

TERMS FOR NWEA® ONSITE AND VIRTUAL SERVICES

Rev. January 31, 2023

(Note: all capitalized terms not defined in these Terms for Onsite and Virtual Services (collectively the “Terms”) below have the meanings ascribed to them in the [Master Subscription Agreement or the End User Subscription Agreement \(each referred to as the “Agreement”\)](#) to which these Terms are incorporated by reference.)

“Deliverable” means any Services that are delivered pursuant to a Schedule.

“Service Period” means the annual period identified in a Schedule. For the avoidance of doubt, a “Service Period” may have the same meaning as a “Subscription Period” in a Schedule depending on the group of Products sold.

Payment; Invoicing. NWEA will invoice Subscriber on a quarterly basis, in equal installments of the total amount of the applicable Service Period identified in a Schedule. Partner shall pay NWEA for Services Deliverables within thirty (30) days following receipt of an invoice. The Services are accepted upon delivery. All Services identified in the Schedule must be scheduled and completed within the applicable Service Period. All fees paid by Subscriber are non-refundable and all payment obligations non-cancellable. Subscriber shall be responsible for any costs or expenses incurred by NWEA resulting from Subscriber’s acts, omissions, or delays related to delivery of the Services.

Changes. Within thirty (30) days prior to the end of each Service Period identified in a Schedule, the parties will review the project status, results to date, and agree upon a modification, if necessary, to the Services required for the upcoming Service Period. Any modifications to the Services to be delivered in the upcoming Service Period will be documented in a change order to the Schedule and agreed to in writing by the Subscriber.

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

Rescheduling is subject to facilitator availability. Services must be scheduled a minimum of three (3) weeks in advance and all Services completed within twelve (12) months from the Start Date listed in Subscriber’s Schedule. If after twelve (12) months and up to three (3) attempts to schedule (or reschedule) the Services, NWEA considers its Services obligations fulfilled and may retain associated funds during such 12-month period. NWEA does not offer refunds for unused Services Subscriber purchases.

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

Virtual Professional Learning Sessions. If Subscriber cancels a virtual Services less than two (2) weeks before the scheduled date of the learning session, Subscriber shall pay a \$200 cancellation fee to NWEA. This includes instances of no shows. Notwithstanding the generality of Section 3 (Protection from Unauthorized Use or Access) of the Agreement, Subscriber shall not (i) share or distribute the virtual Services 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 wants to schedule Services within three (3) weeks from the date of sale, Subscriber shall pay a \$500 nonrefundable rush fee. Scheduling Services within three (3) weeks from the date of sale is subject to facilitator availability.

If Subscriber cancels onsite Services less than two (2) weeks before the scheduled date of the session, or if Subscriber does not show up to a previously agreed date and time for a learning session, Subscriber shall pay a \$500 cancellation fee plus the cost of the applicable the applicable Services session(s) to NWEA.

Program Management Services. As part of the standard Program Management ("PM") Services offering, the PM team is available to: (i) plan and coordinate program 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 Learning, and technical training; (vi) manage change orders; (vii) identify and document potential program risks; (viii) support NWEA's on-site Professional Learning and Product 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 issues; and (xii) plan and coordinate project and program closing meetings. PM will be performed remotely; provided, however, that parties may agree to an onsite kickoff meeting and/or subsequent onsite meetings. If the parties agree to any onsite meeting, Subscriber shall provide NWEA a minimum of three (3) weeks' notice prior to travel. The fees paid for PM include travel for up to four (4) meetings per each twelve (12) month Service Period. Otherwise, Subscriber is responsible for travel expenses. In the event onsite meetings are canceled, NWEA retains the right to invoice Subscriber for all travel expenses incurred as a result of the cancellation.

Proprietary Rights. Notwithstanding anything to the contrary in Section 4 (Ownership) of the Agreement, any pre-existing work or Confidential Information of NWEA or its licensors, as applicable, that is used in the performance of the Services, or included in any Deliverable (including without limitation, software, methodologies, tools, know-how, data, or other intellectual property) remains the exclusive property of NWEA or its licensors, as applicable. To the extent that NWEA incorporates any such pre-existing work and/or Confidential Information into a Deliverable, NWEA grants to Subscriber a non-exclusive, non-transferable license to use such information for its internal purposes, subject to the limitations set forth in the Agreement, these Terms, and the applicable Schedule. Any derivative works of such pre-existing work or Confidential Information of NWEA or its licensors shall vest in and be the exclusive property of NWEA or its licensors, as applicable. Subscriber acknowledges that NWEA provides services to other subscribers which may be similar to the Services, and that nothing in the Agreement or these Terms prevents NWEA from providing such services to other subscribers.

