

APPENDIX G NWEA MASTER SERVICE AGREEMENT

This Agreement is between **NWEA**, an Oregon non-profit corporation with a business address located at 121 NW Everett Street, Portland, Oregon 97209, and the Subscriber **State of Alaska, Department of Education**, PO Box 110500, Juneau, Alaska 99811-0500, and is effective as of the Effective Date.

The parties agree as follows:

1. Definitions.

1.1 Anonymized Data: means any Student Education Record rendered anonymous in such a manner that the student is no longer identifiable. For example, this includes non-identifiable student assessment data and results, and other metadata, testing response times, scores (e.g. goals, RIT), NCES codes, responses, item parameters, and item sequences that result from the Services.

1.2 Assessment System: means, to the extent included in an applicable Schedule, the following assessment, reporting, and administration systems: (i) MAP® Growth; (ii) MAP® Skills; or (iii) MAP® Reading Fluency, each a product ("Product"). Assessment System excludes Subscriber's operating environment and any other systems not within NWEA's control.

1.3 Content: means test items, including images, text, graphs, charts, and pictures.

1.4 Deidentified Data (Pseudonymized Data): means a Student Education Record processed in a manner in which the Student Education Record can no longer be attributed to a specific student without the use of additional information, provided that such additional information is kept separately using technical and organizational measures.

1.5 Documentation: means Product documentation made available to Subscriber by NWEA, which includes technical manuals, but excludes any marketing materials or brochures.

1.6 FERPA: means the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g(a)(4)(A)(ii), 1232g(b)(1), as amended from time to time.

1.7 GRD: means the Growth Research Database used to generate longitudinal studies, alignment studies, linking studies, norming studies, and other research reports that Subscriber and other subscribers may receive.

1.8 NWEA Confidential Information: means all NWEA non-public, proprietary or confidential information, in oral, visual, written, electronic or other tangible or intangible form, whether or not marked or designated as confidential, including without limitation all NWEA Content, test scripts, underlying ideas, algorithms, item calibrations, concepts, procedures, processes, principles, know-how, and methods of operation that comprise the Services, including updates, enhancements, modifications, and improvements.

1.9 Reporting: means Product reports, learning statements, research studies, and scoring.

1.10 Schedule: means one or more applicable order schedules or other order documents, including, upon renewal, any confirmation page generated by NWEA's online account renewal portal which are considered incorporated into this Agreement.

1.11 Security Breach: has the meaning ascribed to that term by the applicable state law, or, if not defined by state law, means actual evidence of a confirmed unauthorized acquisition of, access to, or unauthorized use of any Student Education Record(s).

1.12 Services: means the Assessment System, Content, Documentation, Product training, professional learning, Reporting, Software, GRD, and other services as described in this Agreement and set forth in an applicable Schedule.

1.13 Software: means (i) any web-based or client-server software made available to Subscriber by NWEA; (ii) a lockdown browser sublicensed through NWEA from a third party that facilitates access to the Services; (iii) NWEA software that supports client server assessments; and (iv) any other software set forth in the Supplemental Terms.

1.14 Student Education Record: means personally identifiable information of Subscriber's students as defined by FERPA and any applicable state law.

1.15 Supplemental Terms: means the Services-specific terms attached here as [Exhibit A](#), which are incorporated herein by reference.

1.16 Systems Administrator: means the Subscriber-designated individual who, within the Assessment System, is authorized to: (i) modify assessment preferences for Subscriber; (ii) create and modify user profiles for roles including lead roles (i.e. data administrator, assessment coordinator); and (iii) declare testing complete for Subscriber.

2. Grant of License. NWEA grants to Subscriber a nonexclusive, nontransferable, limited license to access, use, display, and install or download a copy, as needed, of the Services solely for Subscriber's internal use. The license is effective for a period of one (1) year commencing on the date NWEA makes the Software available to Subscriber, unless otherwise specified in an applicable Schedule. The Services extend only to the quantity indicated on an applicable Schedule. Subscriber acknowledges Product limitations on the number of test events per academic year (see Supplemental Terms).

3. Protection from Unauthorized Use or Access. Subscriber shall not: (i) copy, distribute, reproduce, resell, publish, license, create derivative works, transfer, rent, lease, or sublicense any or all of the Services; (ii) exploit for any commercial purposes any portion of the Services or permit use of the Services by anyone not employed by or under the control of Subscriber; (iii) remove any proprietary notices or labels from the Services; (iv) use the Services in an attempt to, or in conjunction with, any device, program, or service designed to circumvent technological measures employed to control access to, distribution of, or rights in, the Services. Subscriber shall use reasonably secure measures to prevent unauthorized use (e.g., copying test items) by its end users. Further, Subscriber shall reproduce all copyright, trademark, and other proprietary notices and legends on each copy, or partial copy, of the Services. Subscriber will deactivate and remove from any equipment under its control any prior versions of the Services.

4. Ownership. The Services are owned and copyrighted by NWEA and are licensed through this Agreement to Subscriber, except certain Services is sublicensed from an NWEA supplier. All right, title, and interest in the Services and all copies, updates, enhancements, modifications, and improvements, along with all associated intellectual property rights, remain with NWEA, regardless of either: (i) the source giving rise to the intellectual property; or (ii) any modifications or adaptations made for the benefit of Subscriber. The Services, and all updates, enhancements, modifications, and improvements, are protected by United States and international intellectual property laws and treaties. Subscriber is not granted any license to use NWEA's or its suppliers' trade or service marks. Additionally, NWEA retains all right, title, and interest in its trade and service marks. Subscriber shall allow NWEA to use, without restriction or royalty obligation, any comments, suggestions, or contributions provided by Subscriber with respect to the Services. Subscriber grants and assigns to NWEA any intellectual property rights that Subscriber may incidentally obtain or have with respect to any such comments, suggestions, or contributions. NWEA hereby warrants that it is the legal registered owner of any and all necessary patents or copyrights.

