

## LICENSE AGREEMENT

**THIS LICENSE AGREEMENT** (the "Agreement"), is entered into as of March 13, 2007 (the "Effective Date") between the **SCHOOL IMPROVEMENT NETWORK, INC.**, a Utah corporation (the "Licensor") and Keller ISD (the "Licensee").

### Premises

WHEREAS, Licensor is in the business of developing, marketing, and distributing educational products and services to educators, students, and parents; and

WHEREAS, Licensee desires to obtain certain limited rights to utilize digital content from certain educational materials, and subject to the terms of this Agreement, Licensor is willing to grant such rights to Licensee.

### Terms

NOW, THEREFORE, in consideration of the foregoing and following covenants, warranties, and representations, the parties hereto hereby agree as follows:

## **I. GRANT OF LIMITED LICENSE**

1.1 License. Subject to the terms of this Agreement, Licensor grants to Licensee, and Licensee accepts from Licensor, a non-exclusive, non-transferable, non-sublicensable, royalty-bearing, and limited license (the "License") to host on a server the educational materials identified in attached Exhibit A (the "Licensed Materials"). Licensee acknowledges and agrees that all right, title and interest in and to the Licensed Materials provided to Licensee by Licensor, in whatever form, are and shall remain the property of Licensor. Licensee shall not acquire or attempt to acquire any right, title or interest in or to any of the Licensed Materials. The License to use Licensed Materials shall immediately terminate upon termination of this Agreement.

1.2 Use Restrictions. Licensee's use of the Licensed Materials shall be subject to the use restrictions set forth in attached Exhibit B ("Content Use Restrictions"). Licensee shall use the Licensed Materials solely for non-commercial broadcast to Licensee's employees. Licensee shall not permit any person, other than its employees to use or view the Licensed Materials. Licensee shall not edit or copy any part of the Licensed Materials. Licensee warrants that it shall utilize best efforts to comply with its obligations hereunder, including by maintaining appropriate policies and procedures. Licensee shall be solely responsible for supplying and maintaining computers, facilities, and equipment necessary to host and distribute the Licensed Materials.

## **II. LICENSE FEE**

2.1 License Fee. In consideration of the License, Licensee shall pay to Licensor a fee (the "License Fee") as set forth in attached Exhibit C.

2.2 Audits. During the Term of this Agreement and for a period of four (4) years thereafter, Licensee shall maintain records documenting Licensee's use of the Licensed Materials, if licensed materials are used in any manner outside of the PD 360 interface, or if users access content in any way other than by individually signing into [www.schoolimprovement.com/pd360](http://www.schoolimprovement.com/pd360). Licensor shall have the right, during normal business hours, to review such records.

**III. TERM AND TERMINATION.** The term of this Agreement shall commence on the Effective Date and be effective for one (1) year thereafter (“Initial Term”). After the Initial Term, this Agreement shall automatically renew for successive one (1) year periods (each, a “Renewal Term”) unless: (a) either party gives the other party written notice of termination at least 30 (thirty) days before the expiration of the Initial Term or Renewal Term, (b) the parties mutually agree in writing, or (c) a breach remains uncured 30 (thirty) days after the breaching party hereunder has received from the non-breaching party written notice of the breach (in which case, this Agreement shall automatically terminate after the 30<sup>th</sup> day).

#### **IV. INDEMNIFICATION AND REMEDIES**

4.1 Warranty: Licensor warrants to Licensee that it has the full legal right to grant to Licensee the License granted under this Agreement, and that the Licensed Materials, as and when delivered to Licensee and when properly used for the purpose and in the manner specifically authorized by this Agreement, do not infringe upon any United States patent, copyright, trade secret or other proprietary right of any person. Licensor shall defend and indemnify Licensee against any third party claim to the extent attributable to a violation of the foregoing warranty.

