

RENAISSANCE®

Terms of Service and Licence Renaissance Learning UK Ltd

These Terms of Services and Licence are applicable to any quote issued by Renaissance to Licensee and accepted by Licensee ("Quote") to provide access to the Applications, Hosting Services and Services identified therein and to Licensee's use of the Applications, the Hosting Services and Services. Each Quote shall be deemed to be part of this Agreement and subject to the terms and conditions set forth herein.

1. **Definitions.** Capitalised terms used but not defined herein shall have the meanings assigned to them as set forth in **Exhibit A**.

2. **License to Applications and Hosting Services**

2.1 Grant of License.

2.1.1 Renaissance Licence to Licensee. Subject to Licensee's compliance with the terms and conditions of the Agreement and payment of applicable fees, Renaissance grants Licensee a non-exclusive, non-sub-licensable, non-transferable, non-assignable, revocable, limited license, during the Subscription Period, to access and use the Applications and Content provided therein in accordance with Section 2.3 below (the "**License**"). If accessing Nearpod then, subject to Licensee's compliance with the terms and conditions of the Agreement and payment of applicable fees, Renaissance grants Licensee a non-exclusive, non-sub-licensable, non-transferable, non-assignable, revocable, limited license, during the Subscription Period, to access, use, reproduce, distribute, publicly perform, and display the Nearpod Materials and Content.

2.2 Hosting Services. Renaissance shall provide Licensee with remote access to the Applications via the Internet (the "**Hosting Services**") for the Licensed Sites. Except for Nearpod, the Applications will be housed at a Renaissance chosen facility, and will operate on servers determined by Renaissance, which may include servers owned by or leased by Renaissance. For the avoidance of doubt, Nearpod will be housed at a Renaissance chosen facility, and will operate on servers determined by Renaissance and located in the United States.

2.3 Authorised Use.

a. Renaissance Application. The following requirements apply to Renaissance Applications only, exclusive of Nearpod:

i. Student Capacity. The number of unique students permitted to use the Renaissance Applications (excluding Renaissance-U) at any Licensed Site is limited to the Student Capacity set forth in the Quote. Circumventing the Student Capacity by any means is a material breach of the Agreement and may result in immediate termination of the Agreement by Renaissance. Student Capacity is allocated when a Licensee student first logs in and performs any activity or when any activity is first assigned to such student. Student Capacity may not be used interchangeably across students and any unused Student Capacity is non-refundable and expires at the end of the applicable Subscription Period. If a student no longer attends school at the License Site, Licensee may dis-enroll that student as a User of the Renaissance Application under Product Administration in the Renaissance Application and use that seat for a new student at the Licensed Site. Additional Student Capacity may be purchased through the Renaissance Applications or by contacting Renaissance and placing an order for the desired incremental capacity amount. Any additional Student Capacity purchased shall be subject to these Terms of Services and License. Licensee can view allocated Student Capacity and which students are using the allocated Student Capacity under Product Administration in the Renaissance Applications.

ii. Location. Except as set forth in this Section 2.3(b)(ii) or approved in advance by Renaissance, in writing, the Renaissance Applications (excluding Nearpod) can only be accessed and used by Authorised Users at the Licensed Site. Licensee shall not make the Renaissance Applications

available in whole or in part in any networked or time-sharing environment extending beyond the Licensed Site. Notwithstanding anything to the contrary in this Section 2.3(b)(ii), the following is permitted for an Authorised User subject to the terms and conditions contained in the Agreement: (i) teacher and administrator access to Renaissance-U and the management feature of the Renaissance Applications via the Internet is permitted from outside a Licensed Site; (ii) Homebound Student access to the student portion of the Renaissance Applications via Internet is permitted for up to 60 days during the Subscription Period from such Homebound Student's home using a computer owned or leased by Licensee or such Homebound Student; (iii) student and parent access to the Home Connect feature of the Renaissance Applications via Internet is permitted from such student or parent's home using a computer owned or leased by Licensee, such student or parent; (iv) access to the Renaissance Applications by Authorised Users at a public library on computers owned or leased by such public library only to the extent the Licensed Site is providing a summer reading program authorised by Licensee through such public library (v) access to Accelerated Reader or Accelerated Reader 360 by Authorized Users in connection with a summer reading program authorized by Licensee and (vi) with respect to a Licensee that is an International School, access to the Renaissance Applications by its Authorised Users outside the Licensed Site subject to the conditions set forth in **Exhibit B**. Licensee shall not make any portion of the Renaissance Applications accessible to parents or students, which are not specifically intended for parent or student use, as the case may be, including, but not limited to, the educator and administrator portion of the Renaissance Applications.