5. NWEA Confidential Information. Subscriber shall not use, disclose, or distribute any NWEA Confidential Information, directly or indirectly, without the prior written consent of NWEA, except that NWEA authorizes Subscriber to disclose NWEA Confidential Information: (i) to Subscriber's employees or agents who have signed

written confidentiality and nondisclosure agreements before such disclosure; and (ii) as required by applicable federal, state, or local law, regulation, or a Legal Order. Before making any disclosure under Section 5(ii), Subscriber shall provide NWEA: (a) prompt written notice of such requirement so that NWEA may seek, at its sole cost and expense, a protective order or other remedy; and (b) reasonable assistance, at NWEA's cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If, after providing such notice and assistance as required in this Section, the Subscriber remains subject to a Legal Order to disclose any NWEA Confidential Information, the Subscriber (or its representatives or other persons to whom such Legal Order is directed) may disclose no more than that portion of the NWEA Confidential Information which, on the advice of Subscriber's legal counsel, specifically requires the Subscriber to disclose. For any such disclosure, Subscriber shall use best efforts to obtain written assurances from the applicable court or agency that such NWEA Confidential Information will be afforded confidential treatment. The parties agree that this Agreement along with each exhibit, Appendix, Attachment, Scope of Services or Statement of Work attached hereto from time to time, may be subject to disclosure under title 40 section 25 of the Alaska Statutes. The parties acknowledge that this Agreement may contain confidential information, trade secrets and valuable proprietary information which the parties will endeavor to keep confidential to the extent allowable by law. Subscriber will provide NWEA 5 days' notice prior to disclosing this agreement in response to a public record acts request. Disclosure of information in response to a public records act request will be at the sole discretion of the subscriber.

6. Student Education Records.

6.1 Privacy- Student Education Records. Subscriber shall comply with all applicable federal and state laws regarding use, access, and disclosure of Student Education Records. The foregoing obligation includes but is not limited to, Subscriber's compliance with its policies regarding parental and guardian consents required for NWEA and its contractors to provide Services to Subscriber under this Agreement. NWEA and Subscriber acknowledge that NWEA will collect, use and disclose Student Education Records consistent with the [NWEA Privacy Policy -Assessment System](#) attached hereto as Exhibit B.

6.2 Subscriber's Ownership of Student Education Records. Subscriber owns the Student Education Records.

7. FERPA. In accordance with FERPA, NWEA may maintain and use Student Education Records to perform the Services and may disclose Anonymized Data to third parties for legitimate educational research. Subscriber is responsible for any notices to parents required under FERPA and for providing parents and guardians with an opportunity to inspect and challenge the contents of a Student Education Record. If NWEA receives a request from a parent or guardian challenging the content of a Student Education Record maintained by NWEA, NWEA shall contact Subscriber to validate the identity of the parent or guardian and student and request instructions regarding corrective action to be taken, if any. Once validated, NWEA shall correct the erroneous Student Education Record as directed by Subscriber in writing.

8. GRD. Subscriber authorizes NWEA to use Student Education Records in the GRD, commencing on the Effective Date or upon the date that Subscriber used or ordered Services, whichever is earlier. NWEA and Subscriber acknowledge that the permissions and obligations expressed in this Agreement survive the termination of this Agreement and any renewals. As described in Section 15, NWEA will maintain Student Education Records after termination of this Agreement for Services which may include, but are not limited to, Subscriber's access to Reporting and research-related Services and to validate the authenticity of data in such Reporting. If NWEA receives Subscriber's written request to opt out of participation in the GRD, NWEA will deidentify Student Education Records in the GRD. As a result of opting out of the GRD, certain research reports are unavailable to Subscriber due to the inability to accurately link student data with research data. Subscriber's written request must be sent via email to legalservices@nwea.org and include the following: (i) requestor's name, title and contact information; (ii) the name of requesting school or entity with NCES #; (iii) a request to deidentify Student Education Records in the GRD; and (iv) an attestation that requestor is duly authorized and has legal capacity to execute the request.

9. Security and Privacy Obligations.

9.1 Subscriber Responsibilities. Subscriber is solely responsible for configuring role-based access for its employees and authorized third parties to Student Education Records within the Assessment System and for ensuring the security and availability of Subscriber's own passwords, computers, computer networks, and internet connections, including security patches, choice of browser and browser configuration settings to be used with the Assessment System, email, and other transmissions. Subscriber acknowledges that its Systems Administrator controls the access and security points of the Assessment Systems. Annually, Subscriber shall remove any inactive Systems Administrators and confirm to NWEA the names of its active Systems Administrators. The Assessment System may contain mechanical or electronic methods to prevent unauthorized use or distribution of the Services. Subscriber shall not disable or circumvent such control devices. Subscriber acknowledges that the validity and accuracy of the Reporting depends upon the accuracy and completeness of the class roster file Subscriber submits.

9.2 NWEA Responsibilities. Subject to the limitations of warranty set forth in Section 18 of the Agreement, NWEA shall implement administrative, physical, and technical safeguards to protect Student Education Records from unauthorized access, acquisition, or disclosure, destruction, alteration, accidental loss, misuse, or damage that are no less rigorous than accepted industry practices to protect the confidentiality, integrity, and availability of Student Education Records. NWEA has an incident response program that specifies the actions to be taken in the event of a Security Breach. NWEA shall notify Subscriber by email or telephone in accordance with applicable state law or without unreasonable delay, whichever occurs sooner, after a Security Breach. In the event of a Security Breach, Subscriber shall cooperate fully with NWEA so that NWEA can comply with its notification obligations to the affected parent(s), legal guardian(s), eligible student(s), or any other parties for which notification by NWEA is required under applicable state law. More information regarding NWEA's information security program can be found in our [MAP@ Growth™ Security Whitepaper](#).

