**COPYRIGHT LICENSE AGREEMENT**

 THIS AGREEMENT is entered into by and between the **Dawson County School District No. 24-0001**, also known as **Lexington Public Schools** (“District”), and **\_\_\_\_\_\_\_\_\_\_\_\_\_\_** (“Licensee”), collectively the “Parties.”

 WHEREAS, District owns all rights and interests in Wonders Practice Sets (“Work”) and has the exclusive right to license, sell, reproduce, or otherwise grant rights to use in the Work;

 WHEREAS, the Licensee desires to use the Work under the terms and conditions outlined in this Agreement and agrees that Licensee is granted a limited license for only those purposes specifically granted herein (“License”);

 NOW, THEREFORE, in consideration of mutual covenants, the Parties agree as follows:

1. **Grant of License.** District grants to Licensee a nonexclusive license to use the Work for its educational purposes. The Licensee cannot transfer, use, or represent that Licensee has any other interest the License for any other purpose. Licensee cannot sell or promise access or rights to the Work beyond Licensee’s own use contained in this Agreement. Licensee cannot post the Work to the internet or make copies which could be accessed by persons who are not employees, contracted agents, or direct recipients of services provided by Licensee.
2. **Retention of Rights by District.** Any rights not specifically granted to Licensee under this Agreement belong to and remain the sole property of District.Any unauthorized use may result in the immediate termination of this Agreement.

1. **Payment for License.** Licensee shall pay District $1,000 for the License. The License is not granted until payment in full has been received by District. Licensee agrees that the payment is not prorated through the term and is instead payment for access to the works immediately. In the event District terminates this Agreement at any time after its effective date, no portion of the payment will be refunded.

1. **Term of License.** The License granted by this Agreement is effective for use by the Licensee for as long as the Work is needed for Licensee’s educational purposes, beginning the date District receives payment for the License, unless terminated earlier as provided by this Agreement or by law.
2. **Restrictions on Use**. Licensee shall not intentionally permit anyone other than themselves, their employees, contracted agents, or the direct recipients of services provided by Licensee to use the Work. Except as explicitly provided in this Agreement and through the License granted, the Licensee shall not copy, modify, alter, supplement, reverse engineer or create derivative work of the Work or the idea or concept behind the Work without prior written permission of District. Licensee may not remove, obscure, or modify any copyright or other ownership notices in the Work, nor will Licensee rebrand the Work or any part thereof. Licensee may not grant any sub-licenses of any kind with respect to the Work.
3. **Governing Law; Designation of Forum.** This Agreement is governed by and construed in accordance with the laws of the State of Nebraska. Any action to enforce this Agreement must be brought in the appropriate state or federal courts of the State of Nebraska.

1. **Termination.**
2. District may terminate this Agreement if the Licensee breaches or is in default of any material obligation hereunder which default is incapable of cure, or which, being capable of cure, has not been cured within 10 days after receipt of written notice of such default.

1. District may terminate this Agreement, in whole or in part, by written notice to the Licensee and may regard the Licensee in default of this Agreement if the Licensee: (1) Becomes insolvent; (2) Makes a general assignment for the benefit of creditors; (3) Files a voluntary petition of bankruptcy; (4) Suffers or permits the appointment of a receiver for its business or assets; (5) Becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign; (6) Has wound up or liquidated, voluntarily or otherwise; or (7) Debarred or suspended from performing services on any public contracts.
2. The Parties may terminate this Agreement by mutual written consent.
3. Upon the termination for any reason or expiration of this Agreement, the Licensee shall promptly return to District the Work and all papers, materials, and other property of District then in its possession.

1. **Indemnification and Cooperation.** To the extent permitted by applicable law, but without waiving any rights under any applicable state governmental immunity act, the Parties hereto agree to indemnify each other from any and all liabilities, claims, expenses, losses or damages, including attorneys' fees, which may arise in connection with this Agreement and which are caused, in whole or in part, by the negligent act or omission of the Indemnifying Party. Additionally:

A. District has the right, but is not obligated, to file and maintain federal registration of the Work.

B. In the event that Licensee becomes aware of any claimed or alleged infringement of the Work by a third Party, Licensee shall promptly advise District of the nature and extent of such infringement. District has no obligation to take any action in the event that infringement occurs with respect to the work, but District shall have the sole right to determine whether any action shall be taken.

C. In the event District sues or takes other action, legal, equitable, administrative, or otherwise to stop an infringement of the Work, Licensee shall cooperate fully with District. Licensee has no right to enforce the Work through litigation without prior written authorization of District. In any legal action arising from use, or ownership rights of the Work, where both District and Licensee are co-Parties, District retains the right to control the litigation, including any and all settlement negotiations.

1. **Public Records.** The Licensee acknowledges that District must comply with Neb. Rev. Stat. § 84-712 through § 84-713 and release public records as defined by law upon request, which may include this Agreement and all records created and maintained in relation to this Agreement. In the event any Work or other record of District is shared with the Licensee under this Agreement, Licensee agrees to provide its version, in any form, to District in the event it is requested by District.