4.2 Disclaimer of Warranty. **LICENSEE ACKNOWLEDGES AND AGREES THAT, EXCEPT AS SET FORTH IN SECTION 4.1 ABOVE, LICENSOR MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO PRODUCTS AND SERVICES PROVIDED HEREUNDER, INCLUDING THE LICENSED MATERIALS, AND THAT LICENSOR PROVIDES SUCH PRODUCTS AND SERVICES HEREUNDER ON AN "AS IS" BASIS AND DISCLAIMS ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING, THE QUALITY OR CONDITION THEREOF, EDUCATIONAL CLAIMS, OR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.**

4.3 Limitation of Liability. **EXCEPT TO THE EXTENT OF A PARTY’S OR A PARTY’S AFFILIATES’, EMPLOYEES’, AGENTS’, OR CONTRACTORS’ WILLFUL MISCONDUCT, GROSS NEGLIGENCE, BREACH OF ARTICLE II HEREUNDER, OR BREACH OF 4.1 ABOVE, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY OTHER PARTY FOR ANY LOST REVENUES, LOST PROFITS, LOST OPPORTUNITY, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, OR ANY OTHER DAMAGES ARISING UNDER ANY LEGAL THEORY ARISING OUT OF THIS AGREEMENT.**

#### **V. MISCELLANEOUS**

5.1 Entire Agreement. This Agreement constitutes the entire understanding between the parties and supersedes any other agreements or understandings, either oral or written, between the parties relating to the subject matter hereof. This Agreement may be amended, in whole or in part, only upon the mutual written consent of both parties hereto.

5.2 Successors and Assigns. This Agreement may be assigned without restriction by Licensor. This Agreement may be assigned by Licensee only upon Licensor's written consent.

5.3 Governing Law, Venue, Attorneys’ Fees. This Agreement shall be governed by the laws of the state of Texas, excluding any applicable conflicts of law provisions. The exclusive venue for any judicial action or proceeding arising out of this Agreement shall be the state court of competent jurisdiction located in the state of Texas. Either party may exercise any legal right and remedy available

to it, whether at law or in equity, to enforce any provision of this Agreement. In any action to enforce or defend any part of this Agreement, the prevailing party shall be entitled to an award against the non-prevailing party, in addition to any damages or injunctive relief, any reasonable costs, fees, and expenses, including attorneys' fees according to Sec. 271.159 of the Texas Local Government Code, court costs, witness and expert fees, travel and lodging costs, collection costs, and pre- and post-judgment interest to the maximum extent allowable by law.

5.4 Severability. If any term of this Agreement is held to be invalid by a court of competent jurisdiction, such invalidated term shall not affect any other term and shall be modified by the court only as necessary giving maximum permissible effect to the parties' intentions expressed herein, and the remainder of this Agreement shall continue in full force and effect.

5.5 Execution. This Agreement may be executed in any number of duplicate counterparts, including via fax or e-mail, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

5.6 Review by Attorney. Each party acknowledges that it has had an opportunity to review this Agreement prior to execution with its own legal counsel.

IN WITNESS WHEREOF, the Parties by their duly authorized representatives have executed this Agreement as of the Effective Date.

"LICENSOR"

SCHOOL IMPROVEMENT NETWORK, INC.,  
a Utah corporation

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

Name: Chet Linton

Title: Chief Executive Officer

"LICENSEE"

Keller ISD

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

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

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

## EXHIBIT A

This Exhibit A is made pursuant to that certain License Agreement (“Agreement”) of even date herewith executed by School Improvement Network, Inc. and Keller ISD. The Licensed Materials, as more particularly described in the Agreement, are as follows:

