

VOID IF EXECUTED BY University of North Texas AFTER 4/1/19



Addendum attached hereto and incorporated herein for all purposes.

ORGANIZATION SUBSCRIPTION AGREEMENT (OSA)

This Organization Subscription Agreement is dated as of April 1, 2019, by and between University of North Texas, College of Education, located at 1155 Union Circle PO Box 311337 Denton, TX 76203, (the "Organization"), and Watermark Insights, LLC located at 71 West 23rd Street, New York, New York 10010 ("Watermark").

1. The Service

1.1 Introduction. Watermark owns the rights in and to an educational tools website, the URL address of which is www.watermarkinsights.com, and related technology ("the Service"). The Service offers information and services to teachers, professionals and students involved in education and training processes. The Organization wishes to enter into this Agreement with Watermark to enable its employees, and, as applicable, its administrators, faculty and students ("End Users") to make use of the Service.

1.2 License Grant; Access Codes. In consideration of the Service fee, Watermark grants to the Organization a limited, non-exclusive, non-transferable, non-sublicensable, revocable right to access and use the Service solely for the purpose of enabling access and use of the Service by its End Users during the term of this Agreement in accordance with the terms of the End User License Agreement (the "EULA"). In the event that the Organization is paying for its End Users' accounts, access shall be granted to the End Users by way of log on codes and user identification as follows:

(a) Watermark shall allocate a code or password that can be used solely by End Users to register for the Service (the "Access Code"). Each End User's access to the Service is conditioned upon the End User's acceptance of the EULA. The Organization represents and warrants that its End Users shall comply with the EULA and the Organization shall be responsible for the conduct of its End Users in using the Service.

(b) Watermark shall make the Access Codes available to the Organization, and the Organization shall be responsible for providing the Access Codes to its End Users and informing them that they may register for the Service. The Organization shall be responsible for maintaining the confidentiality of the Access Codes. The Organization shall immediately inform Watermark if it becomes aware of any unauthorized use or disclosure of any Access Codes. The Organization acknowledges that all personal information is subject to Watermark's Privacy Policy, which can be viewed at <https://www.watermarkinsights.com/privacy-policy/> (as may be amended from time to time, the "Privacy Policy").

In the event that End Users will be paying for their accounts directly, Watermark shall inform the Organization when the Organization may advise its End Users to begin purchasing accounts and self-registering on the Service.

1.3 Restrictions. Organization shall not, directly or indirectly: (a) modify, disassemble, de-compile, reverse engineer, or otherwise attempt to determine the source code or protocols from the object code of the Service or knowingly permit or encourage any third party to do so; (b) use the Service in any manner to provide service bureau, time-sharing or other computer services to third parties; (c) use the Service in any manner to assist or take part in the development, marketing, or sale of a product potentially competitive with the Service; (d) enter student data or access student information in the Service for any student or students who is not an End User; (e)



allow any student or person other than the End Users to access the Service; (f) remove or modify any proprietary marking or restrictive legends placed on the Service; or (g) use the Service, or allow the transfer, transmission, export, or re-export of the Service or portion thereof in violation of any applicable law, including, without limitation, export control laws or regulations administered by a government agency of competent jurisdiction.

1.4 Promotion of the Service. The Organization hereby authorizes Watermark to use the name of the Organization in connection with the promotion of the Service in any media, solely to identify the Organization as a user of the Service. Watermark shall not use the Organization's name outside the context of promotion of the Service without the prior permission of the Organization.

1.5 Service Availability. Watermark shall endeavor to ensure that the Service is available, except for scheduled downtime for maintenance or in the event of a force majeure event (as defined in Section 8). In the event of unexpected downtime, Watermark's sole obligation will be to use commercially reasonable efforts to resolve the issue as soon as reasonably practicable under the circumstances.

1.6 End User Polls. Watermark may, from time to time (but no more than quarterly), conduct polls of End Users to ascertain and measure the use and enjoyment of the Service by End Users. Such polls will be conducted on a basis that complies with Watermark's Privacy Policy. The Organization agrees to encourage End Users to cooperate with Watermark by providing the information requested by Watermark in order for Watermark to improve and expand the Service for the benefit of End Users. All right, title and interest in poll inquiries and responses will belong to Watermark.

2. Publishing of Materials

2.1 Materials. The Organization acknowledges that End Users may compile and post to the Service materials comprised of text, data and images in the form of lesson plans, student materials and other educational materials ("Materials"), which shall be made available to other End Users to enable them to download, reproduce and distribute such Materials in accordance with the EULA.