b. myON Applications. The myON Applications can only be accessed and used by Authorised Users, provided that Authorised Users that are parents shall only access and use the myON Applications to review reports.

c. Nearpod. The number of unique teachers permitted to use the Nearpod at any Licensed Site is limited to the number of teacher licenses ("Teacher Capacity") set forth in the Quote. Circumventing the teacher license capacity by any means (including but not limited to the sharing of accounts) is a material breach of the Agreement and may result in immediate termination of the Agreement by Renaissance. Teacher Capacity is allocated when a Licensee teacher account is first assigned to such teacher. Teacher Capacity may not be used interchangeably across teachers and any unused Teacher Capacity is non-refundable and expires at the end of the applicable Subscription Period. If a teacher no longer is employed at the License Site, Licensee may dis-enroll that teacher as a User of Nearpod and use that seat for a new teacher at the Licensed Site. Additional Teacher Capacity may be purchased by contacting Renaissance and placing an order for the desired incremental capacity amount. Any additional Teacher Capacity purchased shall be subject to these Terms of Services and License. Licensee can view allocated Teacher Capacity and which teachers are using the allocated Teacher Capacity in the admin panel of the Nearpod application.

d. Access. Renaissance shall provide Licensee access to the Applications by the date identified in the Quote. Access rights granted to Licensee shall be limited to those access rights necessary to use of the intended functionality of the Applications.

Renaissance reserves the right to restrict or prevent access to activities or suspected activities that involve security breaches, hacking, distributed denial of service attacks, or uploading a virus, Trojan horse, time bomb, unauthorised application, or any other harmful form of programming or vandalism. Furthermore, Licensee represents and warrants that it shall not, and shall not attempt to: i) license, sublicense, copy, duplicate, distribute, modify, publicly perform or display, transmit, publish, edit, adapt, create derivative works from, reproduce, sell, trade, or resell the Nearpod Materials or Content (including, without limitation, the reproduction, sale, trading or resale of Nearpod Materials or Content customized by other Nearpod users) without our prior written agreement; (ii) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any software component of the Nearpod Materials are compiled or interpreted, and you acknowledge that nothing in these Terms will be construed to grant you any right to obtain or use such code; (iii) create any derivative product from of the foregoing, without our prior consent; (iv) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, or pledge as security or otherwise encumber, your rights under these Terms; (v) remove any title, trademark, copyright, or restricted rights notices or labels from the Nearpod Materials or related documentation; or (vi) share accounts. We take privacy seriously. As such, if you (or in the case of a school, district, or multi-seat license account, as administrator) learn that the license users are sharing accounts, you must notify the user that they are not to share accounts or passwords. If the user continues to share their account or password with someone else, you must notify us at privacy@nearpod.com within twenty-four (24) hours. Notwithstanding anything to the contrary in this section or otherwise, the Nearpod Materials may include functionality that will allow you to create new content slides, delete slides and certain other editing functionality. These activities are permitted to the extent enabled within the Nearpod Materials, provided that such edited content is used solely for private educational purposes of the user. Nearpod reserves the right to modify or discontinue the Nearpod Materials or any version(s) thereof at any time in its sole discretion, with or without notice.

2.4 Account Set Up.

- a. Renaissance shall create an administrator account to enable Licensee's administrator to access the Applications and provide Licensee with the identification number, password, encryption key, or other access codes to access the administrator account (the "Admin Login Information").
- b. Renaissance shall assist Licensee with loading the Licensee Data and creating user names and passwords for each Authorised User to use the Applications (the "Onboarding Services"). To the extent Licensee has purchased any Data Integration Services as identified in the Quote, Renaissance grants Licensee a non-exclusive, non-sublicensable, non-transferable, revocable, limited license, during the Subscription Period, to access and integrate the API provided by Renaissance with Licensee's Student Information System to enable the Applications to obtain and update Licensee Data in the Applications. Any use of the Applications through the Admin Login Information or any other accounts created by Licensee (collectively, the "Login Information") will be considered use by the Licensee. Licensee agrees not to sell, transfer, or assign its Login Information or allow others to use it except Authorised Users as authorised herein. Licensee agrees to immediately notify Renaissance of any unauthorised use of its Login Information or any other breach of security or confidentiality thereof, and in such event Renaissance shall have the right, without limitation of any other rights under the Agreement, at law or in equity, to terminate the Agreement and/or take any steps necessary to prevent the unauthorised use.