1. **Nondiscrimination.** The Parties and all subcontractors, if any, shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his or her race, color, religion, sex, disability, or national origin.

1. **Employment Eligibility Verification.** The Parties shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Parties employ or contract with any subcontractor in connection with this Agreement, the contracting Party shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

1. **Notice.** Each Party giving any Notice (“Notice”) under this Agreement must give written Notice by personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid.) Notice shall be sent to the following addressees at the following addresses:

District: Lexington Public Schools

 Attn: Superintendent

 300 S. Washington

 Lexington, NE 68850

 With copy to:

 KSB School Law, PC, LLO

 Cornhusker Plaza

301 South 13th Street, Suite 210

 Lincoln, NE 68508

Licensee: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notice is effective only if the Party giving the Notice has complied with this section.

1. **Authority to Execute Agreement.**  The individuals signing below represent and warrant that they are duly authorized to execute and deliver this Agreement on behalf of their respective entity and that this Agreement is binding upon their entity in accordance with its terms.
2. **Amendments and Modifications.** The Parties may amend or modify this Agreement only by a signed, written agreement by both Parties that identifies itself as an amendment or modification to this Agreement. No other alterations in the terms of this Agreement shall be valid or binding.

1. **Waivers.**

A. The Parties may waive any provision in this Agreement only by a writing executed by the Party or Parties against whom the waiver is sought to be enforced.

B. No failure or delay:

(1) In exercising any right or remedy, **or**

(2) In requiring the satisfaction of any condition under this Agreement, **and**

(3) No act, omission, or course of dealing between the Parties operates as a waiver or estoppel of any right, remedy or condition.

C. A waiver made in writing on one occasion is effective only in that instance and only for the purpose stated. A waiver once given is not to be construed as a waiver on any future occasion or against any other person.

1. **Severability.** If any provision of this Agreement is determined to be unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each Party remain enforceable.

1. **Counterparts.** The Parties may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the Parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other Parties to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each Party to the other Parties, assuming the payment terms have been completed. In proving this Agreement, a Party must produce or account only for the executed counterpart of the Party to be charged.
2. **Force Majeure.** Neither Party shall be liable for any loss or damage suffered by the other Party, directly or indirectly, as a result of the non performing Party’s failure to perform, or delay in performing, any of its obligations contained in this contract (except any obligations to make payments for services rendered or accepted goods received before the failure to perform or the delay in performance), where, in the opinion of District, such failure or delay is cause by circumstances beyond the non performing Party’s control or which make performance commercially impracticable, including but not limited to fire, flood, storm or other natural disaster, explosion, accident, war, riot, civil disorder, government regulations or restrictions of any kind or any acts of any government, alien enemy, judicial action, power failure, acts of God, or other natural circumstances. This Force Majeure provision excludes economic hardship, changes in market conditions, and insufficiency of funds on the part of Licensee.
3. **Warranties.** **TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT FOR THE EXPRESS WARRANTIES IN THIS AGREEMENT, DISTRICT PROVIDES THE GOODS AND/OR SERVICES ON AN "AS-IS" BASIS. DISTRICT DISCLAIMS AND MAKES NO OTHER REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING REPRESENTATIONS, GUARANTEES OR WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR ACCURACY**.

1. **Limitation of Damages.** In no event is either Party liable for any of the following arising out of or concerning this Agreement, however caused: special, indirect, moral, consequential, incidental, punitive, or exemplary damages; loss of profits, use, or revenue; or business interruption.
2. **Assignment.** This Agreement binds the Parties and their respective successors and assignees. The Licensee shall not assign or otherwise dispose of this Agreement or any duty, right, or responsibility contemplated in this Agreement to any other person without the previous written consent of District.

1. **Third Party Beneficiaries.** This Agreement does not and is not intended to confer any rights or remedies upon any person other than the signatories.
2. **Captions.** The descriptive headings of the Articles, Sections and subsections of this Agreement are for convenience only, do not constitute a part of this Agreement, and do not affect this Agreement’s construction or interpretation.
3. **Rights and Remedies Cumulative.**  Any enumeration of District’s rights and remedies set forth in this Agreement is not exhaustive. District’s exercise of any right or remedy under this Agreement does not preclude the exercise of any other right or remedy. All of District’s rights and remedies are cumulative and are in addition to any other right or remedy set forth in this Agreement, any other agreement between the Parties, or which may now or subsequently exist at law or in equity, by statute or otherwise.
4. **Relationship among Parties.** This Agreement creates no relationship of joint venture, partnership, limited partnership, agency, or employer- employee between the Parties, and the Parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither Party has any right or authority to assume or to create any obligation or responsibility on behalf of the other Party except as my from time to time be provided by written instrument signed by both Parties.
5. **Rules of Construction.** The Parties hereto have each been represented by counsel, or had the opportunity to be represented, during the negotiation and execution of this Agreement, and therefore waive application of any law or rule of construction providing that ambiguities in the contract will be construed against the Party drafting such contract.
6. **Entire Agreement.** The Agreement is the complete and exclusive expression of the Parties’ agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the Parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement on the date last date written below.

**DISTRICT** **LICENSEE**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_