2.2 License. To the extent of the Organization's rights in and to Materials posted by End Users, the Organization hereby grants to Watermark and its affiliates a perpetual, worldwide, royalty-free, non-exclusive, transferable, sub-licensable license to use, reproduce, display, distribute and provide the Materials in connection with the Service. Watermark may alter, edit and delete any inappropriate Materials posted on the Service, and reserves the right (but not the obligation) to take any action which Watermark deems appropriate in its sole discretion with respect to any Materials posted on the Service. Materials will be treated in accordance with the Privacy Policy.

2.3 Ownership. Watermark retains ownership of the Service, including its technological components, and developments and derivatives thereof, including all intellectual property rights therein. To the extent of the proprietary information of Watermark contained in the Service, Organization agrees to protect the Service using the same standard of care its use to protect its similar information but not less than a reasonable person standard of care. Organization acknowledges that Watermark will be irreparably harmed by any breach of this Agreement by it or its End Users, including, without limitation, by the unauthorized use or disclosure of the Service and, further, that monetary damages may not be a sufficient remedy for such harm. Organization agrees that Watermark shall be entitled, without waiving any other rights or remedies and without further demonstration of irreparable harm or the inadequacy of monetary damages and without



the requirement to post bond or other security, to obtain injunctive or other equitable relief in the event of any breach of this Agreement by Organization or End Users.

2.4 LIMITATIONS. BY POSTING MATERIAL TO THE WATERMARK WEBSITE, END USERS AND/OR THE ORGANIZATION WILL NOT SURRENDER ANY INTELLECTUAL PROPERTY RIGHTS THEY MAY HOLD IN SUCH POSTED MATERIALS, OTHER THAN THE LIMITED LICENSE GRANTED TO WATERMARK AS SET FORTH IN SECTION 2.2. WATERMARK SHALL USE SUCH LICENSE FOR THE SOLE PURPOSE OF PROVIDING INFORMATION AND SERVICES TO END USERS HEREUNDER OR AS REQUIRED TO MEET REQUIREMENTS AT LAW.

3. Indemnification

The Organization shall, at its sole cost and expense, indemnify, defend and hold harmless Watermark and its affiliates, and their respective employees, officers, directors, shareholders, agents, insurers or third party providers, from and against all actual or threatened claims by third parties (including its End Users) and pay all costs, including reasonable attorneys' fees, and damages resulting from such claims arising out of: (a) the use of the Service by the Organization or its End Users, (b) any breach of this Agreement by the Organization, including, without limitation, any unauthorized use or disclosure of the Service, (c) any breach of the EULA by an End User, (d) violation of any law or regulation by the Organization or its End Users, or (e) the infringement, misappropriation or violation by the Organization, its End Users or Materials of any patent, copyright, trademark, trade secret or other proprietary or privacy right of a third party.

4. Warranties; Disclaimer

4.1 Warranty. The Organization represents and warrants that: (a) it has the authority and capacity to enter into this Agreement, and to carry out and perform its obligations as set forth herein, (b) this Agreement is a valid and binding obligation of the Organization enforceable in accordance with its terms, and (c) the Organization has reviewed Watermark's Privacy Policy, and by agreeing to this Agreement has accepted the terms thereof.

4.2 Disclaimer. Use of the Service is at the sole risk of the Organization and End Users. Watermark makes no express or implied warranty that the Service will be uninterrupted or error free, nor does it make any warranty as to the results that may be obtained from use of the Service, or as to the accuracy, reliability, completeness, or content of any information or Materials, software or merchandise that may be provided through the Service. No statement, information or advice, including, but not limited to statements regarding capacity, suitability for use or performance, whether made by a Watermark employee, reseller or other representative or otherwise, which is not contained in this Agreement shall be deemed to be a warranty by Watermark for any purpose or give rise to any liability of Watermark whatsoever, and Organization agrees that it will not rely on any such statement, information or advice.

4.3 No Editorial Control. The Organization acknowledges that Watermark exercises no editorial control over Materials posted by users of the Service. The views and opinions expressed in such information do not necessarily reflect those of Watermark or its content providers or licensors. Neither Watermark nor its content providers or licensors make any warranties or representations regarding the accuracy, adequacy, truthfulness, completeness, or usefulness of such information.

4.4 Third Party Websites. Any links provided from the Service are to websites not under control of Watermark, and Watermark in no way endorses or shall have any liability arising from such sites or the products or services offered therein. Watermark does not endorse any such linked websites.



4.5 DISCLAIMER OF WARRANTIES. THE SERVICE, SUPPORT, TRAINING AND ALL INFORMATION, MATERIALS AND SOFTWARE ACCESSIBLE THROUGH THE SERVICE ARE PROVIDED ON AN "AS-IS," "AS-AVAILABLE" BASIS. THERE IS NO EXPRESS OR IMPLIED WARRANTY MADE AGAINST INTERFERENCE WITH THE ENJOYMENT OF ACCESS TO THE SERVICE OR THE INFORMATION CONTAINED THEREIN. WATERMARK HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, USAGE, FITNESS FOR ANY PARTICULAR PURPOSE OR NON-INFRINGEMENT.