2.5 Mobile Applications. Licensee's Authorised Users may have the ability to access some or all of the Applications on mobile devices through Mobile Applications. Licensee acknowledges that prior to accessing Applications via a Mobile Application, Licensee may be required to agree to additional terms, agreements, and licenses ("Mobile App Agreements") provided by Renaissance or a mobile provider. Licensee hereby agrees to accept all responsibility for violations of the terms of such Mobile App Agreements by Licensee's Authorised Users.

2.6 Service Level. Except for Nearpod, Renaissance shall use reasonable commercial efforts to ensure that the Hosting Services are Operational at least 99% of each calendar month during the Subscription Period. "Operational" means functioning so as to allow normal operation for Users to access the Applications hosted on the Hosting Services. The inability of the Licensee to access the Hosting Services due to its own hardware or software issues or internet connectivity issues is not sufficient to constitute the services non-operational. Notwithstanding the foregoing, the service level does not apply to any application or service provided by a third party, including, without limitation, Third Party Services, does not include availability impacted by scheduled maintenance or planned updates and is subject to Licensee complying with the system requirements set forth at <http://www.renlearn.co.uk/system-requirements/>. For Nearpod, Licensee can check the status at: status.nearpod.com.

2.7 Third Party Services. Except for Nearpod, the Applications and Hosting Services may operate using third party applications and services obtained separately by Licensee ("Third Party Services"). Renaissance is not responsible for the operation or functionality of such Third Party Services. While Renaissance may configure its Applications and Hosting Services to operate with Third Party Services, Renaissance cannot and does not guarantee that such Third Party Services will operate correctly or that the Third Party Services will be available during the entire Subscription Period and Renaissance does not endorse the Third Party Services.

2.8 Maintenance. Except for Nearpod, Renaissance reserves the right to update the Applications and Hosting Services and provide maintenance releases related to the Applications and Hosting Services. All updates and maintenance releases that are deployed shall be deemed subject to all applicable terms and conditions in the Agreement. Licensee does not have any right hereunder to receive any new versions of the Applications that Renaissance may, in its sole discretion, release from time to time.

2.9 Technological Changes. Except for Nearpod, as technology advances it becomes necessary for software application providers to discontinue support for older operating systems and third-party applications. It is the responsibility of Licensee to keep its computers, networks, operating systems, and third-party applications up-to-date and functional.

3. **Professional Services**

3.1 Professional Services. If identified in the Quote, Renaissance will provide the Professional Services identified therein in accordance with terms and conditions set forth in the Agreement including those terms and conditions located at <https://doc.renlearn.com/KMNet/R61742.pdf>.

3.2 Quality of Services. Renaissance agrees to perform the Professional Services with care, skill, and diligence, in accordance with the applicable professional standards currently recognised in the educational software applications industry, and shall be responsible for the professional quality and completeness of all Professional Services furnished hereunder.

3.3 Deliverables. Renaissance shall own all right, title and interest in and to all Deliverables and any other work product created in the performance of Professional Services hereunder; provided, however, that Licensee is granted a non-transferable, non-sublicensable, non-exclusive, limited license to use the Deliverables for its internal purposes for the duration of the term of the Subscription Period.

3.4 Reschedule Professional Services. For those Professional Services that require Renaissance to provide training either remotely or onsite, if Licensee reschedules the date for provision of such Professional Services 5 days prior to the scheduled session, Renaissance reserves the right to charge a one-time fee equal to £250 for on-site training and £100 for remote training.

3.5 No Refunds. Professional Services are non-cancellable and thus to the extent the Licensee does not schedule the Professional Services it purchases as identified in the Quote on or prior to the first anniversary of the date identified in the Quote for such Professional Service, Licensee shall have no right to cancel the Professional Service and will have no right to seek a refund from Renaissance.

3.6 Subcontractors. Renaissance may employ third parties to assist with the performance of Professional Services; however, Renaissance is solely responsible for ensuring that any third party performing Professional Services under the Agreement is bound by the obligations of

confidentiality and assignment provided herein. Renaissance shall pay all fees, wages, salaries, and other amounts due any third party in connection with Renaissance's performance of its obligations under the Agreement and shall be responsible for all reports and obligations respecting any such third party relating to any taxes, insurance, and similar matters.

