



**KNOWLEDGEWORKS NETWORK
END USER LICENSE AGREEMENT**

IMPORTANT – READ CAREFULLY. This KnowledgeWorks Network End User License Agreement (“Agreement”) sets forth the legal agreement between you and KnowledgeWorks Foundation (“KnowledgeWorks”) that governs your use of this online platform (“KWF Network Platform”) and the online learning resources and community of practice made available by KnowledgeWorks therein that, among other things, contains electronic libraries and other resources and materials supporting the implementation of personalized, competency-based learning experiences (“KWF Network Resources”). By clicking “accept” or “agree” to this Agreement when this option is made available, you acknowledge that you have read this Agreement in its entirety and agree to be legally bound by this Agreement. If you do not agree to this Agreement, then do not click to accept or agree to this Agreement.

The parties agree as follows:

- 1. License Grant.** Subject to the terms of this Agreement, KnowledgeWorks grants you a limited, revocable, non-exclusive, and nontransferable license to
 - (A) access and use the KWF Network Platform, and
 - (B) download, reproduce, display, perform, transmit and distribute KWF Network Resources, subject to the following:
 - (i) the KWF Network Resources are not commercially exploited in any way; and
 - (ii) the KWF Network Resources are reproduced, displayed, performed, transmitted, and distributed solely by and between individuals authorized to access and use the KWF Network Resources via the KnowledgeWorks Foundation Master Services Agreement entered into between KnowledgeWorks and your employer or other entity on whose behalf you are using the KWF Network Platform (“**Authorized Users**”), unless the materials are explicitly marked by KnowledgeWorks with broader distribution terms, in which case such broader terms shall apply.

- 2. Additional Conditions and Restrictions.**
 - (A) You shall not, directly or indirectly: (i) modify or amend any KWF Network Resources or create any derivative works or improvements thereto (all such modifications, amendments, derivatives, improvements of derivative works are collectively referred to as “**KWF Network Resources Modifications**”) without the prior written consent of KnowledgeWorks; (ii) alter, hide, render illegible or remove any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notices from the KWF Network Resources; (iii) reverse engineer, decompile, disassemble, decode or otherwise attempt to discover the source code, algorithms, architecture, structure, underlying technology of or trade secrets embodied in the KWF Network Platform; (iv) rent, lease, loan, sublicense, sell, distribute, transfer or otherwise make available the KWF Network Platform, or any features or functionality of the KWF Network Platform, to any other person for any reason (which includes without limitation the sharing of usernames and passwords); (v) remove, disable, circumvent or otherwise create or implement any workaround to any copy protection, rights



management or security features in or protecting the KWF Network Platform or KWF Network Resources; (vi) use the KWF Network Platform for purposes of (a) engaging in any activities in violation of applicable law, or (b) competitive or benchmarking analysis or for development of a competing product, service or offering; or (vi) attempt to gain unauthorized access to, interfere with, damage or disrupt any portions of the KWF Network Platform or any other thereof, including without limitation, any servers, databases or accounts relating thereto.

- (B) You shall comply with any use limitations disclosed to you by KnowledgeWorks in connection with any KWF Network Resources comprising or incorporating content or materials licensed by KnowledgeWorks from third party licensors.
- (C) You acknowledge KnowledgeWorks may, from time to time and at its sole discretion: (i) add new KWF Network Resources, and (ii) modify, discontinue, remove or withdraw rights to use certain KWF Network Resources that have previously been made available to you. Upon request of KnowledgeWorks, you shall promptly cease using discontinued KWF Network Resources or, if applicable, begin using modified materials thereof.
- (D) Any failure to comply with the terms of this Section 2 is a material breach of this Agreement.

3. **KWF Network Resources Modifications.** KWF Network Resources Modifications, whether authorized or unauthorized, will be solely owned by KnowledgeWorks, and you hereby assign any such KWF Network Resources Modifications to KnowledgeWorks including all intellectual property rights therein. The KWF Network Resources Modifications will be subject to the limited licenses and restrictions set forth in this Agreement with respect to the KWF Network Resources.
4. **Suspension.** KnowledgeWorks may suspend access to the KWF Network Platform and KWF Network Resources (and any part thereof) if KnowledgeWorks determines that you: (i) have used (or attempted to use) the KWF Network Platform to engage in denial of service attacks, spamming or illegal activity, or is causing immediate, material and ongoing harm to KnowledgeWorks or others; (ii) have uploaded, posted or submitted unauthorized content; (iii) have “hacked” or attempted to “hack” the KWF Network Platform or otherwise access or use portions of the KWF Network Platform that are not intended to be accessed by such user; (iv) have used log-in credentials of another user without authorization; (v) have used or attempted to use the KWF Network Resources in a manner not permitted by this Agreement; or (vi) KnowledgeWorks has reason to suspect you are or will otherwise violate the terms of this Agreement (each, a “**Suspension**”). In no event will KnowledgeWorks will be liable to you for any Suspension, including any suspension instituted by a third party providing hosting services for the KWF Network Platform (“**Platform Host**”) for any reason.
5. **Collection of Information.** You acknowledge that when you use the KWF Network Platform, KnowledgeWorks and the Platform Host may use automatic means (including, for example, cookies and web beacons) to collect information about your electronic device and your use of the KWF Network Platform. You also may be required to provide certain information about yourself as a condition to using the KWF Network Platform or certain of the features and functionality of the KWF Network Platform. All information KnowledgeWorks or the Platform Host collect through or in connection with the KWF Network Platform is subject to its respective privacy policy. By using and providing information to or through the KWF Network Platform, you consent to all actions taken by KnowledgeWorks with respect to your



information in compliance with [KnowledgeWorks's Privacy Policy](#) as well as all actions taken by the Platform Host with respect to your information in compliance with the [Platform Host Privacy Policy](#).

