fees are EXCLUSIVE of any applicable sales, use, value-added or other taxes not based on gross receipts of income. Licensee shall be responsible for all such taxes.

(d) Payments.

(i) If monthly payment terms are specified in the Subscription Agreement or any Addendum (regardless of the length of the Initial Term, any Renewal Term or any Addendum), payments are due and shall be paid by the first day of each calendar month.

(ii) If an invoice is required for payment, it will be issued by electronic mail to the address provided by Licensee, provided, however, that the issuance of an invoice shall be a courtesy only, and shall not be considered a condition precedent to Licensee's obligation to pay the monthly payment by the first day of the month.

(iii) Licensee agrees to pay at the time indicated in each Order Form all payments due from Licensee thereunder. If not otherwise indicated in the Order Form, all payments are due thirty (30) days from the date of invoice.

(iv) Licensee agrees to accept responsibility for paying and reporting (a) all federal, provincial, state and local taxes, however designated, levied or based on account of the purchase price of the Software or SAAS Services or on account of your acquisition or ownership or use of the Software or SAAS Services (exclusive only of taxes based on net income derived by Service Provider), and (b) all foreign taxes, export or import tariffs, and custom duties, however designated, levied or based in connection with the sale and use conducted hereby, the purchase price of the Software and the SAAS Services, or your acquisition or ownership or use of the Software and the SAAS Services. Licensee agrees to hold Service Provider harmless from all claims and liability arising in connection with Licensee's or Purchaser's failure to report or pay such taxes.

(iii) FAILURE TO MAKE ANY PAYMENT WHEN DUE MAY, AT BASE EDUCATION'S OPTION, IN ITS SOLE AND ABSOLUTE DISCRETION, RESULT IN AN INTERRUPTION OF SERVICE UNTIL THE ACCOUNT IS PAID IN FULL. SERVICE WILL BE RESTORED UPON PAYMENT OF THE APPLICABLE PAYMENT FROM THE TIME OF SERVICE INTERRUPTION. IF SERVICE IS INTERRUPTED FOR NON-PAYMENT, NO CREDIT WILL BE GIVEN FOR PERIODS DURING WHICH SERVICE IS INTERRUPTED. ALL DELINQUENT PAYMENTS MUST BE PAID TO RESTORE SERVICE.

6. SERVICE LEVEL AGREEMENT. Licensee understands and agrees:

(a) that the operation and availability of both the Software and the SAAS System used for accessing and interacting with the Software and the SAAS Services, including but not limited to public telephone and computer networks and the internet, whether or not supplied by BASE, can be unpredictable and may, from time to time, interfere with or prevent Licensee's access to and/or use of the Software, the SAAS System, and the SAAS Services. BASE agrees to use commercially reasonable efforts to minimize downtime and/or interruptions to

Licensee's access to the SAAS Services, but does not warrant any particular level of availability; and

(b) that the inclusion, exclusion, and continued support for, any feature, functionality, module in, or release of, the Software is within the sole and absolute discretion of BASE, and BASE retains the absolute right to modify, discontinue, delete or restrict any aspect or feature of the Software or SAAS Services without any liability or obligation to the Licensee, provided that BASE agrees to make commercially reasonable efforts to provide Licensee with prior notice of any material changes to the Software, and further provided that if a feature or functionality is materially decreased the parties shall negotiate in good faith as to an appropriate decrease in fees and/or refund of any funds pre-paid by Licensee to BASE.

(c) From time to time the Software may be unavailable while maintenance is performed and upgrades are installed, which generally will occur during the following periods:

Wednesday 7pm through Thursday 4am

(all times are Mountain Standard Time or Mountain Daylight Time, whichever is in effect in Denver, Colorado).

BASE Education reserves the right to make changes that result in the software being unavailable outside of the specified periods and will promptly notify Licensee if such events will take place.

7. DATA ISSUES.

(a) Privacy Policy. All data entered into the Software or collected by BASE shall be subject to BASE Education's privacy policy located at <http://www.base.education/privacy-policy>

(b) Compliance with Data Collection and Privacy Laws; Indemnification

(i) Licensee represents and warrants to BASE that it shall have the unencumbered right to provide and use all information and data entered into the Software, including but not limited to any parental consents necessary to permit the collection of information from students using the Software and Content.