5. Limitation of Liability

5.1 LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES AND UNDER NO THEORY OF LIABILITY (INCLUDING NEGLIGENCE, CONTRACT, TORT, BREACH OF WARRANTY, STRICT LIABILITY OR OTHERWISE) SHALL WATERMARK BE LIABLE TO THE ORGANIZATION OR END USERS OR ANY OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES THAT ARISE FROM LOSS OF ANTICIPATED REVENUE, LOSS OF INFORMATION OR MATERIAL OF ANY KIND, LOST PROFITS, LOSS OF BUSINESS AND INJURY TO PROPERTY OR PERSON), EVEN IF WATERMARK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER ARISING IN CONNECTION WITH OR RESULTING FROM THE USE OF OR INABILITY TO USE THE SERVICE, INCLUDING BUT NOT LIMITED TO RELIANCE ON ANY MATERIALS, CONTENT, INFORMATION, SERVICES, SOFTWARE OR PRODUCTS OBTAINED ON THE SERVICE, OR MISTAKES, OMISSIONS, INTERRUPTIONS, COMMUNICATION FAILURES, DELETION OF FILES OR E-MAIL, ERRORS, DEFECTS, VIRUSES, TROJAN HORSES, DELAYS IN OPERATION OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE, OR THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO RECORDS, PROGRAMS OR WEB SITES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, AND IN SUCH STATES WATERMARK'S LIABILITY IS LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

5.2 Maximum Liability. If, notwithstanding the foregoing, Watermark is held liable for damages, then regardless of the theory of liability (including negligence, contract, tort, breach of warranty, strict liability or otherwise), in no event shall the maximum liability of Watermark or its affiliates, and respective directors, officers, shareholders, employees, agents, insurers or third party providers exceed the aggregate dollar amount paid by Organization for subscriptions to Watermark in the twelve (12) month period preceding the date of the claimed breach, injury or damage. THIS SECTION LIMITS AND ALLOCATES THE RISK AND ORGANIZATION ACKNOWLEDGES THAT THE PRICING PROVIDED UNDER THIS AGREEMENT REFLECTS THIS LIMITATION AND ALLOCATION OF LIABILITY.

6. Pricing

6.1 Fees. Watermark's initial annual fees and any applicable service or other fees due and payable hereunder shall be set forth in Annex A hereto. Unless expressly set forth in such Annex or in any written amendment to this Agreement, each subsequent annual fees are subject to a 3% to 5% annual escalation through the end of the Term of this Agreement.

6.2 Payment Terms. All fees are due and payable in US Dollars upon receipt by Organization of an invoice from Watermark.

6.3 Taxes. Unless otherwise stated, Watermark's fees do not include any local, state, federal or foreign taxes, levies or duties of any nature ("Taxes"). The Organization is responsible for paying



all Taxes, excluding Taxes based on Watermark's income. If Watermark has the legal obligation to pay or collect Taxes for which the Organization is responsible, the appropriate amount will be invoiced to and paid by Organization unless Organization provides Watermark with a valid tax exemption certificate or resale certificate authorized by the applicable taxing authority.

7. Term and Termination

7.1 Term. This Agreement shall be in effect for three years from the date first written above, unless earlier terminated under this Section 7.

7.2 Termination for Breach. Either party may terminate this Agreement by written notice in the event of material breach by the other party, should such breach remain uncured for thirty (30) days after the receipt of notice describing such breach in reasonable detail (or if not subject to cure, immediately upon written notice).

7.3 Effects of Termination. Upon termination of this Agreement for any reason: (a) all licenses granted to Organization hereunder shall immediately terminate, (b) the Organization shall immediately cease (and cause End Users to cease) using the Service and associated materials, and Watermark may disable Access Codes and remove access of Organization and End Users to the Service, and (c) in the event that such termination was by the Organization under Section 7.3 ("Termination for Breach"), then Watermark shall refund to the Organization any prepaid fees on a pro-rata basis reflecting the unused remainder of the term. Any such termination shall not relieve either party from any obligations hereunder accrued at or prior to the effective date of termination or waive any right of the non-breaching Party hereunder or at law or in equity.

8. Force Majeure

8.1 Force Majeure. If any party to this Agreement is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement (other than Organization's obligation to make payment), that party shall give to the other party prompt written notice of the force majeure event; thereupon the obligations of the party giving the notice, so far as they are affected by the force majeure, shall be suspended during, but no longer than, the continuance of the force majeure. The affected party shall use all reasonable diligence to remove the force majeure situation as quickly as practicable, provided that resolution of a force majeure event shall be at the sole discretion of the affected party. The term "force majeure" as herein contemplated, shall mean an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, plague, lightening, fire, storm, flood, earthquake, explosion, governmental action, governmental delay, restraint or inaction, unavailability of equipment, service or supplies and any other cause, whether of a kind specifically enumerated above or otherwise which is not reasonably within the control of the party claiming suspension.

