

Customer Agreement

This Customer Agreement is entered into by and between Milpitas Unified School District (the “District”), with offices at 1331 E Calaveras Blvd, Milpitas, CA 95035 and Curriculum Associates, LLC (“Curriculum Associates”), with offices at 153 Rangeway Road, North Billerica, MA 01862. The terms of this agreement shall take effect on July 27, 2017.

- 1. License.** Curriculum Associates hereby grants the District a limited, revocable, non-transferable license to access and use its online educational software, i-Ready® Diagnostic & Instruction for math and/or reading (the “Product”) for which the District has paid the license fees set forth in Section 3 below, and solely for educational purposes in accordance with the terms and conditions of use expressed in this Agreement.
- 2. Term.** This Agreement shall take effect on the Effective Date and shall remain in effect until Customer no longer has a validly purchased license to use the Product, unless earlier terminated in accordance with Section 11 hereof.
- 3. Pricing and Payment.** Pricing for the Product is described in Attachment A, Price Quote. The District will provide Curriculum Associates a valid Purchase Order within 10 days of signing this Agreement. Curriculum Associates will invoice District based on this Purchase Order, and District will provide payment to Curriculum Associates within thirty (30) days of receipt of invoice.
- 4. Copyright and Proprietary Rights.** The Product and the content contained therein are the sole property of Curriculum Associates and its licensors and are protected by United States and International Copyright laws. All copyright, trademark, and other proprietary rights in the Product and in the software, text, graphics, design elements, audio, music and all other materials contained in i-Ready® are reserved by Curriculum Associates and its licensors. The District may not use the Product in any manner that infringes the proprietary rights of any person or entity.
- 5. Data Ownership and Security.** In connection with the District’s use of the Product, the District will be asked to provide Curriculum Associates with data about the District’s students. The District represents and warrants that the District has the right to provide Curriculum Associates with all of the data the District inputs into the Product. As the District’s students use the Product, data will be generated about students’ usage, performance and progress. Both the information the District inputs and the data generated by students’ usage will be referred to in this Agreement as “Customer Data”. The District shall own all right, title and interest in and to the Customer Data. However, the District hereby grants Curriculum Associates a: (a) limited, royalty-free license during the term of this Agreement to use the Customer Data to host and make access to the Product available to the District and otherwise fulfill its obligations under this Agreement; and (b) a perpetual, royalty-free license to use De-identified Data (as

hereinafter defined) for product development, research and other purposes consistent with FERPA. For purposes of this Agreement, “De-identified Data” means data generated by the usage of i-Ready from which all personally identifiable information has been removed or obscured so that it does not identify individual students and there is no reasonable basis to believe that the information can be used to identify individual students. All Customer Data held by Curriculum Associates will be made available to the District upon the District’s written request.

Curriculum Associates takes the protection of Customer Data, particularly personally-identifiable Customer Data, very seriously. Curriculum Associates will not reveal student names, identifiers, or individual assessment results to any third parties. Curriculum Associates will not use any Customer Data to advertise or market to students or parents. Curriculum Associates will not change how Customer Data is used or shared under the terms of this Agreement without the prior written consent of the District. For a full description of the security measures that Curriculum Associates takes, please review Curriculum Associate’s data handling policy by clicking here http://i-ready.com/support/iReady_DataHandlingPolicy.pdf.

The District shall own all right, title and interest in and to the Customer Data. However, the District hereby grants Curriculum Associates a: (a) limited, royalty-free license during the term of this Agreement to use the Customer Data to host and make access to the Product available to the District and otherwise fulfill its obligations under this Agreement; and (b) a perpetual, royalty-free license to use Customer’s De-identified Student Data for product development, research and other purposes consistent with FERPA. “De-identified Student Data” refers to data generated from usage of the Product from which all personally identifiable information has been removed or obscured so that it does not identify individual students and there is no reasonable basis to believe that the information can be used to identify individual students. Curriculum Associates does not attempt to re-identify deidentified student data.

6. **Compliance with California Assembly Bill 1584 and Student Online Personal Information Protection Act (“SOPIA”)** Curriculum Associates and District agree to comply with California Assembly Bill 1584 and SOPIA, as described on the Technology Service Agreement Addendum attached as **Exhibit C** hereto (the “Addendum”).
7. **Access to the Product.** The District’s authorized users will need valid usernames and passwords to access the Product. The District is responsible for the integrity and security of these usernames and passwords. The District will advise Curriculum Associates immediately if any of the District’s usernames and/or passwords have been compromised. Curriculum Associates will use commercially reasonable efforts to make the Product available to the District 24 hours a day, except for: (a) planned downtime, of which Curriculum Associates will give the District reasonable notice where possible, and which Curriculum Associates shall use reasonable efforts to schedule during the hours from 5:00 p.m. Eastern time to 7:00 a.m. Eastern time; or (b) any unavailability caused by circumstances beyond Curriculum Associate’s reasonable control,

including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, or Internet service provider failures or delays.