4. **Fees.** Licensee shall pay Renaissance the fees in the amounts specified in the Quote (the "**Fees**"). Upon Licensee's acceptance of the Quote, Licensee shall submit to Renaissance the fully executed Quote and its purchase order and Renaissance shall issue Licensee an invoice for the Fees. Licensee shall pay the Fees within 30 days of Renaissance's invoice. Any amounts owed by the Licensee under this Agreement that are not paid when due (and not subject to a good faith dispute), shall bear interest, from the time the payment was due until the time paid, at a rate of 1% per month compounded monthly, or if lower, the highest rate allowed by law. Notwithstanding any language to the contrary contained therein, no terms or conditions stated in a Licensee purchase order or in any other Licensee order documentation shall be incorporated into or form any part of this Agreement and all such terms and conditions shall be null and void. Failure to pay the Fees in accordance with the Agreement shall constitute a material breach by Licensee.

5. **Term; Termination; Effect of Termination**

5.1 Term. The Agreement shall be effective as the date of set forth in the Quote and continue until the end of the Subscription Period (the "**Term**").

5.2 Termination.

- a. (Intentionally Omitted)
- b. Termination for Breach. Either party may terminate the Agreement by written notice if the other party fails to cure any material breach within 30 days of receipt of written notice.
- c. Termination for Bankruptcy. Renaissance may terminate the Agreement immediately if the Licensee is unable to pay its debts (within the meaning of Section 123 of the Insolvency Act 1986) or becomes insolvent or an order is made or a resolution passed for the administration, winding-up or dissolution of the Licensee (otherwise than for the purpose of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, liquidator, administrator, trustee or similar officer is appointed over all or any substantial part of the assets of the Licensee or the Licensee enters into or proposes any composition or arrangement with its creditors generally or anything analogous to the foregoing occurs in any applicable jurisdiction.

5.3 Effect of Expiration or Termination: Survival.

- a. Access. Upon expiration or termination of the Agreement for any reason, Licensee access to the Applications, Hosting Services and Services will be discontinued upon the effective date of expiration or termination. Licensee agrees to, and direct its Authorized Users to, cease access of the Applications, Hosting Services and Services and will remove, and direct its Authorized Users to remove, any Applications components installed on any computers. Licensee shall also return or destroy all materials provided by Renaissance under the Agreement, including any Content, within 30 days of termination or expiration of the Agreement
- b. Refunds.
 - i. If Licensee terminates the Agreement pursuant to Section 5.2(b), Licensee shall be entitled to a refund equal to a prorated amount of the Fees from the date of termination through the end of the Subscription Period.
 - ii. If the Agreement terminates for any other reason, Licensee shall not be entitled to any refund.
- c. Survival. Those provisions that naturally survive termination or expiration of the Agreement shall survive such termination or expiration, including, but not limited to, Sections 5.3, 6-10 and Section 12.

6. **Intellectual Property Rights; Ownership**

6.1 No Transfer of Ownership. Licensee acknowledges that all Intellectual Property Rights in Renaissance's Marks, the Applications, the Hosting Services, Services and Content as well as any corrections, bug fixes, enhancements, updates or other modifications, including custom modifications thereto whether made by Renaissance or any third party, are owned and retained by Renaissance and the relevant licensors of any embedded Third Party Services. By virtue of the Agreement, no ownership of any Intellectual Rights relating to the Applications, Content, Hosting Services, Services, Renaissance's Marks or other information or material provided by Renaissance to Licensee is assigned or transferred to Licensee and such Intellectual Property Rights are protected by U.S. and international copyright and other intellectual property laws.

6.2 No Implied Grants. Except as explicitly granted under the Agreement, no other right, license, release, covenant not to sue or other rights or immunities, express or implied, by estoppels or otherwise are granted to any part of the Applications, Content, Hosting Services, Services or Renaissance's Marks.

6.3 Licensee Data. Licensee shall exclusively own all right, title and interest in and to all Licensee Data. Licensee hereby grants to Renaissance a non-exclusive, royalty-free, worldwide license to use, reproduce, adapt, combine with other data, edit and re-format, generate, and store Licensee Data for use in connection with the Applications, Hosting Services and Professional Services for the duration of the Agreement for Renaissance to carry out its rights and obligations hereunder. Licensee hereby further grants to Renaissance an irrevocable, perpetual, non-exclusive, royalty-free, worldwide license to use, reproduce, adapt, combine with other data, edit and re-format, generate, and store any Licensee Data that does not constitute Personal Data for any lawful purpose. Licensee covenants that it is responsible for any data, including Licensee Data, submitted via the Applications and to the Hosting Services, including the accuracy, quality, integrity, legality, reliability, and appropriateness of such Licensee Data. Other than as set forth in this Section, Renaissance shall acquire no rights in any Licensee Data. Licensee represents and warrants that it has the right to provide Renaissance with the Licensee Data for the purposes described in the Agreement. Additionally, if using Nearpod, You also hereby grant to each user of the Nearpod Materials a non-exclusive license to access and view your anonymized User-Generated Content as permitted by the functionality of the Nearpod Materials and these Terms. Notwithstanding the immediately preceding sentence, or anything else to the contrary, the Nearpod Materials only make your content available to others if you choose to allow it. For the avoidance of doubt, such anonymized User-Generated Content shall not include any personally identifiable information.

