

## EXEMPLARS TERMS OF SERVICE AGREEMENT

PLEASE READ CAREFULLY BEFORE USING THIS SERVICE (AS DEFINED BELOW) AND ANY EXEMPLARS' MATERIALS AVAILABLE FROM THE SERVICE. BY USING THE SERVICE AND THESE MATERIALS, YOU ("CUSTOMER") ARE HEREBY AGREEING TO THE TERMS AND CONDITIONS OF THIS AGREEMENT AND AGREE TO BE BOUND BY THEM. IF YOU DO NOT AGREE WITH THEM, THEN IMMEDIATELY TERMINATE YOUR USE OF THE SERVICE AND ALL EXEMPLARS' MATERIALS, AND DELETE AND DESTROY ALL SUCH MATERIALS THAT YOU MAY HAVE DOWNLOADED FROM THE SERVICE.

1. License Grant. Subject to the terms of this Service Agreement ("Agreement") and payment of all applicable fees, Exemplars, Inc. ("Exemplars") grants to Customer a limited, revocable, non-exclusive, non-transferable license to use the Exemplars instructional content and related instructional materials accessible through Exemplars Library at [www.exemplarslibrary.com](http://www.exemplarslibrary.com) (the "Service"). Customer's right to access the Service shall commence upon payment of the annual access fee ("Access Fee") and shall terminate on the one (1) year anniversary of payment of such annual service fee, unless Customer has renewed the Service by paying the annual Access Fee then in effect at the time of renewal.

2. Scope of License. Customer agrees that it may use the Service solely for non-commercial, educational purposes, and only at the single school located at a single geographic location specified by Customer at the time it registers for the Service and pays the applicable Access Fee (the "Licensed School"). Customer shall ensure that passwords for access to the Service are provided only to teachers and staff employed by the Licensed School. The Licensed School may duplicate and distribute printed portions of the content accessible from the Service within the Licensed School. Customer may not, however, allow or permit use of the Service by the general public or others not employed by the Licensed School. For example, Customer may not allow access to Exemplar's content through publication on a website that is accessible by computer users outside the Licensed School's intranet or internal computer network. Further, Customer may not allow or permit use of the Service or the content accessible from the Service at any other campus or as a library resource to be copied or distributed by individuals or schools outside the site. For example, if Customer is a school district and it wishes to obtain the right to use the Service at each school building within the district, it must purchase a license for each school building within the district.

3. Restrictions. Customer is authorized to use the Service for its internal use only, and Customer shall not sublicense, rent, sell, assign, or transfer any content accessible from the Service, nor shall Customer provide access to or otherwise distribute the Service to any third party.

4. Proprietary Protection. The Service and the content accessible from the Service is proprietary to

Exemplars and it contains subject matter protected by copyright laws, as well as other intellectual property laws. Customer shall not use or make copies of the content accessible from the Service, except to the extent specifically permitted under Section 2 of this Agreement. Customer shall not modify, alter, reverse engineer, reverse assemble, reverse compile or otherwise attempt to recreate the Service.

5. No Warranty. THE SERVICE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER ASSUMES THE ENTIRE RISK AS TO THE RESULTS OR PERFORMANCE ARISING FROM ITS USE OF THE SERVICE.

6. Limitation of Liability. IN NO EVENT SHALL EXEMPLARS HAVE ANY LIABILITY TO CUSTOMER INCLUDING INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES.

7. Right to Audit. Upon prior written notice to Customer, Exemplars may audit Customer's use of the Service to assess Customer's compliance with the terms of this Agreement. If an audit reveals that Customer has underpaid fees to Exemplars, Customer shall be invoiced for such underpaid fees.

8. Termination. This Agreement shall terminate immediately upon Customer's violation of any of the terms and conditions stated in this Agreement. Upon termination, all rights conferred to Customer by this Agreement revert back to Exemplars, Customer must cease all use of the Service, and Customer must immediately delete or destroy all content derived from the Service (including any copies of Exemplar's content). Thereafter, any subsequent use of the Service or content derived from the Service shall constitute a breach of this Agreement and is deemed to infringe upon Exemplars' copyrights. Customer obligations concerning restrictions on use and duplication shall survive termination of this License. Customer agrees to pay attorney fees and other collection charges in connection with any actions that Exemplars is required to institute as a result of breach of this Agreement.

9. Miscellaneous. This Agreement (i) shall be governed by and construed in accordance with the substantive laws of the State of Vermont, without

regard to its conflicts of laws principles, and any dispute arising under or related to this Agreement shall be brought solely and exclusively in a state or federal court located within Vermont, and the parties consent to the exclusive jurisdiction of such courts; (ii) constitutes the entire agreement of the parties with respect to the Service, superseding all prior oral and written communications, proposals, negotiations, representations, understandings, courses of dealing,

agreement, contracts and the like between the parties with respect thereto; (iii) may be amended, modified, or terminated, and any right under this Agreement may be waived in whole or in part, only by a writing signed by each of the parties; and (iv) contains headings only for convenience, which headings do not form part, and shall not be used in construction, of this Agreement.

Should Customer have any questions concerning this Agreement, Customer should contact Exemplars by writing to:

Exemplars, Inc.  
Attn: Customer Service  
271 Poker Hill Road  
Underhill, VT 05489

Phone: (800) 450-4050  
Fax: (802) 899-4825

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