Confidentiality; Third-Party Terms. Notwithstanding the generality of Section 5 (NWEA Confidential Information) of the Agreement, Subscriber shall not (i) share or distribute conference links to any virtual Services provided by NWEA or any passwords associated with such link with any other third-party (including vendors, contractors, agents, or service providers of Subscriber); (ii) screen-capture or otherwise copy the recording; or (iii) modify and/or remove copyright notices. For the avoidance of doubt, Subscriber may not invite any third-party participants (other than Subscriber's authorized representatives, consultants, or agents) to virtual or onsite sessions or workshops provided by NWEA without NWEA's express written consent and a mutually agreed non-disclosure agreement between NWEA and such third-party participant. If NWEA discovers at the time of the event that Subscriber has invited a third-party participant without NWEA's knowledge and written consent, NWEA reserves the right to reschedule without penalty until all parties have agreed

to confidentiality terms no less restrictive than those in Section 5 (NWEA Confidential Information) of the Agreement. The parties will use commercially reasonable efforts to reschedule the Services in a timely manner.

Warranty. Notwithstanding anything to the contrary in Section 18 (Limited Warranty) of the Agreement, NWEA warrants that the Services set forth in a Schedule were performed in a good and workmanlike manner and in accordance with generally accepted industry standards for a period of thirty (30) days from the date of performance. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Indemnity. Notwithstanding anything to the contrary in Section 20.2 (Indemnification by NWEA) of the Agreement, NWEA shall defend Subscriber against any claims made by an unaffiliated third party that Subscriber's authorized use of any Deliverable infringes any intellectual property rights of such third party, provided Subscriber promptly notifies NWEA in writing of any such claim or suit. If Subscriber is enjoined from using any Deliverable, or if NWEA believes that any Deliverable is likely to be found to infringe, then NWEA shall (a) obtain the right for Subscriber to continue to use such Deliverable, or (b) replace or modify the Deliverable to make it non-infringing. If NWEA is unable to do either (a) or (b) above after commercially reasonable efforts, such Deliverable will be returned to NWEA and NWEA's sole liability will be to refund to Subscriber the amount paid to NWEA for the applicable portion of the infringing Deliverable. Notwithstanding, NWEA will have no liability for any infringement claim arising from (a) use of the Deliverables other than in accordance with the instructions provided by NWEA, (b) modification of any Deliverable, (c) the use or combination of any Deliverable with products, materials, or services not provided by NWEA, (d) information supplied to NWEA that is included in the Deliverable or in the Services, or (e) Subscriber's use of a superseded version of the Deliverable if the infringement could have been avoided by using a newer version of the Deliverable provided by NWEA.

Background Checks. NWEA conducts background checks on employees and interns upon commencement of employment. NWEA's standard background check package verifies (i) National Sex Offender Registry; and (ii) Widescreen Plus National Criminal Search; and (iii) Education Verification (highest level completed); and (iv) Social Security Trace/Credit; and (v) Criminal Background Check by State and County (the last 7 years); and (vi) Social Security Number Validation (vii) Motor Vehicle Report (only if position requires vehicle travel to schools/districts). Notwithstanding the foregoing, the check in section (vi) does not apply to interns.

NWEA Travel Reimbursement Policy. NWEA travels both domestically and internationally to Subscriber locations as a part of the Services provided to Subscribers.

Domestic Travel. The cost of onsite domestic travel is included in the total cost of the Services Product described in a Schedule. In the event Subscriber changes delivery dates or cancels the Services impacting travel, Subscriber will be subject to the processing fees associated with such change as stated herein.

International Travel.

International Onsite Services – Single Day. For one (1) day of onsite Services, Subscriber shall reimburse NWEA for reasonable travel and incidental expenses at the price per Product set forth in a Schedule.

International Onsite Services – Consecutive Day. For more than one (1) day of onsite Services for a single Subscriber, Subscriber shall reimburse NWEA for reasonable travel and incidental expenses at the price per Product identified in a Schedule.

Where a Consecutive Day trip involves delivery of onsite Services to multiple Subscribers, each Subscriber is responsible for reimbursing NWEA for a) the total costs incurred the day before and day(s) of Services delivery at Subscriber's site, b) allocated costs for shared expenses, i.e., airfare, and other travel, shall be distributed proportionally among the applicable Subscriber(s) based on Products purchased.