6.4 Renaissance Data. Renaissance aggregates or anonymizes certain data and information (including Personal Data) that it collects regarding use of the Applications, Content and Hosting Services related to the operation of the Applications and Hosting Services ("**Renaissance Data**") that is not subject to this policy. Renaissance Data is not reidentified or sold to any third parties, but to the extent permitted by law, Renaissance shall be allowed to utilize, reproduce, adapt, combine with other data, edit, re-format, generate, store, and/or disclose any and all Renaissance Data for any lawful purpose.

6.5 Feedback. Licensee (a) shall provide Renaissance with information concerning errors, problems, complaints and other matters related to the Applications, Content and the Services and (b) may provide Licensee's feedback and/or suggestions for improvements to the Applications, Content and Services (collectively, "**Feedback**"). Licensee acknowledges and agrees that (a) Licensee shall not retain, acquire or assert any Intellectual Property Right or other right, title or interest in or to the Feedback; (b) Renaissance may have development ideas similar to the Feedback; (c) Feedback does not contain Confidential Information or proprietary information of Licensee or any third party; and (d) Renaissance is not under any obligation of confidentiality with respect to the Feedback. In view of the foregoing, Licensee grants Renaissance and its Affiliates an exclusive, transferable, irrevocable, free-of-charge, sub-licensable and perpetual right to use Feedback in any manner and for any purpose.