9. Survival

Any right or obligation hereunder which creates a right of action or which by its terms continues beyond the expiration or termination of this Agreement shall survive any termination or expiration of this Agreement.

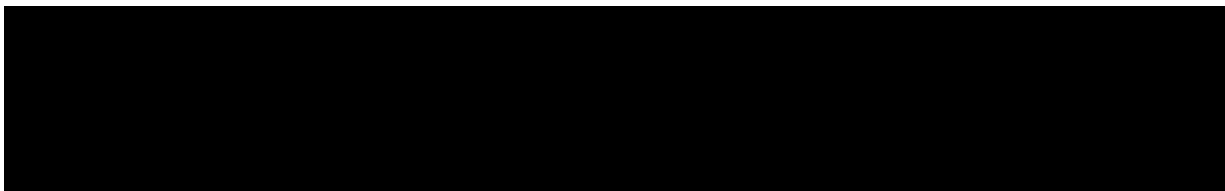
10. Miscellaneous

Neither party is, nor shall be deemed to be, an employee, agent, co-venturer or legal representative of the other party for any purpose. The parties are independent contractors. Neither

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this Agreement nor any interest hereunder shall be transferable or assignable by the Organization without the prior written consent of Watermark; provided, however, that the Organization may assign this Agreement without consent to an affiliate or to any successor-in-interest in connection with the merger or the sale of all or substantially all of its capital stock or assets to which this Agreement relates. Subject to the foregoing, the rights and obligations hereunder shall be binding on each party and their respective successors and assigns. Whenever possible, each provision of the Agreement shall be interpreted in such manner as to be effective, valid and enforceable under applicable law, but if any provision of the Agreement is held to be prohibited by or invalid or unenforceable under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity or unenforceability, without invalidating, or rendering unenforceable, the remainder of the Agreement. This Agreement (including the EULAs signed by End Users and Watermark's Privacy Policy) contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein, and supersedes any prior agreements on this subject matter between the parties with respect to the subject matter hereof. Except as otherwise provided herein, this Agreement may not be modified or amended except in a writing signed in ink or accepted electronically by the parties. Consistent with the foregoing, in the event that Organization submits a purchase order or any other written instructions that contain any terms or conditions, such order or other instructions shall be considered as a confirmation only and the terms and conditions shall in no way amend, prevail over, supplement or supersede any term or condition hereof. No provision of the Agreement shall be waived by any act, omission or knowledge of a party or its agents or employees except by an instrument in writing expressly waiving such provision and signed by a duly authorized officer of the waiving party. No waiver shall constitute a consent to or waiver of any other breach of the same obligation or a breach of any other obligation contained herein. All notices to be given hereunder shall be in writing, shall be effective when received or personally delivered, and shall be delivered personally, by facsimile transmission (receipt verified), mailed by certified mail (return receipt requested), postage prepaid, or sent by express courier service, to the parties at the address first written above (or at such other address for a party as shall be specified by like notice, also effective only upon receipt thereof). This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of New York without regard to conflicts of laws and principles thereto. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods. Any suit brought by either party against the other party shall be brought exclusively in a court in New York County, State of New York. Each party hereby waives and agrees not to assert any claim of improper venue, lack of personal jurisdiction or forum non conveniens in any claim brought according to the terms of this Section. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original of this Agreement and all of which taken together shall constitute one agreement. Delivery of an executed counterpart by facsimile transmission, electronic mail in "Portable Document Format" (.pdf) form, or any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing the original signatures.

University of North Texas**Watermark Insights, LLC**Date: 3/27/2019Date: 3/28/2019



Annex A – Pricing

Tk20 by Watermark Managed Hosting

Tk20’s managed hosting services include installation, deployment, hosting, daily backups, and a guaranteed system uptime of 99.6%. Tk20 will also increase storage needs as necessary through the life of the agreement.

Tk20 solution will be available for student access in a read only format, no additional information will be collected.

LICENSE TYPE	\$ PRICE	LICENSE DURATION
Tk20 by Watermark Managed Hosting	\$5,000	Annual Fee

STANDARD ADDENDUM TO AGREEMENT

Contracts with the University of North Texas System and the University of North Texas (collectively, "UNT") are subject to the following terms and conditions, which are incorporated for all purposes into the Agreement to which they are attached. In the event of a conflict between the Agreement and this Addendum to Agreement, this Addendum shall govern. Any term or condition of the Agreement that is not superseded by a term or condition of this Addendum shall remain in full force and effect.