10. Fees and Taxes. The Subscriber, the State of Alaska, is a tax-exempt entity.

11. Billing; Payment; and Orders. Subscriber shall use its best efforts to determine the number of students to be tested by Subscriber. NWEA shall send an invoice based on the applicable Schedule to Subscriber, and Subscriber shall pay the amount due within 30 days of the invoice date by mailing a check or depositing the amount due via a wire transfer. Subscriber must contact NWEA at accountsreceivable@nwea.org for wire transfer instructions. If Subscriber overestimates the number of students tested, NWEA is not obligated to refund any fees. If, however, Subscriber underestimates the number of students tested, NWEA may submit an amended invoice to capture the additional students tested, pursuant to AS 36.30.620. Any purchase order, credit card order, or other order document with sufficient information for NWEA to process the order that is accepted by NWEA will be governed by this Agreement, provided however, the terms and conditions in any purchase order accepted by NWEA shall not be binding upon NWEA and shall not modify the terms of this Agreement.

12. Amendments and Renewals. Notwithstanding anything to the contrary, terms of any purchase orders or written authorizations issued by Subscriber or any other communications which are additional to or inconsistent with this Agreement are not binding unless NWEA expressly assents to such terms in writing. Such renewals and expansions are governed by this Agreement (including all NWEA order forms). The conditions of payment described in Sections 10 and 11 apply to all renewals and expansions. Subscriber shall make all payments under this Agreement to NWEA.

13. Product Training. If Subscriber is new to the Services, Subscriber's teachers and staff administering the Services must, at Subscriber's cost, participate in NWEA introductory product training before testing begins (e.g. MAP Admin Workshop if Subscriber subscribes to MAP Growth or Client Server MAP). Before testing commences, Subscriber shall assign a member of its staff to coordinate the logistics of setting up the training. If Subscriber experiences staff change that affects the administration of the Services, Subscriber shall promptly notify NWEA in writing. NWEA may require Subscriber to send any new staff to introductory NWEA product training.

14. Publicity. Subscriber consents to NWEA's use of and references to Subscriber's name, directly or indirectly, in NWEA's marketing and training materials.

15. Termination and Remedies. This Agreement remains in effect until terminated in accordance with this section. Either party may terminate by providing the other party thirty (30) days written notice of its intent to terminate for convenience. Upon termination for any reason, NWEA is under no obligation to refund any fees paid by Subscriber for the Services. To the extent allowed by law, either party may seek any legal or equitable remedy available against the other party for breach of the agreement. After termination of the Agreement, NWEA shall continue to maintain Student Education Records until: (i) NWEA receives Subscriber's written request to destroy Student Education Records via email to legalservices@nwea.org that includes requestor's name, title, contact information, name of requesting school or entity with NCES #, and attestation that Subscriber is duly authorized and has legal capacity to execute the request; and (ii) NWEA confirms the information in Subscriber's written request. Thereafter, NWEA shall destroy the Student Education Records without undue delay or as otherwise required under applicable state law. Subscriber understands and agrees that if NWEA destroys Subscriber's Student Education Records, NWEA will not be able to provide such data to Subscriber after its destruction.

16. Support. NWEA will provide to Subscriber limited support, updates, enhancements, modifications, improvements, and maintenance service based on Article 2: Performance of Services of the State of Alaska Standard Agreement Form for Professional Services Contract 210000570.

17. Scheduled Maintenance. NWEA has system maintenance periods throughout the year that affect Subscriber's use of the Services, including Subscriber's ability to (i) upload or download student and test data; (ii) access Reporting; or (iii) interact with any of NWEA's websites. NWEA provides notice of regularly scheduled maintenance at NWEA.org (<https://www.nwea.org>). NWEA may perform emergency maintenance at any time without notice.

18. Limited Warranty.

18.1 Performance Warranty. NWEA warrants, during the subscription period, that the Product(s), as delivered by NWEA and when used in accordance with the Documentation and the terms of this Agreement, will substantially perform in accordance with the Documentation. If any Product does not operate as warranted and Subscriber has provided written notice of the non-conformity to NWEA within thirty (30) days of discovery of such non-conformity, NWEA shall at its option (i) repair the applicable Product; (ii) replace the applicable Product with a system of substantially the same functionality; or (iii) terminate the license to the non-conforming Product and provide Subscriber a pro-rata refund representing the portion of any fees previously paid for the unused portion of the terminated license for such Product measured from the effective date of termination. The foregoing warranty specifically excludes defects in or non-conformance of the Assessment System resulting from (a) use of the Assessment System in a manner not in accordance with the Documentation except as otherwise authorized in writing by NWEA; (b) modifications or enhancements to the Assessment System made by or on behalf of Subscriber except as otherwise authorized in writing by NWEA; (c) combining the Assessment System with products, software or devices not provided by NWEA; (d) improper or inadequate maintenance of Subscriber's own computers, computer networks, operating environment, security programs, and internet connections; or (e) computer hardware malfunctions, unauthorized repair, accident, or abuse.

18.2 Disclaimer. EXCEPT FOR THE EXPRESS LIMITED WARRANTY PROVIDED IN SECTION 18, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED "AS-IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF (i) MERCHANTABILITY; (ii) FITNESS FOR A PARTICULAR PURPOSE OR USE; (iii) QUALITY; (iv) PRODUCTIVENESS; OR (v) CAPACITY, OR THAT THE OPERATION OF THE SERVICES IS ERROR-FREE. EXCEPT AS PROVIDED HERE, THE ENTIRE RISK AND LIABILITY ARISING OUT OF USE OF THE SERVICES REMAINS WITH SUBSCRIBER. THERE IS NO WARRANTY FOR DATA SECURITY OR PERFORMANCE ISSUES (a) CAUSED BY FACTORS OUTSIDE OF NWEA'S REASONABLE CONTROL; OR (b) RESULTING FROM ANY ACTION OR INACTION OF SUBSCRIBER OR ANY THIRD PARTIES; OR (c) RESULTING FROM SCHEDULED MAINTENANCE PERIODS. NWEA CANNOT CONTROL PERFORMANCE OF