7. **Confidential Information.** Except as expressly and unambiguously allowed herein, each party agrees that it will hold in confidence and not use or disclose any Confidential Information received from the other party except to the receiving party's employees, affiliates, consultants and advisors who need access to the Confidential Information for the receiving party to exercise its rights or carry out its obligations under the Agreement and who are legally bound to maintain the confidentiality of the Confidential Information. Each party further agrees to use the same means it uses to protect its own confidential and proprietary information, but in any event not less than reasonable means, to prevent disclosure and to protect the confidentiality of Confidential Information received from the other party. Upon discovery of any unauthorized disclosure of Confidential Information the receiving party shall use its good faith efforts to prevent any further disclosure or unauthorized use thereof. In case of discovery of unauthorized disclosure, the receiving party shall notify the disclosing party without any delay. Upon termination of this Agreement or upon request of the disclosing party, the receiving party will return to the disclosing party all Confidential Information of such disclosing party, all documents and media containing such Confidential Information and any and all copies or extracts thereof, or certify in writing that all such copies and documents have been destroyed. The foregoing shall not prevent either party from disclosing Confidential Information which belongs to such party or which (i) is in or becomes part of the public domain through no act or omission of the receiving party, (ii) can be demonstrated by the receiving party as being known to the receiving party previously, (iii) is rightfully obtained by the receiving party from a third party, (iv) is independently developed by the receiving party without use of the other party's Confidential Information, or (v) is required to be disclosed pursuant to a requirement of a governmental agency or law so long as the disclosing party provides the other party with prompt notice of such required disclosure and complies with any protective order imposed on such disclosure.
- 7.1 **Data Protection.**
- 7.2 **Prohibited Data.** Licensee hereby acknowledges that the Applications are intended for academic practice and assessment only and that the Applications are not intended for the storage or use of any data not related to such purpose including, without limitation, social security numbers, financial account numbers, health information, behavioral records, disciplinary records, driver's license, passport or visa number, credit card data or any Special Categories of Data ("**Prohibited Data**"). Licensee agrees to not input any Prohibited Data into the Applications.
- 7.3 **Data Protection Addendum.** The additional provisions in Exhibit D located at <https://doc.renlearn.com/KMNet/R61743.pdf> are incorporated herein based on the location of the Users of Licensee.
- 8. Limitation of Liability and Disclaimer of Warranties**
- 8.1 **Disclaimer of Limited Warranty.** EXCEPT AS OTHERWISE PROVIDED IN THE AGREEMENT, THE APPLICATIONS, HOSTING SERVICES, SERVICES AND CONTENT ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS; RENAISSANCE AND ITS AFFILIATES AND THEIR RESPECTIVE LICENSORS MAKE NO WARRANTY THAT THE APPLICATIONS, HOSTING SERVICES, SERVICES OR CONTENT WILL BE UNINTERRUPTED, SECURE, OR ERROR FREE OR THAT DEFECTS IN APPLICATIONS, HOSTING SERVICES, SERVICES OR CONTENT WILL BE CORRECTED; AND; RENAISSANCE AND ITS AFFILIATES AND THEIR RESPECTIVE LICENSORS SPECIFICALLY DISCLAIM, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE APPLICATIONS, HOSTING SERVICES, SERVICES AND CONTENT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE OR ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR PERFORMANCE.
- 8.2 **Limitation of Liabilities.**
- a. **Direct Damages Only.** To the maximum extent permitted by law, the liability of Renaissance shall be limited to direct damages only, thus excluding liability for any other damages such as indirect, special, incidental, consequential or punitive damages (including, but not limited to, lost profits, lost data, lost revenue, lost savings and loss of goodwill).
- b. **Aggregate Liability.** To the maximum extent permitted by law, in no event shall Renaissance's aggregate liability with respect to any matters whatsoever arising under or in connection with the Agreement exceed the lesser of (i) total fees paid by Licensee to Renaissance under the Agreement within the twelve-month period prior to the date the cause of action giving rise to liability arose or (ii) \$100,000. The foregoing liability is cumulative with all payments for claims or damages in connection with the Agreement being aggregated to determine satisfaction of the limit.
- c. **Third Party Products and Services.** Licensee understands that Renaissance is not responsible for and will have no liability for hardware, software or other items or any services provided by any persons other than Renaissance, including, without limitation, Third Party Services.
- d. **Professional Services.** Any liability of Renaissance with respect to the Professional Services or Deliverables will be limited exclusively to correction of such Professional Services or such Deliverables or, if such correction is not possible or impractical, to refund of the pertinent Fees.
- e. **Economic Basis of Agreement.** The parties acknowledge that the fees, the rights granted to each party and the allocation of the risk (as expressed in the indemnities and the limits of warranties, liabilities, damages and remedies) contained in the Agreement reflect the economic basis of the Agreement, in absence of which the Agreement would not have been made.
- 9. Force Majeure.** In the event of an issue that causes either Party's delay or failure to perform its obligations under the Agreement due to acts of God and natural disasters (each, a "**Force Majeure**"), the affected Party will: (a) promptly give the other Party notice in writing of the Force Majeure; (b) use all reasonable efforts to mitigate the effects of the Force Majeure upon that Party's performance of its obligations under the Agreement; and (c) promptly resume performance of its obligations after the Force Majeure has passed. Provided a Party affected by a Force Majeure complies with the foregoing, delay or failure to perform its obligations under the Agreement shall not constitute a breach of the Agreement.
- 10. Miscellaneous**
- 10.1 **Entire Agreement.** The Agreement and any and all Quotes and all exhibits and attachments attached hereto, constitutes the entire agreement between the parties and supersedes all previous and/or inconsistent agreements, negotiations, representations and promises, written and oral, regarding the subject matter. No modification, course of conduct, amendment, supplement to or waiver of the Agreement or any provisions hereof shall be binding upon the parties unless made in writing and duly signed by both parties.
- 10.2 **Severability.** If any provision of the Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable as if such provision had not been set forth herein. The parties agree to substitute for such provision a valid provision that most closely approximates the intent of the severed provision.
- 10.3 **Waiver.** A failure of any party to exercise any right given to it hereunder, or to insist upon strict compliance by the other party of any obligation hereunder, shall not constitute a waiver of the first party's right to exercise such a right, or to exact compliance with the terms hereof. Moreover, waiver by any party of a particular default by another party shall not be deemed a continuing waiver so as to impair the aggrieved party's rights in respect to any subsequent default of the same or a different nature.
- 10.4 **Governing Law.** The Agreement shall be governed by English law and each of the parties irrevocably submits to the exclusive jurisdiction of the English courts and waives any objection to proceedings in such courts on the grounds of venue or on the grounds that the proceedings have been brought in an in appropriate forum.
- 10.5 **Dispute Resolution.** If a dispute arises between the parties relating to the interpretation or performance of the Agreement, the parties agree to hold a meeting, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith, to negotiate a resolution of the dispute prior to pursuing other available remedies.