(ii) Licensee accepts full and complete responsibility for compliance with all laws, rules, and other requirements relating to data collection or privacy in connection with, in any manner whatsoever, any Use of the Software, any data or information entered into the Software, or any information or data obtained from the Software. Licensee warrants that it shall comply with all such laws, rules and other requirements, including but not limited to the Family Educational Rights and Privacy Act ("FERPA") and the Protection of Pupil Rights Amendment ("PPRA"), and corresponding state and local laws.

(iii) Licensee agrees to indemnify and hold harmless BASE for any and all claims, losses, damages, and costs (including but not limited to reasonable attorneys' fees) arising from or relating to the violation of or any breach (whether intentional or otherwise) of the representations and warranties made in Sections 7(b)(i) or 7(b)(ii).

(c) Data Export and Backup.

(i) Licensee acknowledges that the laws and regulations of the United States restricts the export and re-export of certain commodities and technical data of United States origin. Licensee agrees not to export or re-export the Software or any related technical documentation in any form in violation of the export or import laws of the United States or any foreign jurisdiction.

(ii) Licensee may request an export of Licensee's data that conforms to applicable laws at any time and such export will be provided once all undisputed payments due to BASE are paid in full. Exported data shall be provided in CSV (comma separated values) format. If the Licensee desires data in a format other than the standard CSV file output provided for in the Software, there may be a charge associated with exporting the data from the Software. Upon request, Licensee will be given a timely and fair market value quote, on a time and materials basis at BASE's then prevailing hourly rates, to perform the programming tasks associated with extracting the desired data from the Software and delivering it to the Licensee.

(iii) In the event of any loss or damage to Licensee's data, licensee's sole remedy shall be for BASE Education to use commercially reasonable efforts to replace or restore the lost or damaged data from the latest backup of such data BASE has maintained in accordance with its standard archival procedures. Licensee hereby waives and releases BASE from any further claim, loss, or damages and shall have no remedy for other losses or damages.

(iv) BASE shall have no obligation to maintain Licensee's data after the date 30 days following the termination of this Agreement except as otherwise agreed upon in writing and/or as mandated by law.

8. TERMINATION. BASE may terminate the license granted pursuant to this Agreement:

- (a) Effective immediately upon notice to Licensee, upon a material breach of this Agreement by Licensee, including but not limited to Licensee or any of Licensee's authorized Users fail to comply with any term or condition of this Agreement;
- (b) Effective immediately upon notice to Licensee, if Licensee becomes insolvent and immediately upon the filing of a bankruptcy petition or similar document by Licensee;
- (c) Effective immediately without prior notice to Licensee, if all required payments are not made as agreed; or
- (d) Effective 30 days after Licensee declines a modification to the Agreement set forth in any Modification Notice provided according to Section 16(b).

9. SURVIVAL OF TERMS. The following provisions shall survive termination: Sections 2, 4, 7, 8, 10, 11, 12, 13, 14, 15 and 16, as well as all payment obligations of Licensee.

10. TITLE TO SOFTWARE AND CONTENT.

- (a) The Software is licensed and not sold, and BASE reserves all rights not expressly granted to Licensee in this Agreement. The Software, Content, and Related Documentation are protected by applicable United States and/or foreign laws and treaties, including copyright laws and treaty provisions. Except for third party products, BASE owns all right, title and interest in the Software including trade secrets, patents, copyrights, and database rights, and the Software. Except as specifically granted under this Agreement, Licensee has no right, title, or interest in the Software, and is not granted any right, title, or interest in the Software. Licensee hereby agrees that all right, title and interest in any derivative works created under or in violation of this Agreement shall be owned exclusively by BASE. Licensee hereby assigns such all right, title and interest in any such derivative works to BASE and shall fully cooperate, at no cost to BASE, to ensure ownership is solely in BASE.
- (b) All content or other material made available through use of the SAAS System, Software, and SAAS Services including but not limited to lectures, speeches, video lessons, quizzes, presentation materials, homework assignments, programs, code, and other images, text, layouts, arrangements, displays, illustrations, documents, materials, audio and video clips, HTML and files (collectively, the "Content"), are the sole property of BASE and/or its affiliates or licensors and are protected by copyright, patent and/or other proprietary intellectual property rights under United States and foreign law.
- (c) BASE logos, trademarks and service marks which may appear on the Class Sites ("Marks"), are the property of BASE and are protected under United States and foreign laws. All other trademarks, service marks and logos used on the Class Sites, with or without attribution, are the trademarks, service marks or logos of their respective owners. In addition, elements of the Software are protected by trade dress and other federal and state intellectual property laws and may not be copied, reproduced, downloaded or distributed in any way in whole or in part without the express written consent of BASE Education.