THE SERVICES BASED ON THE FLOW OF DATA TO OR FROM NWEA'S NETWORK OR OVER THE INTERNET, WHICH DEPEND IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT SUBSCRIBER'S CONNECTIONS TO THE INTERNET. ALTHOUGH NWEA USES COMMERCIALY REASONABLE EFFORTS TO REMEDY AND AVOID SUCH EVENTS, NWEA DOES NOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, NWEA DISCLAIMS ANY LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS. THE REMEDIES SET FORTH IN THIS SECTION 18 ARE SUBSCRIBER'S SOLE AND EXCLUSIVE REMEDIES AND NWEA'S SOLE AND EXCLUSIVE LIABILITY REGARDING THE PRODUCTS AND SERVICES FAILURE TO PERFORM AS WARRANTED IN THIS SECTION 18.

19. Limitation of Liability. EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, IN NO EVENT IS NWEA LIABLE FOR ANY DAMAGES OR EXPENSES WHATSOEVER, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOST OPPORTUNITY, LOST SAVINGS, LOSS OF GOODWILL, LOST BUSINESS, LOSS OF ANTICIPATED BENEFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, LOSS OF OR DAMAGE TO DATA, COMPUTER FAILURE OR MALFUNCTION, OR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL DAMAGES, OR PECUNIARY LOSS, WHETHER BASED IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICES, EVEN IF NWEA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NWEA'S ENTIRE LIABILITY UNDER THIS AGREEMENT IS LIMITED TO THE AMOUNT ACTUALLY PAID BY SUBSCRIBER FOR THE RIGHT TO USE THE PRODUCT IN THE TWELVE MONTHS PRECEDING THE INCIDENT GIVING RISE TO THE CLAIM. THIS LIMITATION ALSO APPLIES TO NWEA'S DEVELOPERS AND SUPPLIERS OF THE SERVICES AND IS THE MAXIMUM FOR WHICH THEY AND NWEA ARE COLLECTIVELY RESPONSIBLE. THE FOREGOING LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. NOTWITHSTANDING APPENDIX B, THIS PROVISION SHALL TAKE PRECEDENCE OVER THE CONFLICTING TERMS IN THE CONTRACT 210000570.

20. Indemnification.

20.1 By NWEA. If all the conditions in this section are met, NWEA shall (i) defend Subscriber against claims made by an unaffiliated third party that the Assessment System infringes its US patent, copyright, or trademark; and (ii) pay the amount of any resulting adverse final judgment against Subscriber (after any appeals) or settlement to which NWEA consents. Subscriber must notify NWEA promptly in writing of the claim. Subscriber must also give NWEA sole control over its defense and settlement. Subscriber shall provide NWEA with reasonable assistance in defending the claim. NWEA's obligations under this Section will not apply to the extent the claim (or adverse final judgment) is based on: (a) Subscriber using the Assessment System after NWEA has informed Subscriber to discontinue use due to such a claim; (b) the combination or use of the Assessment System with non-NWEA information, data, or materials except as otherwise authorized in writing by NWEA; (c) modification of the Assessment System except as otherwise authorized in writing by NWEA; (d) use of NWEA's trademark(s) without express written permission; or (e) Subscriber's acts or omissions which result in a claim under this Section. If NWEA receives information about a claim under this Section related to the Assessment System in whole or in part, NWEA may do any of the following, at its discretion and expense: (i) procure the right to continue its use; (ii) replace the infringing portion of the Assessment System with a functional equivalent; (iii) modify the infringing portion of the Assessment System to make it non-infringing (if NWEA does this, Subscriber will stop using the allegedly infringing portion of the Assessment System immediately); or (iv) terminate this Agreement. Notwithstanding anything to the contrary, NWEA's commitment under this Section is Subscriber's exclusive remedy for third-party infringement and trade secret misappropriation claims. Nothing in this section obligates NWEA to indemnify Subscriber from and against any claims, suits, actions, losses, damages, liabilities, costs and expenses attributable to the acts or omissions of Subscriber, its officers, employees, or agents.

21. Evaluation License. This Section 21 applies if NWEA has provided the Services (including but not limited to Assessment System, Reporting, and/or Software) to Subscriber for evaluation purposes. NWEA grants Subscriber a thirty (30) day (or as otherwise indicated by NWEA in writing) limited license to use such Services solely for the purposes of evaluation. NWEA is not obligated to provide support for the evaluation Services. **SUBSCRIBER ACKNOWLEDGES AND AGREES THAT THE SERVICES PROVIDED FOR EVALUATION MAY**

FUNCTION FOR A LIMITED PERIOD OF TIME, HAVE LIMITED FEATURES, AND HAVE OTHER LIMITATIONS NOT CONTAINED IN A COMMERCIAL VERSION OF THE SERVICES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NWEA IS PROVIDING THE SERVICES "AS IS", AND NWEA DISCLAIMS ANY AND ALL WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, AND STATUTORY WARRANTIES OF NON-INFRINGEMENT, LIABILITIES, AND INDEMNIFICATION OBLIGATIONS OF ANY KIND. IN THE EVENT OF A CONFLICT BETWEEN THIS SECTION 21 AND OTHER TERMS OF THIS AGREEMENT, THIS SECTION 21 WILL SUPERSEDE SUCH TERMS WITH RESPECT TO THE SERVICES LICENSED TO SUBSCRIBER FOR EVALUATION PURPOSES.

22. Miscellaneous.

22.1 Force Majeure. Neither party is liable for any delay or failure to perform any obligation hereunder due to causes beyond its control, including without limitation, war, riot, insurrection, civil commotion, terrorist activity, fire, industrial dispute, act of nature, computer-related crimes (including, but not limited to, denial of service attacks), epidemic, act or omission of a third-party vendor or supplier, equipment failure, public enemy of government, failure of telecommunications, system malfunction, or other casualty.