- 10.6 Notices. All notices required or permitted under the Agreement shall be in writing and shall be deemed delivered when (a) delivered in person, (b) deposited via registered mail, postage prepaid, (c) via a recognised national delivery or courier service, such as UPS, FedEx or DHL, or (d) via e-mail, with receipt of confirmation of delivery, addressed to the addresses set forth in the Quote.
- 10.7 Captions. The captions that head certain Sections and paragraphs in the Agreement are inserted only as a matter of convenience, and in no way define, limit, or extend or interpret the scope of the Agreement or of any particular Section.
- 10.8 Assignment. The rights and obligations of either party under the Agreement may not be transferred or assigned directly or indirectly without the prior written consent of the other party, except that Renaissance may assign the Agreement without restriction to an entity that acquires substantially all of its stock, assets, or business. Except as otherwise expressly provided herein, the provisions hereof will inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties.
- 10.9 Relationship of the Parties. The parties are independent contractors and not joint venture partners or otherwise Affiliated. Neither party has any right or authority to assume or create any obligations of any kind or to make any representation or warranty on behalf of the other Party, whether express or implied, or to bind the other Party in any respect whatsoever. There are no third-party beneficiaries to the Agreement.
- 10.10 Limitation of Action. Any action by Licensee in connection with the Agreement must be brought within two years after the cause of action arose or such longer period of time as required by applicable law.
- 10.11 Duplicates, Originals, Counterparts. The Agreement and any Quote may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same agreement.
- 10.12 Scanned Documents & Electronic Signatures. Electronic signatures by duly authorised signatories of the parties are valid. Each party may scan and electronically preserve the Agreement and all other documents related to the Agreement. All documents that have been scanned and stored by a party are treated as original documents for all purposes.
- 10.13 Export Law Assurances. Licensee may not use or otherwise export the Applications in breach of any applicable United States and/or English law. In particular, but without limitation, the Applications may not be exported (i) into (or to a national or resident of) any U.S. embargoed country (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders. By using the Applications, Licensee represents and warrants that Licensee is not located in, under control of, or a national or resident of any such country or on any such list.
- 10.14 Representations. Each party represents and warrants that it has been duly authorised to enter into the Agreement for and on behalf of any person, company, or other entity identified herein.
- 10.15 Equitable Rights. Each party acknowledges that a breach by a party of Section 6 (Intellectual Property Rights; Ownership) or Section 7 (Confidentiality) may cause the non-breaching party irreparable damages, for which an award of damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the non-breaching party will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the non-breaching party may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in the Agreement to the contrary.

EXHIBIT A Definitions

"Action" shall mean any third-party claim, suit, arbitration, action, or proceeding.

"Agreement" means the Quote and these Terms of Service and License, as amended by the parties.

"Applications" means the commercial software products being provided to Licensee under the Agreement and applicable Quote, including, in all cases, executable program modules thereof, as well as related documentation and computer readable media. The Applications are set forth in the Quote and shall include Application component of Renaissance-U to the extent identified in such Quote.

"Authorized User" means an employee of the Licensed Site (including administrators and teachers), a student enrolled at the Licensed Site or a parent of such student.

"Confidential Information" means all business, technical, and financial information that one party ("**receiving party**") obtains from the other party ("**disclosing party**"). Confidential Information of Renaissance includes, but is not limited to, trade secrets, technology, information pertaining to business operations and strategies, information pertaining to pricing and marketing, and any technical information relative to the setup and security of the Application or Hosting Service including, but not limited to, Hosting Service Internet addresses, Login Information, Internet URL's, Virtual Private Network setup and encryption key information.

"Content" means all types of information including, without limitation, books, articles, recordings, documentation, photographs, graphics, video, databases or any other compilations rendered available by Renaissance or accessible through the Applications or Deliverables.

"Data Integration Services" means any commercial software products being provided to Licensee under the Agreement and applicable Quote that enables a

Licensee to connect the Applications to Licensee's student information system to enable automatic loading and updating of Licensee Data in the Applications.

"Deliverables" means any work product or materials to be developed or delivered by Renaissance in connection with providing the Services to Licensee.

"Homebound Student" means a student of a Licensed Site that cannot attend school due to medical or emotional conditions substantiated by a health care provider.

"Intellectual Property Rights" means all (a) patents, patent disclosures and inventions (whether patentable or not), (b) trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, (c) copyrights and copyrightable works (including Applications), and rights in data and databases, (d) trade secrets, know-how and other confidential information, and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"International School" means a school that promotes international education, in an international environment, by following a national or international curriculum different from that of the school's country of residence.

"Licensed Site" means the physical location of a single school which has purchased Student Capacity for the Applications and identified in the Quote. Multiple schools in one building are each a separate Licensed Site and each must purchase a separate license.