Payment. In accordance with Chapter 2251 of the Texas Gov't Code: (a) payment shall be made no later than thirty days following the later of (i) delivery of the goods or completion of the services and (ii) delivery of an invoice to UNT; and (b) interest, if any, on past due payments shall accrue and be paid at the maximum rate allowed by law. Vendor must be in good standing, not indebted to the State of Texas, and current on all taxes owed to the State of Texas for payment to occur. Invoices and any required supporting documents must be presented to: University of North Texas – Business Service Center, 1112 Dallas Dr. Ste. 4000, Denton, TX 76205.

Eligibility to Receive Payment. By entering into and performing under this Agreement, Vendor certifies that under Section 231.006 of the Texas Family Code and under Section 2155.004 of the Texas Gov't Code, it is not ineligible to receive the specified payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

Tax Exempt. UNT is exempt from the payment of taxes and will provide necessary documentation confirming its tax exempt status.

Breach of Contract Claims Against UNT. Chapter 2260 of the Texas Gov't Code establishes a dispute resolution process for contracts involving goods, services, and certain types of projects. To the extent that Chapter 2260, Texas Gov't Code, is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by the parties to attempt to resolve any claim for breach of contract against UNT that cannot be resolved in the ordinary course of business.

Governing Law and Venue. This Agreement shall be construed and enforced under and in accordance with the laws of the State of Texas. The Agreement is made and entered into, and is performable in whole or in part in Denton County, Texas, and venue for any suit filed against UNT shall be subject to the mandatory venue statute set forth in § 105.151 of the Texas Education Code.

No Excess Obligations. In the event this Agreement spans multiple fiscal years, UNT's continuing performance under this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the contract by the Texas State Legislature. If the Legislature fails to appropriate or allot the necessary funds, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act, UNT shall issue written notice to Vendor that UNT may terminate the Agreement without further duty or obligation.

Travel Expenses. Reasonable travel, meals, and lodging expenses shall be charged in accordance with and shall not exceed State of Texas travel, meal, and lodging reimbursement guidelines applicable to employees of the State of Texas.

Insurance. UNT, as an agency of the State of Texas, is insured for general liability insurance under a self-insurance program covering its limits of liability. The parties agree that such self-insurance by UNT shall, without further requirement, satisfy all insurance obligations of UNT under the Agreement.

Public Information. UNT shall release information to the extent required by the Texas Public Information Act and other applicable law. If requested, Vendor shall make public information available to UNT in an electronic format.

Required Posting of Contracts on Website. Vendor acknowledges and agrees that UNT is required by Section 2261.253 of the Texas Gov't Code to post each contract it enters into for the purchase of goods or services from a private vendor on its Internet website, including any terms and conditions otherwise marked confidential and/or proprietary.

Israel Non-Boycott Verification. Pursuant to Texas Gov't Code Section 2270.002, Vendor hereby represents, verifies, and warrants that it does not boycott Israel and will not boycott Israel during the term of the Agreement.

Limitations. UNT is subject to constitutional and statutory limitations on its ability to enter into certain terms and conditions of the Agreement, which may include those terms and conditions relating to: liens on UNT property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers, and limitations on legal rights, remedies, requirements, and processes; limitations of time in which to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorney's fees; dispute resolution; and indemnities. Terms and conditions relating to these limitations will not be binding on UNT, except to the extent not prohibited by the Constitution and the laws of the State of Texas.

VENDOR: Watermark Insights LLC

UNIVERSITY OF NORTH TEXAS

Date: 3/28/2019

Date: 3/27/2019



Terms and Conditions

1. The Service

1.1 Prior to registering for the services [the “Service”] offered on Watermark’s Website [“the Website”], the End User [“you”] must agree to the following terms and conditions between you and Watermark, LLC [“Watermark”]. The following is a binding contract between you and Watermark, which establishes your and Watermark’s rights, obligations and liabilities regarding your use of the Service [“the Agreement”].

2. Ownership of the Information, Materials and Software Comprising the Service

2.1 BY POSTING MATERIAL TO THE WEBSITE, YOU WILL NOT SURRENDER ANY INTELLECTUAL PROPERTY RIGHTS YOU MAY HOLD IN THE POSTED MATERIALS, OTHER THAN THE LIMITED LICENSE GRANTED TO WATERMARK AS SET FORTH IN SECTION 2.3. WATERMARK SHALL USE SUCH LICENSE FOR THE SOLE PURPOSE OF PROVIDING INFORMATION AND SERVICES TO END USERS HEREUNDER.