22.2 Waiver and Severability. Waiver of any default or breach under this Agreement by either party does not constitute a waiver of any subsequent default or a modification of any other provisions of this Agreement. If any part of this Agreement is held illegal or otherwise unenforceable by a court of competent jurisdiction, the parties intend that the remainder of this Agreement nevertheless remains in full force and effect. Upon a determination that any term or provision is illegal or unenforceable, the court may modify this Agreement to affect the original intent of the parties as closely as possible.

22.3 No Third-party Beneficiaries. The parties do not intend to confer any right or remedy on any third party.

22.4 Survival. The following sections survive any termination of this agreement or the termination of any license granted under this agreement: 1, 3, 4, 5, 6, 7, 8, 9.1, 14, 15, 18, 19, 20.1, 22.2, 22.3, 22.4, 22.5, 22.9, 22.10, 22.11, and 22.12.

22.5 Entire Agreement; Order of Precedence. This Agreement contains the entire understanding of the parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement. The terms of this Agreement apply to all order documents, including but not limited to purchase orders and credit card orders, accepted by NWEA, and this Agreement will supersede any inconsistent or different pre-printed terms of any such order document. If there is a conflict among any of the terms of this Agreement, the parties intend that it be resolved by giving precedence to Agreement documents in the following order (i.e. the earlier listing governing the later): (i) the contract 210000570 between the State of Alaska and NWEA and all attached Appendices, exhibits, and scopes of work, (ii) the terms and conditions of contract 210000570, (iii) any Supplemental Terms to the extent related to Services described in an applicable Schedule; (iv) this Agreement without any Schedules or Supplemental Terms; (v) the most recent Schedule; followed by (vi) any other Schedules in reverse chronological order.

22.6 Assignment. Subscriber may not assign this Agreement to any third party without the prior written consent of NWEA, which consent shall not be unreasonably withheld.

22.7 Binding. This Agreement binds and inures to the benefit of each party and its respective successors and approved assigns, if any.

22.8 Merger or Sale of NWEA. If either (i) NWEA and a third-party merge; or (ii) NWEA is sold to a third party, then the surviving or resulting entity shall maintain the Student Education Records in accordance with this Agreement, if the entity is subject to this Agreement.

22.9 Representation of Signatories. Each person signing this Agreement represents and warrants that such person is duly authorized and has legal capacity to execute and deliver this Agreement for its respective party.

22.10 Notices. Any notice required under this Agreement shall be in writing and effective when (i) delivered personally against receipt, (ii) deposited in the mail and registered or certified with return receipt requested, postage prepaid, (iii) shipped by a recognized courier service and addressed to either party as designated in this Agreement, (iv) delivered by email to an email address designated by the recipient, or (v) when delivered via any of the foregoing at such other address as may be provided by the recipient in accordance with this section.

22.11 Controlling Law and Venue. Unless the law of the jurisdiction where Subscriber is domiciled requires otherwise, the parties intend that this Agreement be construed and controlled by the laws of the State of Alaska, U.S.A., without giving effect to principles of conflict of laws. Notwithstanding anything to the contrary, the United Nations Convention on Contracts for the International Sale of Goods, Uniform Commercial Code, and Uniform Computer Information Transactions Act are specifically disclaimed and do not apply to this Agreement. Any litigation arising out of this Agreement must be conducted in courts located in Alaska.

22.12 Counterparts. The parties may execute this Agreement in counterparts, each of which is an original, and the counterparts constitute one and the same Agreement. The parties may also deliver and accept facsimile or electronically scanned signatures, which bind a party as if the signature were an original.

22.13 Vendor Status and Independent Contractor. NWEA provides Services within its normal business operations and operates in a competitive environment. The Services constitute a vendor relationship, as defined by OMB Circular A-133 and, therefore, any monies to pay for this Agreement are not subject to the federal audit requirements of OMB Circular A-133. NWEA is an independent contractor, and neither NWEA nor its employees are Subscriber's employees. Nothing contained in this Agreement creates or implies an agency relationship, joint venture, or partnership between the parties.

22.14 Custom Agreements. If NWEA and Subscriber have a valid and effective written custom agreement in place for services other than those contemplated under Contract 210000570 and this agreement, the terms of that custom agreement shall apply to those services.

Last Updated: 05.28.2021

EXHIBIT A - PRODUCT SUPPLEMENTAL TERMS

(Note: all capitalized terms not defined in the supplemental terms below have the meanings ascribed to them in the Master Subscription Agreement)

Learning Continuum & DesCartes: A Continuum of Learning (collectively, the "Learning Statements")

By using the Learning Statements, Subscriber agrees to the following:

If the Learning Statements are downloaded to Subscriber's organization or school district via a secure password protected intranet or private workspace, it may reproduce the Learning Statements without NWEA's express written permission provided: (i) the use is for non-commercial purposes only; (ii) Subscriber does not modify any information or image; (iii) access is password protected and is limited only to Subscriber's authorized agents; and (iv) Subscriber includes the copyright notice contained in the Learning Statements, as applicable. Subscriber shall not use the Learning Statements as a basis for alignment to any third-party products or services. If Subscriber conducts unauthorized alignments, it shall hold NWEA harmless and indemnify NWEA from any claims or lawsuits that arise from its alignment. NWEA only supports the Learning Statements in their original format. NWEA is not obligated to support any changes to the Learning Statements made by Subscriber or any third party.

MAP Accelerator

By using MAP Accelerator, Subscriber agrees to the following:

Some of these supplemental terms and conditions (the "MAP Accelerator Terms") modify NWEA's standard Terms as applied to the MAP Accelerator Service (the "Service"). The Service is provided by Khan Academy, Inc., a California 501(c)(3) organization ("Khan"), through Khan's website located at <http://khanacademy.org> and related application programming interfaces (API's), mobile applications, and online services ("Website").