6. **Ownership and Intellectual Property.** KnowledgeWorks is and will remain the sole and exclusive owner of all right, title and interest in and to the KnowledgeWorks IP subject only to the limited license granted to you under this Agreement. Any rights in and to the KnowledgeWorks IP not expressly granted to Client in this Agreement are reserved. "**KnowledgeWorks IP**" means all copyright, trademark, trade secret and other intellectual property rights in and to the KWF Network Platform and KWF Network Resources.
7. **User Contributions.** The KWF Network Platform may contain message boards, chat rooms, forums, bulletin boards, libraries, and other features that allow you to post, submit, display to or otherwise share with (hereinafter, "**post**") others text, graphics, photographs, videos and other content or materials (collectively, "**User Contributions**") on or through the KWF Network Platform. Any User Contribution posted to the KWF Network Platform will be considered non-confidential. Upon posting of a User Contribution, you hereby grant to KnowledgeWorks and all users of the KWF Network Platform, simultaneous with any such posting, a perpetual, irrevocable, worldwide, transferable, fully-paid up, and royalty-free license to reproduce, distribute, display, perform, transmit, create derivative works and otherwise make use of such User Contribution in any manner and through any media for the benefit of KnowledgeWorks, existing and future users or contributors to the KWF Network Platform, and any other KnowledgeWorks authorized entity. You represent and warrant: (i) you own or control all rights in and to the User Contributions or otherwise have the authority to grant the license permitted above; (ii) the User Contributions do and will comply with this Agreement; and (iii) to the best of your knowledge, the User Contributions: (1) do not infringe upon or violate any copyright, trademark, or trade secret of others or otherwise violate any law; (2) do not contain material that is obscene, libelous, in violation of any right of privacy or publicity, including the Family Education Privacy Rights Act (FERPA), the Children's Online Privacy Protection Act (COPPA) or any other applicable privacy laws and regulations; and (3) are not harmful so as to subject its licensees to liability to any third party. You acknowledge KnowledgeWorks has no obligation to screen, edit or review User Contributions; however, KnowledgeWorks may delete, or require you to delete, any such content upon KnowledgeWorks's determination, in its sole discretion, that such content may violate this Agreement, including the representations and warranties made above, or is otherwise interfering or may interfere with the access to or the use of the KWF Network Platform, including the KWF Network Resources provided therein.
8. **Student Data.** You are not permitted to post any Student Data to the KWF Network Platform. If you become aware that Student Data was posted to the KWF Network Platform or otherwise disclosed to KnowledgeWorks, you shall provide notice to KnowledgeWorks and KnowledgeWorks shall promptly delete or, upon request, return and then delete such Student Data. "**Student Data**" means personally identifiable information from education records of students.
9. **Term.**
 - (A) The term of this Agreement commences at the time of acceptance of this Agreement by you and continues in effect until your access to the KWF Network Platform is removed or denied (hereinafter, "**terminate**" or "**termination**").



- (B) This Agreement will automatically terminate upon termination of the KnowledgeWorks Foundation Master Services Agreement entered into between KnowledgeWorks and your employer or other entity on whose behalf you are using the KWF Network Platform. KnowledgeWorks may terminate this Agreement without notice, effective immediately, in the event of your breach of this Agreement, if KnowledgeWorks has reason to believe that you have misused or will misuse the KWF Network Platform or any other part of the KWF Network Platform, including without limitation the KWF Network Resources, or KnowledgeWorks or the Platform Host cease to support or provide the KWF Network Platform.
- (C) On the termination of this Agreement:
 - (i) Your permitted use of the KWF Network Platform and KWF Network Resources will terminate immediately, and you shall immediately cease all use of and other activities with respect to the KWF Network Platform and KWF Network Resources.
 - (ii) Notwithstanding the foregoing, if this Agreement was terminated other than due to your breach or breach by your employer or other entity on whose behalf you are using the KWF Network Platform of the KnowledgeWorks Foundation Master Services Agreement, and subject to your continued compliance with this Agreement, the license granted in Section 1(B) shall survive the termination of this Agreement.
- (D) All terms in this Agreement which, by their nature, are intended to survive termination of this Agreement will survive termination including without limitation representations and warranties, disclaimers and limitations of liability, intellectual property terms and terms relating to User Contributions.