11. MODIFICATIONS, ENHANCEMENTS OR EXPLOITATION BY LICENSEE PROHIBITED.

- (a) Licensee shall not, will make no effort to, and will not knowingly or negligently permit any third party to:
 - (i) Reverse engineer, or make any modifications or enhancements to the Software
 - (ii) Decompile, disassemble, analyze or otherwise examine the Software or any Content for the purpose of:
 - (A) reverse engineering,
 - (B) making any modifications or enhancements to the Software, or
 - (C) creating, enhancing, or supporting any product or service including but not limited to any product or service that may be competitive with BASE, the SAAS System, or the Software.
 - (iii) Delete or alter in any manner any notices, disclaimers, or other legends contained in the Software or appearing on any screens, documents, reports, or other materials obtained through use of the Software.
 - (iv) Create any derivative works using, based on, or incorporating the Software or any other Proprietary Information.

- (b) Except as otherwise expressly permitted in these Terms of Use, Licensee may not copy, sell, display, reproduce, publish, modify, or create derivative works from any Content or Marks.

12. SUPPORT AND MAINTENANCE. Licensor will provide maintenance and support services, provided Licensee is current in the payment of all fees. Support services may be provided at an additional expense when the parties enter into a written Support agreement. If included under this Agreement, Support services are limited to:

- (i) clarification of functions and features of the Software;
- (ii) clarification of the Software documentation;
- (iii) guidance in the operation of the Software; and
- (iv) error verification, analysis and correction to the extent possible through remote support.

13. DISCLAIMERS; INDEMNIFICATION/HOLD HARMLESS.

- (a) THE SOFTWARE AND CONTENT ARE PROVIDED "AS IS." BASE EDUCATION DISCLAIMS ALL WARRANTIES, INCLUDING BUT NOT LIMITED TO, ALL EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ACCURACY. LICENSOR DOES NOT WARRANT THE SOFTWARE TO BE FREE OF BUGS, ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS OR PROGRAM LIMITATIONS AND LICENSEE HEREBY WAIVES ANY AND ALL CLAIMS BASED ON THE SAME.
- (b) LICENSEE WILL INDEMNIFY AND HOLD HARMLESS BASE EDUCATION FROM ANY AND ALL COSTS, CLAIMS, ACTIONS, FEES AND/OR JUDGMENTS ARISING FROM OR RELATING TO, IN ANY MANNER WHATSOEVER, THIS AGREEMENT OR LICENSEE'S USE OF THE SAAS SYSTEM, SAAS SERVICES, SOFTWARE OR THE CONTENT, INCLUDING (BUT NOT LIMITED TO) VIOLATIONS OF SECTION 11, SECTION 15, OR FAILURE TO COMPLY WITH PRIVACY LAWS OR TO COLLECT AND PAY APPLICABLE TAXES.

14. WARRANTY AND REMEDY LIMITATIONS. Except for Software that is branded by a third party, BASE warrants that the Software will perform substantially in accordance with the Related Documentation for a period of ninety (90) calendar days from the date of delivery or first use of the Software or the SAAS Services, whichever is earlier ("Limited Warranty"). BASE Education's sole and entire liability and Licensee's sole and exclusive remedy for system unavailability, bugs, or other problems with the operation of the SAAS System, SAAS Services, Software, and Content, during the Limited Warranty period shall be at BASE Education's option to either:

- (a) Return to Licensee the license fee for the period during which the Software did not perform, or
- (b) Repair any defects or replace the Software.