Each student, teacher, leader, aide, or other similar personnel enrolled in the Service will be registered with an individual user account on the Khan Academy Website, use of which is governed exclusively by the Khan Academy Website Terms of Service (<https://www.khanacademy.org/about/tos>) and Privacy Policy (<https://www.khanacademy.org/about/privacy-policy>), as further described in the MAP Accelerator Terms. These accounts will enable users to access all of Khan Academy's standard features and will remain in effect following the end of the Subscription term.

Subscriber hereby grants permission for NWEA to disclose to Khan data related to the use of MAP Accelerator, including, but not limited to, Student Education Records and Demographic Data, for Khan's use in connection with the Service and in Khan Website accounts established (or Linked) in connection therewith, as further provided in the MAP Accelerator Terms. Subscriber further grants permission for NWEA to disclose to Khan the contract terms agreed and proposed to be agreed between Subscriber and NWEA with respect to the Service and the Terms applicable to the MAP assessment to which the Service relates.

Rostering and account provisioning support will be provided through Clever Inc.'s SecureSync service. Subscriber acknowledges that use of MAP Accelerator is contingent upon Subscriber rostering through Clever. Subscriber's use of Clever is subject to the terms and conditions of the agreement between Subscriber and Clever and NWEA and Khan Academy assume no liability for claims or damages resulting from Subscriber's use of Clever. Subscriber confirms instruction to roster students based on the data provided to NWEA and Khan Academy, respectively, via Clever SecureSync and hereby grants permission for NWEA and Khan Academy to share information via Clever for account administration purposes.

MAP® Skills

By using MAP® Skills, Subscriber agrees to the following:

MAP Skills requires installation of the secure/lock down browser ("Lockdown Browser"). Accordingly, NWEA grants to Subscriber a nonexclusive, nontransferable sublicense to install the Lockdown Browser for Subscriber's internal use only in connection with the Subscription and only during the period specified in an applicable Schedule. The Lockdown Browser sublicense extends only to the quantity of licenses indicated on an applicable Schedule. All MAP Skills Systems Administrators must complete one MAP Skills training session. During the period specified in an applicable Schedule, NWEA shall provide technical support for MAP Skills via telephone or email as described at <https://www.nwea.org/product-support/>.

Terms applicable to Subscriber's use of Knovation: As a user of the content, you acknowledge and agree that Knovation shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource. Knovation has no direct control over these linked sites, all of which have separate privacy and data collection practices, independent of Knovation. These links are only for your convenience and therefore you access them at your own risk. Furthermore, should you choose to register or create an account on other sites accessed from the Knovation Software Content, you have full responsibility for understanding and agreeing to their terms of use and privacy and security policies regarding any personally identifiable information you provide them and activities you perform on their sites. Knovation is not responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource.

MAP® Growth

By using MAP® Growth, Subscriber agrees to the following:

Excluding Summer test administration, Subscriber shall not administer more than three MAP test events per license in a single academic year, except for MAP Growth K-2 Skills Checklist which can be administered without such academic year limitation. Additionally, Subscriber may administer one Summer test event per license per academic year. MAP Growth requires installation of the secure/lock down browser ("Lockdown Browser"). Accordingly, NWEA grants to Subscriber a nonexclusive, nontransferable sublicense to install the Lockdown Browser for Subscriber's internal use only in connection with the Subscription and only during the period specified in an applicable Schedule. The Lockdown Browser sublicense extends only to the quantity of licenses indicated on an

applicable Schedule. Subscriber shall provide to NWEA its student and class information in a Class Roster File ("CRF") for each test window in the approved format. Subscribers must import the CRF at least one (1) week before Subscriber's first day of testing.

MAP® Reading Fluency

By using MAP® Reading Fluency, Subscriber agrees to the following:

Subscriber is responsible for providing all hardware, including headsets with boom microphones, necessary to complete the test administration. For the avoidance of doubt, built in microphones and in-line microphones are not supported. MAP Reading Fluency is supported on (i) any Chrome browser on any desktop, laptop, or Chromebook; and (ii) via an iOS application for testing on an iPad or iPad Mini or as otherwise set forth in applicable technical specifications. Notwithstanding anything to the contrary in the Agreement, training for MAP Reading Fluency is optional.

Value Added Research Services - New York Subscribers

New York's Annual Professional Performance Review ("APPR") process is based on principal evaluations, progress on the New York State assessment, local assessments, and for some grades and subjects, student learning objectives ("SLO"). MAP® Growth serves as Subscriber's local assessment. NWEA is collaborating with Education Analytics, Inc. ("EA") to provide value-added analysis of MAP results to aid Subscriber in translating that analysis to the state's 0-20 point scale. Subscriber understands that EA will work directly with Subscriber to estimate and translate classroom growth scores to teacher ratings using value-added methodology. To complete these studies, Subscriber grants permission to NWEA to redisclose student identifiable MAP scores directly to EA for the applicable academic years(s) ("MAP Data"). Further, Subscriber shall notify NWEA whether they use the NWEA ID as their state ID, and if so, Subscriber will send a secure file to NWEA that links the state and NWEA IDs. Subscriber acknowledges that without the proper linking of NWEA and state IDs, the data will be invalid and cannot be used for the EA study. Subscriber also grants NWEA permission to receive Subscriber's demographic data and teacher-student linkages ("State Data") from the State of New York and redisclose such data to EA for use in the value added APPR EA solution. EA has agreed to destroy all Student Education Records contained in the State Data and MAP Data no later than one (1) year after EA delivers final services to Subscriber or upon Subscriber's written request, whichever is earlier. If NWEA is unable to obtain State Data from the State of New York, Subscriber shall submit a file verifying the State Data directly to EA, and provide the state student identification number for all listed students if not already disclosed to NWEA.