In the event international onsite Services are canceled, NWEA retains the right to invoice Subscriber for all travel expenses incurred as a result of the cancellation.

Travel cost reimbursement categories are as follows: (i) airfare; (ii) hotel (iii) ground transportation; (iv) mileage; (v) parking; (vi) meals; (vii) visas required for travel; and (viii) incidentals. Travel costs will be billed back to the Subscriber(s) at the conclusion of the trip and be invoiced within 30 days along with the fee for the Services. NWEA reserves the right to book an employee for travel at fare classes above Economy for flights with a duration of eight (8) consecutive hours or more.

NWEA Recording Policy. NWEA does not allow or provide recordings of Services sessions for the following reasons: (i) NWEA learning content should reflect the most up-to-date educational research, professional learning standards, and product enhancements; and (ii) NWEA adheres to digital asset standards for quality and accessibility in its recordings of Services sessions; and (iii) NWEA's Services experiences are designed to be engaging and to serve as a resource for participants in attendance. Professional Learning offerings are the intellectual property of NWEA.

Force Majeure. With respect to any Services, in the event of any circumstance mentioned in Section 22.1 (Force Majeure) of the Agreement, that may make the Services impracticable to deliver, NWEA may cancel the Services. In such instance, NWEA will use commercially reasonable efforts to reschedule the Services in a timely manner. Any such rescheduling is subject to the availability of NWEA and Subscriber resources. Rescheduling fees may apply if the Services cannot be rescheduled in accordance with the terms and conditions herein due to Subscriber's unavailability or scheduling delays caused by Subscriber.

General. NWEA may subcontract any or all of its obligations under the Agreement or an applicable Schedule. Subscriber agrees that while NWEA is performing Services and for one (1) year thereafter, Subscriber shall not solicit nor offer employment to any NWEA personnel, and that any breach of the foregoing will obligate Subscriber to pay NWEA an amount equal to the annual base salary of the person whom Subscriber solicits or hires. NWEA is an independent contractor and will not be deemed an employee or agent of Subscriber. Each party shall comply with all applicable laws. Notwithstanding any termination of the Agreement, it is acknowledged and agreed that those rights and obligations which by their nature are intended to survive such termination will survive, including but not limited to Section 22.4 (Survival) of the Agreement and the following sections of these Terms: Proprietary Rights, Warranty, and General. If there is a conflict among any of the terms of these Terms, the Agreement, and the applicable Schedule, the parties intend it shall be resolved in accordance with Section 22.5 (Entire Agreement; Order of Precedence) of the Agreement. The Agreement, these Terms and each Schedule supersedes any conflicting, inconsistent, or pre-printed terms and conditions contained in any Subscriber purchase order or other ordering document.

MULTI-YEAR ORDER TERMS

Payment Terms. In the event Subscriber has entered into a multi-year Schedule with NWEA, Subscriber shall pay the fees for the Services Product(s) in accordance with the terms in the Schedule and the Agreement for the applicable Services Period, whichever is applicable.

Scheduling Within a Multi-Year. In the event Subscriber has purchased Products for onsite or virtual Services that require future scheduling, all services must be scheduled a minimum of three (3) weeks in advance and completed within the current 12-month Services Period listed in a Schedule. If after 12 months and three (3) attempts to schedule, or reschedule, any Services during the current Services Period, NWEA considers its obligations fulfilled for the current Services Period and may retain associated funds.

Termination Under a Multi-Year. The Schedule and the Agreement remains in effect until terminated. Neither party may terminate the Agreement without cause. In the event that after the first 12 months of a Services Period, or during a Renewal Period, the amount necessary to pay the Fee, or Fees, are not included in Subscriber's budget appropriation for the applicable period, Subscriber may terminate the current Schedule, provided that Subscriber (a) uses best efforts to seek and obtain the necessary amount to meet Subscriber's payment obligations hereunder in each applicable budget appropriation; (b) notifies NWEA of its intent to terminate the Agreement within 60 days after the applicable budget appropriation is approved and no later than 30 days prior to the end of the Initial Period or the Renewal Period, as the case may be, and (c) does not, and hereby agrees that Subscriber will not, seek and obtain replacement software or services that are the same as or similar to the Software and Services during the applicable appropriation period.