Any third party branded Software delivered by BASE is supplied "AS IS" and Licensee agrees in such case to look solely to the warranties and remedies, if any, and such additional terms and conditions provided by the applicable third party Software licensor. This Limited Warranty is void if failure of the Software

has resulted from accident, misuse, abuse, neglect, unauthorized repair or maintenance, or failure to follow supplied user instructions.

15. DAMAGE LIMITATIONS. EXCEPT AS SET FORTH IN THIS AGREEMENT, BASE EDUCATION DISCLAIMS ALL GUARANTEES AND WARRANTIES, WHETHER EXPRESS OR IMPLIED OR STATUTORY, REGARDING THE SOFTWARE, THE SAAS SYSTEM, THE SAAS SERVICES, THE CONTENT, AND THE RELATED DOCUMENTATION AND SHALL NOT BE LIABLE FOR BODILY INJURY, BODILY HARM, LOSS OF LIFE, INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING LOSS OF USE OR PROFITS, THAT MAY ARISE OUT OF OR RESULT FROM THE USE OF THE SAAS SYSTEM, SAAS SERVICES, SOFTWARE OR CONTENT OR FROM ANY BREACH OF ANY PROVISION OF THIS TERM OF SERVICE OR ANY SUBSEQUENT ADDENDUM. BASE EDUCATION'S LIABILITY TO LICENSEE FOR ANY OTHER DAMAGES RELATING TO OR ARISING OUT OF THIS AGREEMENT WHETHER IN CONTRACT, TORT, OR OTHERWISE WILL BE LIMITED TO THE AMOUNT OF ANY FEES RECEIVED BY BASE EDUCATION FROM LICENSEE THAT ARE ATTRIBUTABLE TO THE 6 MONTH PERIOD IMMEDIATELY PRIOR TO THE TIME SUCH CLAIM AROSE.

16. PROPRIETARY INFORMATION. Licensee acknowledge that the Software, including but not limited to all screens, reports, data arrangements, "look and feel", and other components, the Content, and the Marks constitute proprietary information of BASE ("Proprietary Information"). Licensee agrees to not, directly or indirectly, without BASE's prior written consent, use the Proprietary Information for any purpose other than as expressly permitted under this Agreement, shall not divulge, provide, transmit, copy, make available or otherwise communicate the Proprietary Information to any third party or permit any third party access to or to use such Proprietary Information, and shall not transfer, distribute or otherwise commercially exploit in any manner the Software, any Content or any of the Marks. Proprietary Information shall not include information that (a) is in or enters the public domain without breach of this Agreement, (b) was possessed by Licensee as proven in written documentation prior to first receiving it from BASE, (c) was developed by Licensee independently and without use of or reference to the Proprietary Information or (d) was received by Licensee from a third party without restriction on disclosure and without breach of a non-disclosure obligation or any other agreement. Notwithstanding the foregoing, (i) Licensee shall be permitted to disclose Proprietary Information if such disclosure is required by law, provided that Licensee (x) provides BASE Education with prompt notice of any potential disclosure requirement so as to permit BASE Education to seek a protective order or other appropriate remedy, and (y) cooperates with BASE Education's attempts to prevent disclosure or otherwise protect the Proprietary Information.

LICENSEE AGREES AND ACKNOWLEDGES THAT A VIOLATION OF THIS SECTION 16 OR SECTION 11 OF THIS AGREEMENT WOULD CAUSE IRREPARABLE HARM TO BASE EDUCATION FOR WHICH NO ADEQUATE REMEDY AT LAW EXISTS. LICENSEE AGREES THAT IN THE EVENT OF A VIOLATION BY LICENSEE OF THIS SECTION 16 OR OF SECTION 11 OF THIS AGREEMENT BASE EDUCATION SHALL BE ENTITLED TO INJUNCTIVE RELIEF TO ENFORCE THE TERMS OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO SECTIONS 16 AND 11 OF THIS

AGREEMENT, IN ADDITION TO ANY OTHER REMEDIES THAT MAY BE AVAILABLE UNDER THIS AGREEMENT OR APPLICABLE LAW. LICENSEE AGREES TO PAY ALL COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, FOR BASE EDUCATION'S ENFORCEMENT OF THIS AGREEMENT, INCLUDING SECTION 16 OR SECTION 11 OF THIS AGREEMENT (PROVIDED THAT LICENSEE IS FOUND TO HAVE VIOLATED THIS SECTION 15 OR SECTION 11, AS THE CASE MAY BE).