- 8. Limitations of Use.** The District shall not, nor permit any of its authorized users to: (a) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or algorithms underlying the Product; (b) modify, copy, translate, or create derivative works based on the Product or any of the content contained therein; (c) rent, lease, distribute, sell, resell, assign, or otherwise transfer rights to the Product; (d) use the Product for timesharing or services bureau purposes or otherwise for the benefit of a third party other than students or staff within the District's organization; or (e) remove any proprietary notices from the Product.

The District may not reproduce, upload, post, transmit, download or distribute any part of the Product content or information, or information accessed at other sites through links made from the Product, other than printing out or downloading portions of the text and images for use in connection with the work of the District's organization. If the District's users leave the Product via a link to a third party site, Curriculum Associates is in no way responsible for that third party site, and the District's use of that third party site will be governed by that site's terms of use, not this Agreement.

The District must use the Product in compliance with all applicable laws, rules and regulations, including, without limitation, laws and regulations that govern the export of technical data outside of the United States.

- 9. Services.** To the extent that Attachment A includes the provision of professional development and/or training services (the "Services"), Curriculum Associates agrees to provide such Services in a time, place and manner mutually agreed upon by the parties. Curriculum Associates will provide the Services in a professional and workmanlike manner and in accordance with any applicable industry standards.

10. Limitation of Warranties and Liability

EXCEPT AS SET FORTH IN THIS AGREEMENT, CURRICULUM ASSOCIATES MAKES NO WARRANTIES WITH RESPECT TO THE PRODUCT OR THE SERVICES. CURRICULUM ASSOCIATES DOES NOT WARRANT THAT THE PRODUCT OR SERVICES WILL MEET ALL OF THE DISTRICT'S REQUIREMENTS, WILL BE ACCURATE, OR WILL BE ENTIRELY UNINTERRUPTED OR ERROR FREE. CURRICULUM ASSOCIATES EXPRESSLY EXCLUDES AND DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CURRICULUM ASSOCIATES SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE OR LOSS OF ANY KIND ARISING OUT OF OR RELATED TO YOUR USE OF THE PRODUCT, INCLUDING WITHOUT LIMITATION, DATA LOSS OR CORRUPTION, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED IN TORT, CONTRACT OR OTHERWISE.

IN NO EVENT SHALL CURRICULUM ASSOCIATES OR ITS LICENSORS, EMPLOYEES, AGENTS, AFFILIATED AUTHORS OR CONTRACTORS BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR MULTIPLE DAMAGES OF ANY KIND, WHETHER SUCH LIABILITY IS BASED IN TORT, CONTRACT OR OTHERWISE. IN NO

EVENT SHALL THE LIABILITY OF CURRICULUM ASSOCIATES TO THE DISTRICT EXCEED THE TOTAL AMOUNT OF LICENSE FEES PAID BY THE DISTRICT TO CURRICULUM ASSOCIATES FOR ACCESS TO THE PRODUCT.

- 11. Termination.** Curriculum Associates reserves the right to terminate the agreement at any time during the Term if the District does not comply with the terms of this Agreement. In addition, Curriculum Associates may terminate the Agreement, effective immediately upon written notice, for non-payment by the District.
- 12. Notice.** Any notices pertaining to this agreement will be in writing and will be deemed delivered upon receipt to:

Curriculum Associates, LLC

153 Rangeway Road

North Billerica, MA

01862

Attention: Jill Bradford, Vice-President, General Counsel

Tel: 978-339-4388

Fax: 800-355-1158

jbradford@cainc.com

District

Norma Rodriguez

Milpitas Unified School District

1331 E Calaveras Blvd

Milpitas, CA 95035

nrodriguez@musd.org

Notices may be provided by electronic mail.

- 13. Choice of Law and Jurisdiction.** This Agreement and all of the rights and obligations of the parties shall be governed by laws and courts of the State of California, without regard to its conflict of law principles. If any provision of the contract or the application of the contract is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of the contract which can be given effect without the invalid provision or application.
- 14. Entire Agreement.** This document and all exhibits and subsequent District Purchase orders, represent the full and entire agreement between the parties. This Agreement may be modified only by written amendment executed and approved by appropriate parties. No failure or delay in exercising any rights hereunder shall constitute a waiver of such rights.