| <b>Stock Number</b> | <b>Title</b>  | <b>Presenter</b>                |
|---------------------|---|---------------------------------|
| 1305 E              | Classroom Instruction that Works – Elementary Edition                                   | McREL’s Salle Quakenboss        |
| 1305S               | Classroom Instruction that Works – Secondary Edition                                    | McREL’s Salle Quakenboss        |
| 1102E               | Differentiating Instruction – Elementary Edition  | Gayle Gregory & Carolyn Chapman |
| 1102S               | Differentiating Instruction – Elementary Edition  | Gayle Gregory & Carolyn Chapman |
| 1306                | Using Data to Close the Achievement Gap   | Ruth Johnson                    |
| 1202E               | Assessment For Learning – Elementary Edition  | Rick Stiggins                   |
| 1202S               | Assessment For Learning – Secondary Edition   | Rick Stiggins                   |
| 1405                | Understanding the Culture of Poverty  | Mary Montel Bacon               |
| 906E                | Teaching English Language Learner’s in the Regular Classroom – Elementary Edition       | Virginia Rojas                  |
| 906S                | Teaching English Language Learner’s in the Regular Classroom – Secondary Edition        | Virginia Rojas                  |
| 1201                | Closing the Achievement Gap   | Glenn Singleton                 |
| 1104E               | All Means All, “What is About You Can’t Teach?” Elementary Edition                      | Eleanor Renee Rodriguez         |
| 1104S               | All Means All, “What is About You Can’t Teach?” Secondary Edition                       | Eleanor Renee Rodriguez         |
| 1101E               | New Teacher Training: Winning Students Over, Not Winning Over Them – Elementary Edition | Carol Cummings                  |
| 1101S               | New Teacher Training : Winning Students Over, Not Winning Over Them – Secondary Edition | Carol Cummings                  |
| 1404                | Training Paraprofessionals and the Teachers that Work with Them                         | Betty Ashbaker & Jill Morgan    |
| 1301                | Effective Mentoring   | Laura Lipton & Bruce Wellman    |
| 803E                | Assessment and Scoring Guides Based on Standards – Elementary Edition                   | Douglas Reeves                  |
| 803S                | Assessment and Scoring Guides Based on Standards – Secondary Edition                    | Douglas Reeves                  |
| 707                 | Achieving Reading Success in the Early Years  | Margaret Mooney                 |
| 1006                | Helping Struggling Readers Beyond Grade One   | Darrell Morris                  |
| 1205                | High-Quality For Classroom Success – Secondary  | Various Experts                 |
| 1205SC              | Strategies that Work for Science Teachers   | Various Experts                 |
| 1205MA              | Strategies that Work for Math Teachers  | Various Experts                 |
| 1205SS              | Strategies that Work for Social Studies Teachers  | Various Experts                 |
| 1205EN              | Strategies that Work for English Teachers   | Various Experts                 |
| 1206                | High-Quality Teaching for Classroom Success   | Various Experts                 |
| 1402E               | Reading in the Content Areas – Elementary   | Carol Santa                     |
| 1402S               | Reading in the Content Areas – Elementary   | Carol Santa                     |
| 902E                | Thinking Maps to Graphic Organizers – Elementary  | David Hyerle                    |

|      |   |                            |
|------|---|----------------------------|
| 902S | Thinking Maps to Graphic Organizers – Secondary                 | David Hyerle               |
| 804E | Questioning to Stimulate Thinking and Learning – Elementary     | Beth Sattes & Jackie Walsh |
| 804S | Questioning to Stimulate Thinking and Learning – Secondary      | Beth Sattes & Jackie Walsh |
| 704  | Bringing Brain Research into Classroom Practice                 | Pat Wolfe                  |
| 703E | Cooperative Learning and Multiple Intelligences – Elementary    | Spencer & Laurie Kagan     |
| 703M | Cooperative Learning and Multiple Intelligences – Middle School | Spencer & Laurie Kagan     |
| 703S | Cooperative Learning and Multiple Intelligences – Secondary     | Spencer & Laurie Kagan     |
| 701  | Habits of Mind  | Art Costa                  |
| 404  | High School Block Scheduling                                    | Robert Lynn Canady         |