EA SERVICES ARE PROVIDED SOLELY BY EA AND ARE PROVIDED "AS IS". ADDITIONALLY, NWEA EXPRESSLY DISCLAIMS ALL WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR CONDITIONS OF MERCHANTABILITY, NON-INFRINGEMENT, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND MAKES NO WARRANTY WITH RESPECT TO THE EA SERVICES OR AS TO THE RESULTS TO BE OBTAINED FROM THE USE OF THE SERVICES. NWEA DOES NOT MONITOR THE EA SERVICES AND DISCLAIMS ALL LIABILITY AND RESPONSIBILITY FOR THE CONTENT OF EA SERVICE REPORTS OR RESULTS AND DISCLAIMS ALL LIABILITY AND RESPONSIBILITY FOR THE USE OR MISUSE OF EA SERVICES. Subscriber will indemnify, defend, and hold harmless NWEA and its subcontractors from and against any claim, suits, actions, and proceedings from any and all third parties relating to the results and/or reports of EA and Subscriber's use thereof.

Growth Report

This report contains Student Education Records that may be subject to Subscriber's student data privacy and security policies and applicable state and federal student privacy laws.

In addition to Section 19 (Disclaimer) of the MSA, neither NWEA nor its vendors warrant the accuracy, completeness, or usefulness of this report and NWEA expressly disclaims all liability and responsibility arising from reliance on the report.

Insights Report

The Insight Report does not contain any Student Education Records but does contain the names of those schools where the data is generated. In addition to Section 19 (Disclaimer) of the MSA, neither NWEA nor its vendors warrant the accuracy, completeness or usefulness of the MAP Insight Reports and NWEA expressly disclaims all liability and responsibility arising from any reliance placed on the information in such reports. NWEA uses current NWEA norms and Subscriber's MAP data to produce graphics and supporting analysis provided in the report.

Instructional Report

The Instructional Report does not contain any Student Education Records but does contain the names of those schools where the data is generated. In addition to Section 19 (Disclaimer) of the MSA, neither NWEA nor its vendors warrant the accuracy, completeness or usefulness of the Instructional Report and NWEA expressly disclaims all liability and responsibility arising from any reliance placed on the information in such reports.

Similar Schools Report

This report contains Student Education Records that may be subject to Subscriber's student data privacy and security policies and applicable state and federal privacy laws. In addition to Section 19 (Disclaimer) of the MSA, neither NWEA nor its vendors warrant the accuracy, completeness, or usefulness of this report and NWEA expressly disclaims all liability and responsibility arising from reliance on the report.

PREMIUM PARTNER SERVICES SUPPLEMENTAL TERMS

General Terms. Premium Partner Services includes (i) Technical Consulting; (ii) Product Training; (iii) Professional Learning; (iv) Technology Readiness; (v) Expedited Implementation Services; and (vi) Program Management Services (collectively, the "Partner Services"). NWEA does not offer refunds for unused Partner Services Subscriber purchases. Subscriber may purchase Partner Services at the fixed fees set forth in an applicable Schedule A. Per the MSA, Subscriber is responsible for designating a single point of contact, preferably the Subscriber's Systems Administrator, and will ensure such individual is available to NWEA. Additionally, Subscriber's contact shall ensure NWEA has access to all Subscriber's site(s) where Partner Services will be performed. Subscriber acknowledges that failure or delay in responding to NWEA requests in a timely manner may result in delays or inability for NWEA to perform the requested Partner Services. Scheduling of Partner Services is subject to availability of NWEA personnel.

Product Training

NWEA will provide standard modular format training, in which Subscriber will learn (i) the benefits of the NWEA Assessment System; (ii) how to proctor and/or manage test sessions; (iii) how to troubleshoot common issues; (iv) how to access reports; and (v) helpdesk product training regarding common issues and troubleshooting processes. Any deviation from this standard training is subject to negotiations.

Professional Learning

NWEA may cancel Professional Learning for any reason whatsoever, inclement weather, strikes, wars, acts of God, or any other circumstance that may make the workshop inadvisable. In those instances, Subscriber will not be charged a cancellation fee and the Professional Learning will be rescheduled.

Rescheduling is subject to facilitator availability. Professional Learning must be scheduled three weeks in advance and all sessions completed within 18 months the Term start date listed in Subscriber's Schedule A. If after 18 months and 5 documented NWEA attempts to schedule (or reschedule) any workshop, NWEA considers its professional learning session obligations fulfilled and may retain associated funds absent a written Subscriber request for a refund during such 18 month period.

NWEA is not responsible for any expenses incurred on your behalf in preparing for the Professional Learning session, including nonrefundable fares or penalties.

Virtual Professional Learning Sessions - If Subscriber cancels a virtual session less than 2 weeks before the scheduled date of the session, Subscriber shall pay \$200 processing fee to NWEA. This includes instances of no shows. Notwithstanding the generality of Section 3 (Protection from Unauthorized Use or Access) of NWEA's standard Terms, Subscriber shall not (i) share or distribute the Virtual Professional Learning Session link provided by NWEA or any passwords associated with such link beyond their school or district; or (ii) screen-capture or otherwise copy the recording; or (iii) modify and/or remove copyright notices.

Onsite Professional Learning Sessions - If Subscriber cancels an onsite session less than 2 weeks before the scheduled date of the session, Subscriber shall pay \$500 processing fee to NWEA. This includes instances of no shows.

If Subscriber wants to schedule a Professional Learning session within two (2) weeks from the date of sale, Subscriber shall pay \$500 nonrefundable rush fee. Scheduling within two weeks from the date of sale is subject to facilitator availability.