17. LIQUIDATED DAMAGES. Liquidated damages are a pre-determined estimate of damages the Licensor will incur by Licensee's breach which eliminates the requirements that the Licensor prove its damages. This remedy is in addition other remedies available to BASE. However, liquidated damages shall not be duplicative of other damages BASE may be entitled to recover. The election of damages remedies lies solely as BASE's decision. The Licensee and BASE agree that the liquidated damages for any infringement, copyright violation, or any other violation of the provisions of this Agreement shall be \$3,000 per day from the date of the initial violation.

18. INDEMNITY. Licensee acknowledges and agrees that its use and the use by students at the direction of Licensee of the SAAS System, Software, Content, SAAS Services, program and any other product of BASE are using such SAAS Services and products at their sole risk and under the direction and control of Licensee. Licensee agrees that students using the SAAS Systems, SAAS Services, Content, Software, and programs are at a higher risk of causing injury to themselves and others and therefore Licensee shall closely monitor, direct, and review the input from such students into the SAAS System, Software, Content, and programs and Licensee shall be responsible to supervise such students using the SAAS System, SAAS Services, Software, Content, or program. Licensee shall indemnify, hold harmless and defend BASE from and against any liability, claim, demand, damage, cost or expense (including reasonable attorneys' fees) whether meritorious or not, incurred as a result of any student or other person allowed to use the SAAS System, SAAS Services, Software, Content, or program and claims by any person injured by such student using the SAAS System, SAAS Services, Software, Content or program.

19. GENERAL PROVISIONS.

- (a) Complete Agreement. This License Agreement together with the Subscription Agreement, each Order Form, and any schedules referred to in this Agreement, all of which are incorporated herein by reference, constitutes the sole and entire Agreement between the parties and this Agreement supersedes all prior communications and understandings whether written or oral.
- (b) Modifications. Modifications and amendments to this Agreement, including any exhibit, schedule or attachment hereto, may be made only by specific written agreement of the parties, which agreement shall be set forth in an Addendum, effective upon the execution of said Addendum by both parties.
- (c) Applicable law: Jurisdiction. This Agreement will be governed by the laws of the State of Colorado. Licensee agrees and understands that all disputes whether in contract, tort or otherwise, arising from or relating to any transaction or dealings between BASE Education and Licensee shall be adjudicated in the state and/or federal courts located in Denver, Colorado, and Licensee consents to the venue

and jurisdiction of said state and federal courts for these purposes and waives any claims of improper venue. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement.

- (d) Notices. All notices and other communications provided by any party in connection with this Agreement shall be in writing and shall be deemed received by the intended recipient as follows:
- (i) When delivered personally to the recipient's email or physical address;
 - (ii) Three days after being deposited in the United States mail, postage prepaid to the recipient's address;
 - (iii) When sent by fax or telex to the last fax or telex number of the recipient known to the party giving notice. Notice is effective upon receipt provided that a duplicate copy of the notice is promptly given by first-class or certified mail or the recipient delivers a written confirmation of receipt.
 - (iv) When sent by electronic mail, upon dispatch by the sender of such message to the recipient's electronic mail address or such last known electronic mail address. Licensee's address is the address provided to BASE Education through the application process, and licensee's electronic mail address is the electronic mail address provided to BASE Education through the application process. Licensee may change its address or electronic mail address by notice provided according to this Section 18(d) or by electronically updating its profile in the Software. Email to the email address provided by Licensee shall be presumed valid and BASE will not need to take any further steps to notify Licensee.
 - (v) BASE Education may change its address or electronic mail address by notice provided according to this Section 18(d).
- (e) No Agency: Nothing contained herein will be construed as creating any agency, partnership, joint venture or other form of joint enterprise between the parties.
- (f) Severability. In case any one or more of the provisions contained in this Agreement (including any applicable Addendum), shall, for any reason, be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- (g) Waiver. No waiver of rights under this Agreement by either party shall constitute a subsequent waiver of that or any other right.

