

CompassLearning, Inc.
PILOT - TO - PURCHASE
AGREEMENT FOR SERVICES

This Pilot-to-Purchase Agreement for Services (Agreement) is entered into this day of May 4, 2009, by and between CompassLearning, Inc. (CompassLearning), a Delaware corporation, with an office located at 203 Colorado St., Austin, TX 78701, and the **Guilford County School District** (Licensee), located at 522 Hardee St, Dallas, GA 30132.

This Agreement will be in effect for the period: June 1, 2009 – June 30, 2010

The CompassLearning software and other materials detailed in this Agreement will be shipped to the site address(es) shown below unless otherwise directed in writing. Once Agreement is terminated, all software and materials provided under this agreement will be removed unless otherwise arranged in writing.

Site Name(s): Eastern Guilford High School
Address(s): 712 N Eugene Street
Greensboro, NC 27401

Lab Number(s): TBD

I. CompassLearning Software:

A. CompassLearning will provide the educational software and materials identified below:

- 1) CompassLearning and /or CompassLearning offered third-party curriculum software description / # of workstations:
English 1,2,3,4, Biology, Physical Science, Algebra 1,2, Geometry, US History 2, World History, US Government
- 2) Management software to load student workstations and monitor student progress:
N/A
- 3) Applicable off-line classroom / student materials (quantity):
N/A

B. CompassLearning will not provide hardware, networking or operating system software as part of this agreement. Necessary hardware and applicable networking software will be the responsibility of the Licensee. (See attached configuration with itemized list of recommendations.)

C. CompassLearning will deliver one (1) set of documentation. Licensee shall not, nor shall it cause another party to duplicate third-party documentation without prior approval from CompassLearning.

II. Implementation will be provided as follows:

A. Planning, Implementation and Training Days:

The scheduling of specific staff development and consulting sessions may be adjusted by CompassLearning to meet the needs of the Licensee.

III. CompassLearning will provide software support, which consists of:

- A.** Technical support through a toll-free telephone "helpline."
- B.** Licensed System Engineer support, as deemed necessary by CompassLearning.

IV. Fees:

Licensee agrees to pay CompassLearning a Preview Purchase Fee for software installation, start-up, training, and staff development as follows:

Preview Purchase Fee of \$0.00, payment due net 30 days from shipment.

If the System is not purchased by the end of the period set forth above, Licensee agrees to immediately return to CompassLearning the Licensed Pilot-to-Purchase System software, documentation, and all hardware equipment supplied by CompassLearning. Licensee shall certify in writing that all copies of the Licensed System(s) have been returned to CompassLearning or otherwise destroyed and deleted from any computer libraries or storage devices.

V. Licensee hereby agrees to the following:

- A. Not to make any alterations, additions, or improvements to the Licensed System.
- B. To provide (1) a suitable and secure classroom or other facility. A telephone by the fileserver is strongly recommended. In addition, Licensee agrees to provide an acceptable operating infrastructure that conforms to industry standard specifications. For the purposes of this Agreement, infrastructure is defined as the building electrical wiring, network cabling plan, network electronics, static electricity avoidance and building temperature and humidity. This includes but is not limited to adhering to the published I.E.E.E. networking standards, IEA/TIA 568B premise wiring specifications, National Electric Code electrical specifications for computer equipment, subject to local building and electrical codes, the computer equipment manufacturer's recommended operating environment, and specifications supplied by CompassLearning. In the event the stability of the infrastructure is in question, CompassLearning's sole responsibility will be to notify the Licensee of the problem. CompassLearning, at its sole option and discretion, may assist the Licensee in identifying and resolving the problem. The Licensee agrees to reimburse CompassLearning for any and all work related to the diagnoses and resolution of any problem not caused by the software.
- C. To allow CompassLearning personnel occasional access for purposes of testing, updating, and operation of the CompassLearning software. Licensee agrees to cooperate with CompassLearning in establishing evaluations of the operation of the System.
- D. Licensee shall not, nor shall it cause any third party to decompile, disassemble, or reverse-engineer any CompassLearning software.
- E. Licensee shall not assign or otherwise transfer its rights or delegate its obligations hereunder without CompassLearning's prior written consent. Any attempted assignment, transfer, or delegation without such consent shall be void.
- F. To satisfy any tariffs, duties or taxes imposed or levied by any government or governmental agency including federal, state and local sales taxes.
- G. To pay CompassLearning interest, not to exceed 2% per month, for any invoice not paid when due. CompassLearning shall also have the right to suspend support services and warranties.
- H. To the principles of *force majeure*, if circumstances beyond the control of the parties make it impossible for either or both of them to perform their agreements under this Agreement.
- I. To CompassLearning's right to terminate this Agreement, if Licensee breaches any term of this Agreement or fails to make any payment. Licensee shall have thirty days (30) from the receipt of notification of breach by CompassLearning to cure said breach. In the event cure is not made, this Agreement shall be terminated immediately. Upon termination, Licensee further agrees to return to CompassLearning the CompassLearning software(s), including all documentation and hardware within five-business days (5) of termination.
- J. Agrees To indemnify and defend CompassLearning from a cause of action that arises solely from improper use and operation of the CompassLearning products.