2.2 You expressly acknowledge and agree that you may compile and post to the Website materials comprised of text, data and images in the form of student materials, educational materials, and associated reports and data [called



2.3 Certain areas of the Service are provided for users to post and exchange ideas and information. Watermark does not take responsibility for any Materials posted or exchanged by users on the Service. The views and opinions expressed therein do not necessarily reflect those of Watermark or its content providers or licensors. If you make use of this facility you hereby represent and warrant that you have all necessary rights in and to any Materials you post and exchange on the Website, and that in doing so you will not infringe on any personal or proprietary rights of any third parties. Further, you understand that by posting or exchanging any Materials on the Service, you will be making these Materials fully accessible and available to third parties, who may be able to reproduce, distribute or alter these items [subject to any applicable restrictions authorized by the organization providing you the subscription]. You hereby represent and warrant that doing any of these things in relation to the Materials you post or exchange does not and will not infringe the intellectual property or other rights of any third parties. You hereby grant to Watermark a perpetual, worldwide, royalty-free, non-exclusive license to use, reproduce, display, distribute and provide the Materials in connection with the Service. AS STATED IN SECTION 2.1, WATERMARK SHALL USE SUCH LICENSE FOR THE SOLE PURPOSE OF PROVIDING INFORMATION AND SERVICES TO END USERS HEREUNDER. Watermark may delete any inappropriate Materials posted on the Service [and alter and edit any Materials only so as to make the formatting correspond with the requirements of the Service].

2.4 In the event that you are of the view, or are in possession of any information concerning the infringement of the rights of any third party by the presence of any Materials on the Service, please notify Watermark at the following contact details:



info@watermarkinsights.com

2.5 You hereby acknowledge that the Service is for educational purposes only. Therefore, you agree to use the Service for such purposes and not to post any inappropriate Materials. Watermark reserves the right to remove any item which, in the view of Watermark, is inappropriate. By way of illustration, and not limitation, such Material includes material that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, or racially, ethnically or otherwise objectionable.

2.6 Watermark retains ownership of the Service, including its technological components, including all intellectual property rights contained therein.

3. Use of the Information and Materials

3.1 The license granted herein is nonexclusive, personal to you and nontransferable. One User ID and Password is issued for your use alone. This User ID/Password may not be shared. If you are under the age of 18, you represent that you have obtained your parent's or legal guardian's consent to register for the Service. Users under the age of 13 are strictly prohibited from using the Service, unless they have received written permission from their parent, legal guardian or a teacher, and have forwarded such written permission to Watermark at the below address:



71 West 23rd Street
New York, NY 10010



3.3 Materials from the Service are intended for use by End Users only. You shall not be entitled to use the Materials as anything other than an aid or point of reference for educational activities.

3.4 Copyright law limits the rights of End Users to reproduce, use, sell, transmit, publish, broadcast, or otherwise disseminate or distribute Materials from the Service to anyone, including but not limited to others in the same company, school, college or other organization, whether or not for a charge or other consideration, including but not limited to use in connection with the sale, retransmission, distribution, publication, broadcasting, circulation or other dissemination, for any purpose, whether commercial or otherwise, without the express prior written permission of the Copyright owner or Watermark. The Service is a forum in which End Users may provide information useful to teachers and educators. Therefore, although the underlying purpose of the Service is to provide a forum for the development of educational resources, Watermark cannot guarantee to you that the reproduction and dissemination of information provided by other End Users will not constitute an act of copyright infringement. If you engage in any of the actions set out in this Section 3.4, you will be doing so entirely at your own risk.

4. Privacy

Any information concerning your use of the Service will be treated in accordance with the Privacy Policy of Watermark, which is available on the Website (the "Privacy Policy"). By registering with Watermark, you agree that you are acquainted with the terms and conditions of the Privacy Policy, and accept them in their entirety. You acknowledge that Watermark may use such mechanisms to



subscription, provided that it will not make use of such data save than in accordance with the Privacy Policy. By using the Service, you are agreeing that Watermark may collect, use, sell, license and otherwise distribute demographic data about Subscribers in aggregated form (so that no user is personally identifiable) to assist in market evaluation and for other purposes as reasonably determined by Watermark, in accordance with the Privacy Policy. All references to “this Agreement” in this Agreement shall include a reference to the Privacy Policy.

5. This Agreement and Changes to It

5.1 Watermark may change any of the terms in this Agreement at any time. Changes will become effective when Watermark posts the modified Agreement on the Website. The End-User License link will be flagged any time changes are posted. If you do not agree to the changes, you may cancel your subscription to the Service in the manner described in Section 7. Continued use of the Service by you or any other subscriber under your license constitutes acceptance of the terms of the modified Agreement.