### Leadership Development

| Stock Number | Title  | Presenter                        |
|--------------|--|----------------------------------|
| 1304         | Dealing with Difficult Teachers  | Todd Whitaker                    |
| 801          | What's Worth Fighting For In Education   | Michael Fullan & Andy Hargreaves |
| 1203         | Secondary Principals as Leaders of Learners  | Irving Jones                     |
| 1204         | Elementary Principals as Leaders of Learners                                       | Rebecca DuFour                   |
| 1005         | Building Learning Communities – Leadership in the Age of Standards and High Stakes | Rick DuFour                      |
| 507          | Principals: Leaders of Change  | Kent Peterson & Terrence Deal    |

## EXHIBIT B

This Exhibit B is made pursuant to that certain License Agreement (“Agreement”) of even date herewith executed by School Improvement Network, Inc. and Keller ISD. The Content Hosting Restrictions, as more particularly described in the Agreement, are as follows:

### I. Digital Hosting

| <b>Hosting Period</b> | <b>Origination Site</b>   | <b>Broadcast Site(s)</b>                      | <b>Distribution Method</b>            |
|-----------------------|---|---|---------------------------------------|
| 12 Months             | School District Office and/or schools covered under this license agreement. | Schools licensed under the District’s license | WAN, LAN, Internet, or physical media |

## EXHIBIT C

This Exhibit C is made pursuant to that certain License Agreement (“Agreement”) of even date herewith executed by School Improvement Network, Inc. and Keller ISD. The Annual Licensed Fees, as more particularly described in the Agreement, are as follows:

| Num Sites | Each Annual Site License Amount | Training Included |        |
|-----------|---------------------------------|-------------------|--------|
| 1         | \$ 2,595                        | Web Conf          | 3 hrs  |
| 2-5       | \$ 2,195                        | Web Conf          | 3 hrs  |
| 6-10      | \$ 1,995                        | Web Conf          | 6 hrs  |
| 11-20     | \$ 1,795                        | On Site           | 1 day  |
| 21-50     | \$ 1,595                        | On Site           | 1 day  |
| 50+       | \$ 1,495                        | On Site           | 2 days |

Pricing good through May 31, 2007

| Licensed Content                    | Number of Sites | Annual Amount Per Site     | Total              |
|-------------------------------------|-----------------|----------------------------|--------------------|
| Site License Includes               |                 |                            |                    |
| 1. Professional Development Content |                 |                            |                    |
| 2. PDF Implementation Guidebooks    |                 |                            |                    |
| 3. Leadership Content               |                 |                            |                    |
| 4. Implementation Training          |                 |                            |                    |
| 5. Installation and Tech Support    |                 |                            |                    |
| 6. Content Hosted by Local Server   | 24              | \$1595.00                  | \$38,280.00        |
| District Discount 31%               |                 |                            | -11,935.00         |
|                                     |                 | <b>Total Annual Amount</b> | <b>\$26,345.00</b> |

### 2. Other Invoicing Terms.

2.1 Fee Reviews and Amendments. Lessee acknowledges and agrees that Lessor may, in its sole discretion, review and prospectively amend the License Fees for Licensed Materials provided under the Agreement by delivering notice to Licensee, in which case such amended License Fees shall become effective 30 (thirty) days from delivery by Licensee, unless Licensee delivers a written notice of termination within that 30 (thirty) day period.

2.2 Invoicing Terms. Payment due in full net 30 (thirty) days from receipt of invoice.

2.3 Late Fees. If any invoice is not paid in full within 30 (thirty) days of receipt, Licensee shall incur interest and other fees in accordance with Chapter 2251 of the Texas Governmental Code, in addition to the original amounts invoiced, delinquency charges on a daily basis of all outstanding original amounts plus accrued delinquency charges according to Section 2251.025 for every day that such outstanding charges remain unpaid (“Delinquency Charge”).



### **Sole Source Provider**

To whom it may concern:

School Improvement Network is the sole source provider and owns the copyrights for the professional development online service, PD360-Professional Development On Demand, and all video programs associated with PD360.

PD360 is published by the School Improvement Network and can only be purchased from the School Improvement Network

Sincerely,

Chet D. Linton  
Chief Executive Officer