"Licensee" means the entity identified in the Quote.

"Licensee Data" means (a) any information or data that Licensee collects on individual Authorised Users, including, without limitation, personal information (e.g., an Authorised User's name, age, gender, race, place of residence, and other directory information), enrollment information (e.g., the school a student attends,

a student's current grade level and years of attendance, the number of days a student was absent), academic information (e.g., the courses a student completed, the test scores and grades a student earned, the academic requirements a student has fulfilled, and education records), and various other forms of data collected and used by such Licensee; (b) any data or outputs, including, but not limited to assignments, assessment and quiz scores, generated from using the Applications (including data or outputs contain with reports generated by the Applications); (c) Authorized User sign-on information; and (d) any data inputs by individual Authorized Users of myON Applications, including but not limited to essays, reading journals, book reviews, book notes, etc.

"Marks" mean trade names, trademarks, logos and service marks, in all cases, registered or unregistered.

"Mobile Applications" mean applications by which Licensee may have the ability to access some or all of the Applications on mobile devices.

"myON Application" means those Applications identified as a myON Application in the Quote.

"Nearpod" means those Applications identified as a Nearpod Application in the Quote.

"Nearpod Materials" means the Nearpod website, Nearpod mobile applications, or any other websites, applications, or online services that identify as Nearpod and are owned by Renaissance.

"Privacy Policies" means the applicable Application Privacy Policy located at <https://www.renaissance.com/privacy-policy/> which may be updated from time-to-time by Renaissance in its sole discretion.

"Professional Services" means those professional services identified in the Quote and further described at <https://doc.renlearn.com/KMNet/R61742.pdf> and any other professional, technical or support services that Renaissance provides to Licensee.

"Renaissance" means Renaissance Learning UK Ltd, a limited company established under English laws together with all subsidiaries.

"Renaissance Application" means those Applications identified as a Renaissance Application in the Quote.

"Teacher Capacity" with respect to any Licensed Site, means the maximum number of Licensee teachers and/or admins that are authorised to use Nearpod during the Subscription Period. Teacher Capacity for Nearpod is identified in the Quote either under the Quantity column or separately as teacher subscriptions and/or seats.

"Terms of Service and License" means these Terms of Service and License and the Privacy Policies, as amended by the parties.

"Services" mean the Onboarding Services and Professional Services.

"Student Capacity" with respect to any Licensed Site, means the maximum number of Licensee students that are authorised to use the Renaissance Applications during the Subscription Period. Student Capacity for any Renaissance Application is identified in the Quote either under the Quantity column or separately as student subscriptions.

"Subscription Period" means the time period set forth in the Quote during which Licensee has access to the Applications or if no time period is specified in the Quote, means one year from the date the Application is installed on the hosting facility services and is made available to the Licensee unless the Agreement is terminated earlier in accordance with the Agreement, then the time period shall end as of the date of termination.

EXHIBIT B

International School Conditions to Use Renaissance Applications Outside of Licensed Site

- Licensee acknowledges and agrees that Renaissance will not provide any Licensee support to students or parents in connection with their use of the Renaissance Application outside the Licensed Site.
- Licensee must turn off its IP whitelist, which currently limits access to the Renaissance Application only to devices in Licensee's designated networks at Licensee's buildings. Licensee acknowledges and agrees that turning off its IP whitelist shall not change the relationship between Licensee and Renaissance and Renaissance will still be providing access to the Renaissance Application as a provider of Licensee.
- Renaissance does system maintenance and other updates to the Renaissance Application after hours to avoid impact on its licensees. Licensee acknowledges that if Licensee's students are attempting to use the Renaissance Application during this period, the system performance may slow down or may be temporarily unavailable and Renaissance disclaims any liability for the availability or lack thereof of the Renaissance Application.
- Any use of the Renaissance Applications not in accordance with the Agreement will immediately void Licensee's license to use the Renaissance Application.
- Licensee understand that one of the primary purposes for the restrictions in the Agreement is to minimize student cheating and to protect the Renaissance's Application's content from unauthorized access or distribution which would compromise the Renaissance Application and its contents. Licensee hereby releases Renaissance from any liability that may arise from or in connection with the security of the Renaissance Application, the inability to access or use the Renaissance Application and the results of use of the Renaissance Application, in all cases, where the Renaissance Application is used by Licensee's students outside of the Licensed Site. Licensee also agrees to promptly notify Renaissance upon becoming aware that any of the Renaissance Application's content has been compromised in any fashion, including, without limitation, posting or sharing answers by Licensee's students.