5.2 This Agreement is the entire agreement between Watermark and you with respect to the Service. Headings in this Agreement are for your convenience only and do not have any legal meaning or effect. If any part of this Agreement is invalid, the rest of this Agreement will remain in effect. If Watermark waives or fails to enforce any term or condition of this Agreement on any one or more occasions, whether by conduct or otherwise, its waiver or failure to enforce will not mean that it must waive or cannot enforce such term or condition on any other occasion, or any other term or condition of this Agreement. The meaning of this Agreement cannot be changed by your or Watermark’s conduct, even if



6. Changes to Service

Watermark may change or discontinue any portion, feature or content of the Service at any time with or without notice to you. Likewise, Watermark may at any time, with or without notice to you, restrict the use and accessibility to the Service as well as limit the duration and amount of use made of the Service.

7. Subscription Rates, Other Charges, and Payment

Watermark may change the rates it charges for use of the Service ["Subscription Rates"] or add new Subscription Rates for parts of the Service that were previously free at any time. Such changes shall be effective immediately with respect to new subscriptions and renewals. Subscription payments are non-refundable.

8. Your Other Responsibilities Concerning Subscription to the Service

8.1 By subscribing to the Service under this Agreement, you represent and warrant to Watermark that:

8.1.1. the information you have provided to Watermark in order to register as a Subscriber is complete, accurate and current;

8.1.2. you will notify Watermark within 15 days of any change in your Subscriber information;

8.1.3. you will not share your User ID[s] and Password[s];

8.1.4. you are over the age of 18, or if you are under the age of 18 you have obtained the permission of your parent or legal guardian to subscribe for the



8.1.6. that you reviewed, and have accepted the terms and conditions of the Privacy Policy.

8.2 If any of these certifications is or becomes untrue, or if you do not comply in full with these requirements, Watermark has the right to suspend and/or terminate your subscription to the Service.

8.3 You are responsible for complying with all terms and conditions of this Agreement, as modified from time to time by Watermark, and with any other rules and regulations of which Watermark gives you notice. You are also responsible for obtaining and using all computer hardware and software required for your access to and use of the Service and for any charges incurred for your own access to the Website through an Internet access provider or other third-party website.

8.4 You are responsible for all uses of the Service using your User ID and Password, whether the use is by you personally or by someone else. You are responsible for protecting and securing your User ID and Password from unauthorized use and disclosure. In the event that you become aware of or believe there has been any breach with respect to the foregoing, such as the theft or unauthorized use of your User ID and Password, you will notify Watermark immediately.

8.5 You agree to provide your cooperation with Watermark in responding to a poll [which may be conducted no more than quarterly] designed to measure and ascertain the use of the Service by End Users. All information obtained from such polls will not be user-specific, and shall be dealt with strictly in accordance with Watermark's Privacy Policy.



Watermark accounts and the features and services that make up Watermark's tools are limited in terms of the bandwidth for network traffic and disk utilization for storage allocated to them. Widely exceeding reasonable bandwidth or capacity based on Watermark's clients' normal usage patterns is prohibited. If there is excess usage on your account, Watermark reserves the right to temporarily disable access to your account. Repeated violations may result in termination of your account.

9. Termination of Access

9.1 Watermark may terminate this Agreement immediately upon the expiration or termination of any Organization Subscriber Agreement governing the relationship between the entity that paid for your subscription and Watermark.

9.2 If you are a subscriber, your subscription commences the day you submit the subscription form and runs for the duration agreed upon by Watermark and the entity paying for the subscription. Your obligations under this Agreement will exist until said term expires or this Agreement is terminated or expires.

If you are a guest subscriber, your subscription commences the day your account is activated and runs for the following 14 days or earlier at Watermark's sole discretion.

9.3 You may terminate this Agreement, and your rights to use the Service and your registration as an End User, at any time, and in your discretion, by notifying Watermark of your decision to terminate this Agreement.

9.4 Watermark may, in its sole and absolute discretion, and with or without notice, suspend your access to all or any part of the Service, or terminate this



or use that Watermark believes is harmful to other subscribers, Watermark's content providers, or to the Service or the interests of Watermark.

9.5 Upon termination of this Agreement for any reason: [a] all licenses hereunder shall immediately terminate, and [b] you shall immediately cease using the Service.

10. Your Remedies

10.1 If a currently valid User ID or Password fails to allow access to the Service, Watermark's entire liability to you, and your sole and exclusive remedy, regarding the use of the Service shall be the issuing of a new User ID or Password.

10.2 Your sole right of recourse with respect to any disagreement or dissatisfaction with [a] this Agreement, as modified from time to time; [b] access to, use of, or performance of the Service, or [c] any Materials from or content accessible through the Service, is to terminate your subscription registration as an End User as provided for in Section 9.3.