VI. General:

- A. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas. Any action or proceeding brought by either party against the other arising out of or relating to the Agreement shall be brought only in a State or Federal Court of competent jurisdiction in Travis County, Texas. The parties hereto agree to in personam jurisdiction of said courts.
- B. Licensee represents and warrants that it has complied with any and all requirements necessary to authorize the execution of all Agreements with CompassLearning and the signing party(ies) are authorized to sign on behalf of the Licensee.
- C. Neither party shall disclose this Agreement or any of its contents to any third party without the prior written permission of the other, unless such disclosure is required by law.
- D. This agreement, including the attachments hereto and incorporated herein by this reference, constitute the entire understanding and agreement between CompassLearning and Licensee. Any modifications or amendments to this Agreement must be in writing signed by a duly authorized agent or representative of CompassLearning and Licensee.

VII. Limited Warranty:

- A. The warranty for CompassLearning products purchased under this Agreement shall be CompassLearning's standard limited warranty as set forth in CompassLearning's License Agreement which accompanies each CompassLearning product.
- B. The warranty, if any, for Third Party product acquired under this Agreement shall flow from the manufacturer to Licensee and shall be as set forth in the documentation which accompanies each Third Party product. CompassLearning provides no warranty for Third Party products.
- C. Licensee hereby acknowledges and agrees that its hardware meets the CompassLearning Recommended Hardware Configurations required for operation of CompassLearning products provided with Licensee software configuration. CompassLearning warrants that these recommended configurations will operate the CompassLearning products licensed under this Agreement substantially in accordance with the specifications and documentation that accompany CompassLearning products. Additional hardware required to operate Third Party product(s) will be the responsibility of the Licensee.
- D. Any additional hardware required to make the system operational shall be the responsibility of Licensee. If hardware other than CompassLearning recommended hardware is purchased for any other CompassLearning product(s), additional hardware may be required to make the system operational. Said hardware shall be the responsibility of Licensee. Fees for performance testing and other hardware setup charges may be billed separately.
- E. CompassLearning does not warrant operation of CompassLearning products on other than CompassLearning recommended hardware and CompassLearning does not accept return of CompassLearning product based on failure to operate on said hardware. Acquisition of recommended hardware for use with CompassLearning product is solely the responsibility of Licensee.
- F. COMPASSLEARNING MAKES NO OTHER WARRANTY TO LICENSEE, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY COMPASSLEARNING OR THIRD PARTY PRODUCTS PURCHASED HEREUNDER. COMPASSLEARNING SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

G. THAT LICENSEE'S REMEDIES, IF ANY, AGAINST COMPASSLEARNING ARE LIMITED TO RECOVERY OF THE COST OF SUPPORT SERVICE. IN NO EVENT WILL COMPASSLEARNING BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES CLAIMED OR ACTUALLY SUFFERED BY LICENSEE AS A RESULT OF OR IN CONNECTION TO COMPASSLEARNING'S OR COMPASSLEARNING'S AGENTS' PERFORMANCE OF ANY OF THE OBLIGATIONS HEREIN.

VIII. Miscellaneous:

- A. A copy of the Licensed System in machine-readable form will be supplied to Licensee, and this Agreement authorizes Licensee to use the Licensed System (software, hardware and documentation) at the location(s), designated above. Licensee agrees to use the Licensed System in the manner intended by this Agreement.
- B. Title to the Licensed System remains with CompassLearning. The Licensed System software is a trade secret and proprietary property of CompassLearning. Licensee agrees to hold the Licensed System in strict confidence and not make copies of the Licensed System software or any part thereof in any form, nor shall Licensee remove or destroy proprietary markings indicating CompassLearning's ownership of the Licensed System. CompassLearning shall hold harmless and defend Licensee against any claim that Licensee's authorized use of the Licensed System software breaches a patent, trademark or copyright.
- C. Licensee represents and warrants that it has complied with any and all requirements necessary to authorize the execution of all Agreements with CompassLearning and the signing party(ies) are authorized to sign on behalf of Licensee.

By: CompassLearning, Inc.
203 COLORADO ST.
AUSTIN, TX 78701

By: Guilford County School District
712 N Eugene Street
Greensboro, NC 27401



Signature

Gina Rivera, Business Administration Director
Type Name & Title

5/4/09
Date

Signature

Type Name & Title

Date

Please provide the following

Installation Contact Person: _____

Title: _____

Phone: () _____

To expedite your Agreement, please fax to 512-391-1703.