PARTNER SERVICES SUPPLEMENTAL TERMS

General Terms. NWEA may offer the following Services onsite or virtually as part of its Partner Services Deliverables: (i) Technical Consulting; (ii) Product Training; (iii) Professional Learning; (iv) Technology Readiness; (v) Onboarding 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. Per the Agreement, Subscriber is responsible for designating a single point of contact who is familiar with Subscriber's systems 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.

Pricing; Deliverables; Scope. NWEA's Partner Services Deliverables and pricing shall be detailed in an applicable Schedule.

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; and (iv) how to access reports. Any deviation from this standard training is subject to negotiations.

Professional Learning. NWEA may provide research-driven Professional Learning sessions and workshops as part of NWEA's Partner Services.

Technical Consulting. NWEA may provide virtual or onsite Technical Consulting as a part of Partner Services which 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.

Technology Readiness. NWEA may provide virtual or onsite Technology Readiness as a part of Partner Services 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.

Onboarding Services. NWEA provides, at no additional cost to Subscriber, a Success Manager to guide and support Subscriber for onboarding 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 Success Manager. Additionally, the Subscriber has ongoing access to support resources, including toll-free phone, email, and chat support via Product Support and self-directed support via in-product Help and Professional Learning Online.

Expedited Onboarding 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 onboard and administer the Assessment System. If Subscriber opts to onboard and administer the Assessment System within two (2) weeks from the date of sale, Subscriber may purchase Expedited Onboarding Services. Expedited Onboarding Services do not include: (i) a Success Manager 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 Onboarding Services only and to no other products specified on an applicable order.

SCHOOL IMPROVEMENT SERVICES SUPPLEMENTAL TERMS

General Terms. NWEA may offer the following as a part of its School Improvement Services Deliverables: (i) SIS Core Services; (ii) SIS University of Chicago Professional Learning (provided by NWEA); (iii) The 5Essentials® Survey (provided by UChicago and subject to the terms set forth below); (iv) SIS General Professional Learning; and (v) Program Management Services (collectively the "SIS Services"). SIS Services does not include meeting-facilitation, staff evaluation, or review of administrator or teacher termination documentation.

Term. The Term shall be made up of three (3) annual Service Periods and shall commence on the Start Date identified in a Schedule and shall terminate on the End Date identified in a Schedule unless the Schedule is otherwise terminated, changed, or amended in accordance with the Agreement.

SIS Core Services. SIS Services are aligned to the evidence-based 5Essentials Framework, developed by UChicago, outlining the five organizational conditions needed to improve schools: Ambitious Instruction, Effective Leaders, Collaborative Teachers, Supportive Environment, and Involved Families.

5Essentials Survey. The 5Essentials® Survey (the “Survey”) is resold to Subscriber by NWEA as the exclusive reseller of UChicago Impact LLC (“UChicago”). Subscriber understands and agrees that UChicago is responsible for delivering the Survey and providing associated support. In accordance with Section 2 (C) of the 5Essentials® Agreement, Subscriber hereby permits UChicago to disclose and grant access to Subscriber’s Survey results, reports and data to NWEA. If Subscriber has previously purchased a Survey directly from UChicago, Subscriber hereby permits NWEA to access and use the Survey results in order to provide the SIS Services. If an applicable Schedule includes the Survey, by executing such Schedule, Subscriber is entering into a binding agreement with UChicago Impact LLC for the provision of the 5Essentials® Survey subject to the terms and conditions of the 5Essentials® Agreement which is available at the link below.

<https://www.uchicagoimpact.org/sites/default/files/Exhibit%20B%20-%20UChicago%20Impact%205Essentials%20Agreement%20%281%29.pdf>

NWEA may, in its discretion, co-deliver various portions of the 5Essentials Professional Learning Services with UChicago staff.

SI Consulting Services – Virtual - Hourly. NWEA conducts onsite or virtual consulting services on an hourly basis.

Needs Assessment. NWEA conducts data gathering for the Needs Assessment through onsite school visits up to three (3) hours per school. NWEA will conduct an onsite or virtual report-out of Needs Assessment findings (up to two (2) hours) based on Subscriber availability and provide a written report.

Leadership Coaching. This service provides coaching for school leader(s) from an NWEA coach either onsite or virtual per session.

System Advising. NWEA conducts onsite or virtual System Advising consulting services on an hourly basis.

SIS UChicago Impact Professional Learning. These General Professional Learning workshops can be delivered onsite or virtual and are unique to School Improvement Services content, which may be co-delivered with the UChicago.

SIS General Professional Learning. These Professional Learning workshops can be delivered onsite or virtual and are especially relevant in connection with a School Improvement engagement.