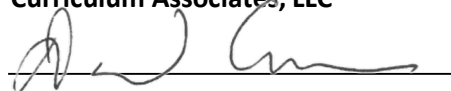
In witness whereof, the parties hereto agree to be bound by the terms and conditions set forth above.

Milpitas Unified School District

Name: _____

Title: _____

Curriculum Associates, LLC

_____

Name: David Caron

Title: Chief Financial Officer



P.O. Box 2001 • N. Billerica, MA 01862-0901
 Phone: 800-225-0248 • Fax: 800-366-1158
 Email: orders@cainc.com

Prepared For

Norma Rodriguez
 Milpitas Unified School Dist
 1331 E Calaveras Blvd
 Milpitas, CA 95035

nrodriguez@musd.org

Price Quote

Quote Date: 6/5/2017 • Valid for 30 Days
 Quote ID: 121400.3

F.O.B.: N. Billerica, MA 01862

Shipping: Shipping based on MDSE total (min: \$12.99)

Terms: Net 30 days, pending credit approval

Fed. ID: #26-3954988

CA Sales Representative

Cynthia Austen
 925-718-8930
 causten@cainc.com
 Created by: ELIZABETH ORBAN
 Modified by: CASEY HARKINS

Please submit this quote with your purchase order.

Item #	Product Name	Qty	Retail Price	Unit Price	Total
RS15003.0	i-Ready Diagnostic and Instruction Math and Reading Site License 351-500 students 1 Year	3	\$16,900.00	\$12,675.00	\$38,025.00
RS15004.0	i-Ready Diagnostic and Instruction Math and Reading Site License 501-800 students 1 Year	7	\$19,900.00	\$14,925.00	\$104,475.00
RS15005.0	i-Ready Diagnostic and Instruction Math and Reading Site License 801-1200 students 1 Year	1	\$25,500.00	\$19,125.00	\$19,125.00

Special Notes

25% discount applied to i-Ready.

Merchandise Total	\$161,625.00
Voucher/Credit	\$0.00
Estimated Tax	\$0.00
Estimated shipping to US 95035	\$0.00
Merchandise Savings	\$53,875.00
Total	\$161,625.00



Placing an Order

Please attach quote to all signed purchase orders.

- 1) **Email:** orders@cainc.com
- 2) **Fax:** 1-800-366-1158
- 3) **Mail:**
ATTN: CUSTOMER SERVICE DEPT.
Curriculum Associates, LLC
P.O. Box 2001
North Billerica, MA 01862-0901

Please visit www.curriculumassociates.com for more information about placing orders or contact CA's Customer Service department (1-800-225-0248) and reference quote number for questions.

Shipping Policy

Unless otherwise noted, shipping costs are calculated as follows.

Order amount	Percentage of Order
\$999.99 and less	12% with \$12.99 minimum freight charge
\$1,000 to \$4,999.99	10%
\$5,000 to \$99,999.99	8%
\$100,000 and more	6%

Please contact local CA Sales Representative, customer service (1-800-225-0248), or <http://www.curriculumassociates.com/> for expedited shipping rates.

Unless otherwise expressly indicated, the shipping terms for all deliveries is FOB CA's Shipping Point (whether to a CA or third party facility). Risk of loss and title is passed to purchaser upon transfer of the goods to carrier, standard shipping charges (listed above) are added to the invoice or included in the unit price unless otherwise specified.

Payment Terms

Payment terms are as follows.

- With credit approval: Net 30 days
- Without credit approval: Payment in full at time of order
- Accounts must be current before subsequent shipments are made

i-Ready®

Customer's use of i-Ready® shall be subject to the i-Ready Terms and Conditions of Use, which can be found at <http://www.i-ready.com/support/>.

Return Policy

Except for materials sold on a non-refundable basis, purchaser may return, at purchaser risk and expense, purchased materials with pre-approval from CA's Customer Service. Please examine your order upon receipt. Before returning material, call CA's Customer Service department (1-800-225-0248) for return authorization. When returning material, please include your return authorization number and the return form found on the CA website. i-Ready® and BRIGANCE® Online Management Systems may be returned for a pro-rated refund for the remaining time left on the contract. We do not accept returns on unused i-Ready licenses®, individually sold Teacher Toolbox access packs, materials that have been used and/or are not in "saleable condition," and individual components of kits including but not limited to BRIGANCE® Kits.

