



## READING HORIZONS PURCHASE AGREEMENT

This Reading Horizons Purchase Agreement ("Agreement") is entered into as of the last date set forth on the signature page (the "Effective Date") by and between HEC Software, Inc. a Utah corporation d/b/a Reading Horizons ("Supplier") and the District or school system set forth on the signature page ("District").

- A. District desires to purchase certain direct instruction and learning materials (the "Goods", as further described below) from Supplier in connection with Supplier licensing its *Reading Horizons* software to District.
- B. Supplier desires to sell the Goods to District pursuant to the terms and conditions herein.

### Agreement:

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. Purchase and Sale. In accordance with the terms and conditions set forth in this Agreement, Supplier agrees to sell and deliver, and District agrees to buy, the Goods described on Exhibit A hereto at the time and place set forth in Exhibit A, which Goods are being sold to District in connection with the *Reading Horizons* software license that Supplier is granting to District pursuant to that certain Reading Horizons Partner Agreement entered into by the parties on or after the date of this Agreement. District agrees to pay the purchase price for the Goods set forth on Exhibit A according to the terms set forth on Exhibit A. Supplier agrees that the Goods subject to this Agreement shall conform to the specifications set forth on Exhibit A.
2. Terms and Conditions.
  - (a) Certain Definitions. In this Agreement:
    - (i) "Goods" means all books, materials, and direct instruction items designed, printed, or supplied by Supplier.
    - (ii) "Proprietary Information" means all media, literature, books, software, tools, algorithms, know-how, ideas, techniques, materials, methodologies, concepts, trade secrets and other proprietary information, including but not limited to copyrighted materials, that were owned or licensed by Supplier prior to entering into this Agreement, and shall include all information included in the Goods.
  - (b) Purpose. District and Supplier desire to enter into this Agreement for District to purchase from Supplier certain Goods, which include direct instruction materials to be used in connection with the *Reading Horizons* software that Supplier is licensing to District.
  - (c) Delivery. Supplier shall deliver the Goods on or before the date set forth on Exhibit A to District's office at the address set forth on page Exhibit A.

(d) *Inspection.* District will inspect the Goods within a reasonable time after delivery and will notify Supplier of any claims or defects or short delivery, within 20 days after delivery. In the event that District does not provide such notice within 30 days, the Goods will be deemed accepted. In the event that District provides notice that the Goods are defective or incomplete, Supplier shall provide replacement Goods in full compliance with the specifications set forth on Exhibit A at the Supplier's cost, within 30 days of such notice.

(e) *Title.* Full legal and equitable title and risk of loss or damage to the Goods provided by Supplier will remain with Supplier until the Goods are delivered to District. Further, title shall pass to District free and clear of claims, liens and encumbrances (save Supplier's right to receive payment therefor) upon delivery to and acceptance by District.

(f) *Payment.* District shall make payment in full to Supplier of the Purchase Price for the Goods according to the payment terms set forth on Exhibit A.

(g) *Purchase Price; Taxes.* Except as otherwise set forth herein, the purchase price for the Goods set forth on Exhibit A constitutes the Supplier's entire compensation for delivery of the Goods under this Agreement, and includes all charges for federal, state and local taxes, delivery, insurance, packing, freight, tariffs or other governmental charges, if any, applicable to this transaction. District shall not be responsible for any additional costs.

(h) *Warranties.* SELLER EXPRESSLY WARRANTS THAT ALL GOODS FURNISHED UNDER THIS AGREEMENT SHALL CONFORM TO THE SPECIFICATIONS SET FORTH ON EXHIBIT A, SHALL BE NEW AND FREE FROM ALL DEFECTS IN MATERIAL OR WORKMANSHIP, AND THAT SUPPLIER HAS TITLE TO THE GOODS FREE FROM ANY LIENS, CLAIMS OR ENCUMBRANCES EXCEPT AS SET FORTH HEREIN. SUPPLIER HEREBY EXPRESSLY EXCLUDES AND DISCLAIMS ANY AND ALL WARRANTIES INCLUDING IMPLIED WARRANTIES EXCEPT AS EXPRESSLY SET FORTH ABOVE AND SPECIFICALLY EXCLUDES AND DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR BUYER'S PARTICULAR PURPOSE.

(i) *Proprietary Information.* District shall consider all Proprietary Information furnished by Supplier to be confidential and shall not disclose any such information to any third party, or make copies or otherwise duplicate such Proprietary Information or use such Proprietary Information for any purpose other than its own use of the Goods, unless District obtains prior written permission of Supplier to do so.

(j) *Severability and Modification; No Waiver.* If any provision contained in this Agreement is deemed to be unenforceable by a court of competent jurisdiction, the parties agree that such court may modify and enforce such provisions to the extent it believes to be reasonable under the circumstances existing at the time and to the extent that such modification presents the basic intent of the parties. Such unenforceability shall not affect the validity of any other provision. Failure of a party to insist on strict performance of any of the terms of this Agreement shall not be considered a waiver of any provisions contained herein and shall not constitute a course of dealing which would alter any terms contained herein, absent an express written waiver by the parties.

(k) *Notices.* All notices, consents, amendments, or waivers shall be in writing and addressed to either party at the address or email address provided on the signature page. Notice shall be deemed duly given upon the earliest to occur of the following: (A) at the time of personal delivery; (B) on the fifth day after being sent by mail; (C) on the first business day after being sent by a nationally recognized overnight delivery service; or (D) one day after delivery of email provided that receipt is acknowledged.



(l) *Independent Contractor.* Supplier's role with respect to District is that of an independent contractor. Nothing in this Agreement shall be deemed to create any relationship of agency, employment, partnership, joint venture or co-ownership or to grant to Supplier any authority to serve as an agent of District or to create any obligation with any third party binding upon District.

(m) *Interpretation.* (i) Governing Law. This Agreement will be governed by the laws of the State of Utah and any proceeding arising under this Agreement shall be commenced and conducted in a court in Salt Lake County in the State of Utah; (ii) Entire Agreement; Amendment. This Agreement sets forth the entire agreement and understanding between the District and Supplier relating to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements and discussions between Supplier and District. No modification of or amendment to this Agreement will be effective unless in writing signed by both parties; (iii) Successors and Assigns. This Agreement will be binding upon Supplier and Supplier's heirs, executors, administrators and other legal representatives, successors and permitted assignees and will be binding upon and inure to the benefit of District, its successors, and its assignees; (iv) Counterparts. This Agreement may be executed in one of more counterparts, each of which shall be taken together to form a single instrument. Signature pages to this Agreement may be executed and delivered electronically and shall be valid and binding as originals.

**DISTRICT:**

Minneapolis Public School District

District/District Name

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

*Jennifer Anderson*

Signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

APPROVED

JUN 23 2015

BOARD OF EDUCATION MEETING

Address for Notice:

1250 W. Broadway  
Minneapolis MN  
55411

Email: \_\_\_\_\_

**SUPPLIER:**

READING HORIZONS

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

*Robert R. Openshaw*

Signature

Name: \_\_\_\_\_

Title: *Sales Director*

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

6-24-2015

Address for Notice:

60 N. Cutler Dr STE 101  
North Salt Lake UT 84054

Email: *rob.openshaw@readinghorizons.com*