10. Disclaimer and Limitations

- (A) ***The KWF Network Platform and KWF Network Resources and any other goods and services provided under this Agreement (collectively the "Offerings") are provided on an "as is" and "as available" basis. Except as expressly required by law without the possibility of contractual waiver, KnowledgeWorks disclaims all representations and warranties, express and implied, with respect to the Offerings, including any implied warranties of merchantability, fitness for a particular purpose, title or non-infringement or any other warranties that may arise from usage of trade or course of dealing. Without limiting the foregoing, KnowledgeWorks does not make any, and hereby expressly disclaims all representations, warranties and guarantees regarding (i) the Offerings (including the use of or the results of the Offerings) in terms of correctness, accuracy, reliability, timeliness, availability, security, compliance with applicable laws or otherwise, and (ii) whether the operation of the Offerings will be uninterrupted or error free. You acknowledge that Internet accessibility carries with it the risk that your privacy, confidential information and property may be lost, destroyed or compromised. You are responsible for implementing sufficient procedures to satisfy your particular requirements for anti-virus protection. You acknowledge that a governmental entity may intercept your data or require KnowledgeWorks to disclose such data. Your use of the Offerings is done so at your own risk. Except as otherwise provided in this Agreement, KnowledgeWorks has the right to modify, suspend or discontinue the Offerings at any time without notice or liability to you.***



- (B) ***To the fullest extent permitted by applicable law, KnowledgeWorks will not be liable for any punitive, exemplary, indirect, incidental, consequential or special damages, or for any lost profits, lost funding, lost savings, anticipated profits, lost data, lost business, lost revenues, damage to goodwill, lost opportunities or loss of anticipated savings, arising out of or related to this Agreement, including the Offerings, regardless of whether the claims are based in contract, tort (including negligence), strict liability, infringement, or any other legal or equitable theory and even if KnowledgeWorks has been advised of the possibility of such damages. In no event will KnowledgeWorks's total liability to you under any theory of liability exceed the amount of fifty United States dollars (US \$50).***
- (C) ***Any claims by Client arising out of or related to this Agreement, including the Offerings, regardless of whether the claims are based in contract, tort (including negligence), strict liability, infringement, or any other legal or equitable theory, must be brought within one year of the termination of this Agreement or such claims will be forever barred.***

11. Miscellaneous Terms

- (A) Notices KnowledgeWorks sends you under this Agreement may be sent by mail or email to your last known mailing or email address at the time we send our notice. Any such notice will be deemed to be received when it is sent even if you do not actually receive it. Notices you send to us under this Agreement must be in writing and sent at your own cost by certified mail, return receipt requested, or nationally recognized courier (e.g., FedEx or U.P.S.) with a signature required to the following address and are effective when received: KnowledgeWorks Foundation, 312 Plum Street, Suite 950, Cincinnati, OH 45202, ATTENTION: NETWORK NOTICE.
- (B) You shall cooperate with KnowledgeWorks as appropriate to permit KnowledgeWorks to secure, protect, record, further document or register any intellectual property right arising under this Agreement, including executing all papers reasonably desirable or necessary to further document the KnowledgeWorks's ownership in and to the KnowledgeWorks IP and to register the intellectual property rights in such materials.
- (C) This Agreement will be governed by and construed in accordance with the laws of the State of Ohio without reference to conflict-of-laws principles. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement must be brought in the courts of the State of Ohio in Hamilton County or, if it has or can acquire jurisdiction, in the United States District Court for the Southern District of Ohio in Hamilton County, and each of the Parties consents to the jurisdiction of such courts in any such action or proceeding and waives any objection to venue laid therein.
- (D) Any provision of this Agreement that is held to be illegal, invalid, prohibited or unenforceable will not affect the remaining provisions hereof or the application thereof to other facts and circumstances and this Agreement will be construed as if such illegal, invalid, prohibited or unenforceable provision had never been contained in it.
- (E) No waiver of satisfaction of a condition or nonperformance of an obligation under this Agreement will be effective against KnowledgeWorks unless it is in writing and signed by an officer of



KnowledgeWorks, and no such waiver will constitute a waiver of satisfaction of any other condition or nonperformance of any other obligation. We may change, modify or amend this Agreement, in whole or in part, at any time, by notifying you in writing or by posting the modified version on the KWF Network Platform or the KnowledgeWorks website. Your continued use of the KWF Network Platform following the publication of such amendment will be deemed your acceptance of the amended Agreement.

- (F) This Agreement may not be assigned by you without the written consent of the KnowledgeWorks. KnowledgeWorks may assign this agreement.
- (G) The Parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted.
- (H) KnowledgeWorks will not be in default of its failure to perform any obligation under this Agreement if it is caused solely by supervening conditions beyond KnowledgeWorks's reasonable control.
- (I) This Agreement constitutes the entire agreement and understanding between the Parties and supersedes all prior agreements and discussions with respect to the subject matter hereof. The headings of this Agreement are for convenience only and do not affect the interpretation of this Agreement. The word "including" means "including without limitation." The word "or" is not exclusive. Words denoting the singular have a comparable meaning when used in the plural, and vice-versa.

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