For more information about the return policy, please visit <http://www.curriculumassociates.com/help/default.aspx?topic=188>.

Exhibit B

Curriculum Associates, LLC California Data Handling Statement

1. Purpose.

Curriculum Associates takes the protection of our customers' data and information, particularly student data, very seriously. The purpose of this Data Handling Statement is to inform Curriculum Associates' customers about its current data security policies and practices, which are intended to safeguard this sensitive information. Curriculum Associates handles customer data in a manner consistent with applicable laws and regulations, including, without limitation, the Federal Family Educational Rights and Privacy Act (FERPA) and the California Student Online Personal Information Protection Act (SOPIPA).

2. Scope.

This Policy covers the collection, use, and storage of data that is obtained through the use of Curriculum Associates' proprietary i-Ready® online diagnostic and instructional platform and related services provided by Curriculum Associates.

3. Network Level Security Measures.

Curriculum Associates' i-Ready systems and servers are hosted in a cloud environment. Our hosting provider implements network-level security measures in accordance with industry standards. In addition, Curriculum Associates manages its own controls of the network environment.

4. Server-Level Security Measures.

Access to production servers is limited to a small, identified group of operations engineers that are trained specifically for those responsibilities. The servers are configured to conduct daily updates for any security patches that are released and applicable. The servers have anti-virus, intrusion detection, configuration control, monitoring/alerting, and automated backups. In addition, we conduct regular vulnerability testing.

5. Computer/Laptop/Device Security Measures.

Curriculum Associates employs a full IT staff that manages and secures the corporate and employee systems. Laptops are encrypted and centrally managed with respect to configuration updates and anti-virus. Access to all Curriculum Associates computers and laptops is password-controlled. Curriculum Associates sets up teacher and administrator accounts for i-Ready so that they are also password-controlled.

6. Encryption.

i-Ready is only accessible via https and all public network traffic is encrypted with the latest encryption standards. Encryption of data at rest is implemented for all data stored in the i-Ready system.

7. Employee and Contractor Policies and Procedures.

Curriculum Associates limits access to student and customer data to those employees who need to have such access in order to allow Curriculum Associates to provide quality products and services to its customers. Curriculum Associates requires all employees who have access to Curriculum Associates servers and systems to sign non-disclosure agreements. Curriculum Associates requires its employees and contractors who have access to student data to participate in annual training sessions on IT security policies and best practices. Any employee who ceases working with Curriculum Associates is reminded of his or her non-disclosure obligations at the time of departure, and network access is terminated at that time.

8. Use of Student Data.

Curriculum Associates only uses student data collected in connection with the use of i-Ready for the purpose of making i-Ready available to its customers and improving its content and effectiveness. Curriculum Associates only uses student-identifiable data to make i-Ready available to that particular student and to provide related reports and services to that student's school and school district and its teachers and administrators. Curriculum Associates collects and uses aggregated, de-identified student data to make i-Ready a more effective, adaptive product and for other internal research and development purposes. Curriculum Associates does not attempt to re-identify de-identified customer data.

9. Student Privacy Pledge.

To further demonstrate its commitment to protecting the privacy of student information, Curriculum Associates has taken the Student Privacy Pledge <https://studentprivacypledge.org/>. This means that, among other things, Curriculum Associates has pledged not to sell student information, not to engage in behaviorally targeted advertising, and to use collected data for authorized purposes only. Curriculum Associates only uses collected student data for the purposes described in the previous paragraph.

10. Third Party Audits and Monitoring.

In addition to internal monitoring and vulnerability assessments, Curriculum Associates contracts with a third party to conduct annual security audits, which includes penetration testing of the i-Ready application. Curriculum Associates reviews the third-party audit findings and will implement recommended security program changes and enhancements where practical and appropriate.

11. Data Retention and Destruction.

Student and teacher personal data is used only for the explicitly identified functions of the i-Ready application. Student and teacher personal data is de-identified before any testing or research activities may be conducted. Upon the written request of a customer, Curriculum Associates will remove all personally identifiable student and teacher data from its production systems at the end of a contract. In addition, Curriculum Associates reserves the right, in its sole discretion, to remove a particular customer's student data from its production servers a reasonable period of time after its relationship with the customer has ended, as demonstrated by the end of contract term or a significant period of inactivity in all customer accounts. Student data is removed from backups in accordance with Curriculum Associates' data retention practices. If Curriculum Associates is required to restore any materials from its backups, it will purge all student-identifiable data not currently in use in the production systems from the restored backups. Student and teacher personal data will not be retained or available to the contractor upon

completion of the contract unless a student, parent, or legal guardian of a student chooses to establish or maintain an electronic account with Curriculum Associates.