11. Disclaimer of Warranties

11.1 THE SERVICE AND ALL INFORMATION, MATERIALS AND SOFTWARE ACCESSIBLE THROUGH THE WEBSITE ARE PROVIDED ON AN "AS-IS," "AS-AVAILABLE" BASIS. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, REGARDING OR RELATING TO PRODUCTS OR WEBSITES FURNISHED TO END USERS UNDER THIS AGREEMENT OR IN CONNECTION WITH THE WEBSITE. WATERMARK EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE AND



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LIABLE TO YOU OR ANYONE ELSE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES THAT ARISE FROM LOSS OF ANTICIPATED REVENUE, LOSS OF INFORMATION OR MATERIAL OF ANY KIND, LOST PROFITS, LOSS OF BUSINESS AND INJURY TO PROPERTY, EVEN IF WATERMARK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) THAT ARISE IN CONNECTION WITH OR RESULT FROM YOUR USE OF OR INABILITY TO USE THE SERVICE INCLUDING, BUT NOT LIMITED TO, RELIANCE ON ANY MATERIALS, CONTENT, INFORMATION, WEBSITES, SOFTWARE OR PRODUCTS OBTAINED ON THE WEBSITE, OR MISTAKES, OMISSIONS, INTERRUPTIONS, COMMUNICATIONS FAILURE, DELETION OF FILES OR EMAIL, ERRORS, DEFECTS, VIRUSES, TROJAN HORSES, DELAYS IN OPERATION OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE, OR THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO RECORDS, PROGRAMS OR WEBSITES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, AND IN SUCH STATES WATERMARK'S LIABILITY IS LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. If, notwithstanding the foregoing, Watermark is held liable for damages, then regardless of the form of action [whether in contract, tort, breach of warranty or otherwise], in no event shall the maximum liability of Watermark or its affiliates, directors, officers, shareholders, employees, agents or third party providers exceed the aggregate dollar amount paid by you in the twelve [12] month period preceding the date of the claimed injury or damage.

13. Indemnification by You

You shall, at your sole cost and expense, indemnify, defend and hold harmless Watermark and its affiliates from and against all claims by third parties and pay all costs, including reasonable attorneys' fees, and damages resulting from such claims arising out of: [a] your use of the Service, [b] any breach of this Agreement



14. Compliance with United States Export Requirements

This Agreement and your use of the Service are subject to any laws, regulations, orders or other restrictions on export from the United States of America of certain materials and technical data which may be imposed from time to time by the U.S. Government. Therefore, you will not transfer, directly or indirectly, by electronic means or otherwise, any Materials or information contained therein, or any direct products thereof, to any country, or to any agent, representative, or foreign national of any country, for which the U.S. Government or any agency thereof requires an export license or other governmental approval at the time of export without first obtaining such license or approval.

15. Notices

Watermark may give notice to you by electronic mail, by a posting on the Service, or by conventional mail. Notice by Watermark shall be effective on the date that Watermark makes a good faith effort to reach you. You shall give notice to Watermark as stated below. Notice by you shall be effective on the date that Watermark actually receives the notice.

via telephone: 1.800.311.5656 or 1.212.868.2700

via email: info@watermarkinsights.com

via U.S. mail: 71 W. 23rd Street, New York, NY 10010

16. Miscellaneous



regarding the Service will be governed by the laws of the U.S. and the State of New York that govern contracts wholly entered into and wholly performed within New York. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods. Any and all actions, disputes or controversies relating to the Agreement or the Service will be decided by the courts of the State of New York and the U.S. located in New York, New York, and you consent to the jurisdiction and venue of those courts and irrevocably consent to service of process, delivered personally or mailed by certified or registered mail, return receipt requested, at the address set forth in your Subscriber information.

16.2 In the event that any provision of this Agreement is held to be invalid or unenforceable, pursuant to judicial decree or decision, the remainder of this Agreement shall remain valid and enforceable according to its terms.

16.3 You acknowledge that Watermark will be irreparably harmed by any breach of this Agreement by you or by your unauthorized use of the Materials or the Service and, further, that monetary damages may not be a sufficient remedy for such harm. You agree that Watermark shall be entitled, without waiving any other rights or remedies and without further demonstration of irreparable harm or the inadequacy of monetary damages, to obtain injunctive or other equitable relief in the event of any breach of this Agreement by you or by your unauthorized use of the Materials or the Service.

16.4 If any party to this Agreement is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, that party shall give to the other party prompt written notice of the force majeure event; thereupon the obligations of the party giving the notice, so far as they are affected by the force majeure, shall be suspended during, but no longer than, the continuance of the



industrial disturbance, act of the public enemy, war, blockade, public riot, plague, lightning, fire, storm, flood, earthquake, explosion, governmental action, governmental delay, restraint or inaction, unavailability of equipment or supplies and any other cause, whether of a kind specifically enumerated above or otherwise which is not reasonably within the control of the party claiming suspension.

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Declaration of Procurement Method

The attached contract document has been issued as a result of either a sole source or proprietary justification approved by the University of North Texas System Procurement Department.

The approved justification form is on file with the UNT System Procurement Department records.