20. ASSIGNMENT. The rights conferred by this License shall not be assignable by the Licensee without BASE Education's prior written consent. If allowed, BASE Education may impose a reasonable fee on any such assignment.

21. GOVERNMENT CONTRACT REQUIREMENTS TAKE PRIORITY. To the extent any Federal, State, or local laws, rules or regulations relating to:

- (a) contracting with government entities, or
- (b) downstream contracting with other parties contracting with government entities ("Government Contracting Requirements") impose any requirements or require terms and conditions that contradict the provisions in this Agreement, Licensee shall notify BASE in writing of such Government Contract and upon acceptance and written agreement by BASE, such Government Contracting Requirements shall govern and shall be enforceable between Licensee and

BASE as to only those provisions that contradict any such provision in this Agreement.

22. USE OF PASSWORDS; INTERNET

Licensee is responsible for providing and administering usernames and passwords for all Users (the "Log-In Information"). Each User must have a valid username and password for the purpose of accessing the SAAS Services and each User is limited to one username and password. Licensee and your Users must keep all Log-In Information strictly confidential. Log-In Information may be used only by the assigned User and may not be shared or transferred without BASE's written agreement and Licensee's consent and control.

Licensee and your Users are responsible for maintaining the confidentiality of that User's username and password. Licensee and your Users are responsible for any and all activities that occur under all Licensee's Users' accounts. Licensee agrees to notify Service Provider immediately of any unauthorized use of Licensee's Users' accounts or any other breach of security. Service Provider will not be liable for any loss that Licensee or a User may incur as a result of someone else using Licensee's Users' passwords or accounts, either with or without the applicable Users' knowledge.

Service Provider does not guarantee the security of any information transmitted to or from Licensee or any User over the Internet, including through the use of e-mail. Access to the Internet, if employed, is Licensee's and each User's sole responsibility and the responsibility of Internet provider(s) Licensee selects. Service Provider does not accept any responsibility for failure of service due to Internet facilities, including related telecommunications or equipment.

23. COMMUNICATIONS FROM SERVICE PROVIDER

Service Provider may periodically contact Licensee or administrative Users for customer service purposes. By accessing the SAAS Services, Licensee and each User consents to receive such communications. Licensee agrees that Service Provider may reference its business relationship with Licensee in its marketing or sales materials.

24. SUBSCRIBER REPRESENTATIONS

Licensee represents and warrants that (i) Licensee has full power and authority to enter into the SAAS Subscription Agreement, and to agree to all the terms and conditions contained therein and in this Agreement; (ii) only Licensee and Licensee's Users shall be permitted to access the SAAS Services and any related tools, applications, information and materials provided in connection with the SAAS Services; and (iii) Licensee shall obtain and maintain in effect all permits, licenses and authorizations necessary for the purchase and intended use of the SAAS System, Software, Content and the SAAS Services.

25. CHANGES TO TERMS OF PURCHASE AND USE

SERVICE PROVIDER RESERVES THE RIGHT TO CHANGE THESE TERMS OF THIS LICENSE AGREEMENT AND TERMS OF PURCHASE AND USE FROM TIME TO TIME. SUCH CHANGES WILL BECOME EFFECTIVE WHEN BASE POSTS THE REVISED TERMS OF USE AS PART OF THE SERVICE OR ON ANY RELATED WEBSITE. THE MOST CURRENT VERSION OF THE TERMS OF USE CAN BE REVIEWED BY CLICKING ON THE “TERMS OF PURCHASE AND USE” HYPERTEXT LINK LOCATED IN THE HOME PAGE FOR THE SERVICE. LICENSEE AND USERS SHOULD CHECK THE TERMS OF USE FROM TIME TO TIME, AS THEY ARE BOUND BY THE TERMS OF USE SO POSTED FROM AND AFTER THE TIME THE CHANGES ARE POSTED. ANY REVISED TERMS OF USE SHALL SUPERSEDE ALL PREVIOUS VERSIONS.

26. AGREEMENT

Usage of BASE Education SAAS System, Software, Content, or SAAS Services indicates agreement by Licensee with all conditions herein.