12. Breach Notification.

Curriculum Associates follows documented “Security Incident Management Procedures” when investigating any potential security incident. In the event of a data security breach, Curriculum Associates will notify impacted customers as promptly as possible that a breach has occurred, and will inform them (to the extent known) what data has been compromised. Curriculum Associates expects customers to notify individual teachers and parents of any such breach to the extent required.

Exhibit C

Addendum to Technology Services Agreement **(California Education Code § 49073.1)**

This Addendum is entered into between Milpitas Unified School District (“District”) and Curriculum Associates, LLC (“Service Provider”) on July 27, 2017 (“Effective Date”).

WHEREAS, the District and the Service Provider entered into an agreement for technology services titled Customer Agreement (“Technology Services Agreement”) on July 27, 2017;

WHEREAS, the District is a California public entity subject to all state and federal laws governing education, including but not limited to California Assembly Bill 1584 (“AB 1584”), the California Education Code, the Children’s Online Privacy and Protection Act (“COPPA”), and the Family Educational Rights and Privacy Act (“FERPA”);

WHEREAS, AB 1584 requires, in part, that any agreement entered into, renewed or amended after January 1, 2015 between a local education agency and a third-party service provider must include certain terms; and

WHEREAS, the District and the Service Provider desire to have the Technology Services Agreement and the services provided comply with AB 1584.

NOW, THEREFORE, the Parties agree as follows:

1. The terms and conditions of the Technology Services Agreement and any addenda are incorporated herein by reference.
2. The term of this Addendum shall expire on the termination date stated in the Technology Services Agreement or in any addenda to such Technology Services Agreement, whichever controls.
3. Pupil records¹ obtained by Service Provider from District continue to be the property of and under the control of the District.
4. The procedures by which pupils may retain possession and control of their own pupil-generated content are outlined as follows: This is not applicable to i-Ready® as there is no pupil-generated content such as this contemplates.²
5. The options by which a pupil may transfer pupil-generated content to a personal account include: This is not applicable to i-Ready® as there is no pupil-generated content such as this contemplates.

¹ Pupil records include any information directly related to a pupil that is maintained by the District or acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other District employees. Pupil records does not include de-identified information (information that cannot be used to identify an individual pupil) used by the third party: (1) to improve educational products for adaptive learning purposes and for customized pupil learning; (2) to demonstrate the effectiveness of the operator’s products in the marketing of those products; or (3) for the development and improvement of educational sites, services, or applications.

² Procedure provided will likely depend on the capability of the technology services vendor. The information will likely have to be provided by vendor to demonstrate product compliance.

6. Parents, legal guardians, or eligible pupils may review personally identifiable information in the pupil's records and correct erroneous information by the following protocol: Upon parents, legal guardians, or eligible pupils' written request to LEA, Service Provider will work with LEA to review and correct any erroneous information.
7. Service Provider shall take actions to ensure the security and confidentiality of pupil records, including but not limited to designating and training responsible individuals on ensuring the security and confidentiality of pupil records, by the following measures: See "Employee and Contractor Policies and Procedures" section of Service Provider's attached Data Handling Policy.
8. In the event of an unauthorized disclosure of a pupil's records, Service Provider shall report to an affected parent, legal guardian, or eligible pupil pursuant to the following procedure: See "Breach Notification" Section of Service Provider's attached Data Handling Policy.
9. Service Provider shall not use any information in a pupil record for any purpose other than those required or specifically permitted by the Technology Services Agreement.
10. Service Provider certifies that a pupil's records shall not be retained or available to the Service Provider upon completion of the terms of the Technology Services Agreement, except for a case where a pupil chooses to establish or maintain an account with Service Provider for the purpose of storing pupil-generated content, either by retaining possession and control of their own pupil-generated content, or by transferring pupil-generated content to a personal account. Such certification will be enforced through the following procedure: See attached Data Handling Policy of Service Provider.
11. District agrees to work with Service Provider to ensure compliance with FERPA and the Parties will ensure compliance.

IN WITNESS WHEREOF, parties execute this Agreement on the dates set forth below.

Date: _____

Milpitas Unified School District

Date: July 27, 2017

Curriculum Associates, LLC