Technical Consulting

Technical Consulting may include: (i) general support during testing including assisting proctors; (ii) troubleshooting technical issues related to NWEA assessment solutions; (iii) real time product training and support during testing to Subscriber's proctors, helpdesk, technology and assessment staff; (iv) Onsite product training and support to principals and school administrators; (v) assistance

in escalating issues to NWEA technical support and/or engineers; (vi) consulting with Subscriber to identify key areas of support needs; (vii) product training for data administrators; (viii) support with rostering (creation and upload to NWEA systems), user management, and student management; (ix) assistance with exporting data from Subscriber's Student Information Systems; (x) assistance with automating roster imports and exports of comprehensive data file; Technical Consulting does not include: (a) making changes to NWEA's assessment solutions on behalf of the Subscriber; (b) conducting rostering work; (c) creating or implementing coding or scripting, network changes, or auto-rostering; (d) configuration changes or updates to workstations or network devices; (e) hardware setup; (f) report or data usage training; or (g) IT support or training not specifically related to NWEA assessment solutions.

Supplemental Technical Services

Supplemental Technical Services (the "Supplemental Services") is a product offered by the Technical Consultant team that provides a designated technical contact for district leadership. The Supplemental Services may include: (i) troubleshooting technical issues related to Assessment System; (ii) real time product training and support during testing for Subscriber's named key contacts; (iii) assistance in escalating issues to NWEA technical support and/or engineers; (iv) consulting with Subscriber to identify key areas of support needs; (v) product training for key contacts; (vi) support with rostering (creation and upload to Assessment System), user management, and student management; (vii) assistance with exporting data from Subscriber's Student Information Systems; (viii) product training and assistance with the setup and configuration of the NWEA environment; and (ix) assistance with automating roster imports and exports of comprehensive data file. The Supplemental Services do not include: (x) making changes to the Assessment System on behalf of the Subscriber; (xi) conducting rostering work; (xii) creating or implementing coding or scripting, network changes, or auto-rostering; (xiii) configuration changes or updates to workstations or network devices; (xiv) hardware setup; (xv) report or data usage training; (xvi) IT support or training not specifically related to the Assessment System; (xvii) support to district personnel outside the identified key contacts; or (xviii) travel to or onsite work at Subscriber's location. Supplemental Technical Services is a limited time engagement. The Supplemental Services will be offered between 7:00 A.M. and 5:00 P.M. (local time).

Subscriber acknowledges that all fees paid are non-refundable and all payment obligations non-cancellable.

Technology Readiness

NWEA will visit designated Subscriber locations to test and evaluate workstations and devices to determine if they meet NWEA technical requirements. NWEA may evaluate the following technical requirements: OS version, primary browser and version, CPU, RAM, screen resolution, wired or wireless connection, and a point in time bandwidth test. Additional technical requirements may be captured upon Subscriber's request; provided, however, certain requests may require administrative access to Subscriber's systems. As part of the Technology Readiness, NWEA expressly does not: (i) make changes or software updates to workstations or devices; (ii) configure networks or make changes to network infrastructure; (iii) provide product training or support; or (iv) provide troubleshooting services or resolve issues or potential issues discovered during the Technology Readiness.

Supplemental Implementation Services (Expedited & Re-implementation)

NWEA provides, at no additional cost to Subscriber, an implementation support specialist to guide and support the implementation of the Assessment System. This service is typically included as part of a Subscriber's initial licensing of the Assessment System and is available through the completion of the first testing term. Once the initial testing term is complete, the account manager assumes ongoing management of the Subscription from the implementation support specialist. Additionally, the Subscriber has ongoing access to support resources, including toll-free phone, email, and chat support via Partner Support and self-directed support via in-product Help and Destination PD.

Expedited Implementation Services

NWEA recommends a timeline of approximately four (4) weeks from the date of sale to the beginning of testing in order to provide NWEA and Subscriber adequate time to implement the Assessment System. If Subscriber opts to implement within two (2) weeks from the date of sale, Subscriber may purchase Expedited Implementation Services. Expedited Implementations Services do not include: (i) an Implementation Support Specialist who is exclusive to Subscriber; (ii) rostering; (iii) Onsite Product Training; (iv) Technical Consulting; or (v) Technology Readiness. For the avoidance of doubt the two (2) week expedited delivery applies to the Expedited Implementation Services only and to no other products specified on an applicable order.

Re-implementation Services

If, after the initial testing term, Subscriber requires continued access to an implementation support specialist, Re-implementation Services are available. Re-implementation Services are offered remotely using teleconferencing and email communications. Re-implementation Services may include (i) assessing Subscriber's needs related to product configuration, training, and general test administration preparation (e.g. lab readiness plans, timelines for rostering students and staff, staff training plans, district and school communication plans); (ii) developing, with Subscriber, a plan to meet identified needs; (iii) guiding Subscriber through its implementation of the plan for one (1) testing term; (iv) providing training on available resources for future testing term preparation; and (v) providing district administrators with product training and assistance with setup and configuration of the NWEA environment (test terms, test windows, school names, grade designations and special programs). Re-implementation Services do not include onsite support, an implementation support specialist who is exclusive to the Subscriber, rostering, Onsite Product Training, Technical Consulting, or Technology Readiness.

Program Management Services

As part of the standard Program Management Services ("PM") offering, the PM team is available to: (i) plan and coordinate project kickoff meeting; (ii) establish and implement the program work plan; (iii) lead the planning and scheduling of tasks with NWEA internal teams; (iv) work directly with the designated Subscriber contacts to coordinate efforts, maintain work schedules, and meet deadlines; (v) establish, track, and monitor implementation tasks, professional development, and technical training; (vi) manage change orders; (vii) identify and document potential program risks; (viii) support NWEA's on-site professional development and training; (ix) create and update program partnership site; (x) create, order, and deliver standard and custom administrative reports; (xi) coordinate with non-PM NWEA personnel to address program-wide technical issues; and (xii) plan and coordinate project closing meetings. PM will be performed remotely; provided, however, that

parties may agree to an onsite kickoff meeting. If the parties agree to an onsite kickoff meeting, the fees paid for PM include travel if Subscriber provides NWEA a minimum of two (2) weeks' notice prior to travel. Otherwise, Subscriber is responsible for travel expenses.