

Connecticut State Department of Education  
165 Capital Avenue  
Hartford, CT 06106

Re: Alternate Assessment Test Items and Content Package

This letter sets forth the terms and conditions governing edCount Management's release to the Connecticut State Department of Education (CSDE) and the CSDE's use of the Alternate Assessment Test Items and Content Package on an "as is" basis for use in conducting an assessment at the designated sum of \$10,000.

After edCount Management receives a signed copy of this letter from the CSDE, edCount Management will send an email to the CSDE with the next steps in securing the Test Items and Content.

The CSDE agrees to pay edCount Management the sum of \$10,000.00 for edCount Management's cost of providing the Alternate Assessment Test Items and Content Package to the CSDE, including the cost of the processes necessary to create access to the NCSC Intellectual Property (IP) and to establish the licenses necessary to protect the IP and the integrity and security of the items.

edCount Management will send an invoice in the above amount, and you agree to pay the invoice in full within thirty days after its receipt.

Included in the email transmitting this letter to you is/are the License(s) applicable to the work(s) you have selected. You acknowledge and agree that your use of the work(s) is governed by the terms of the License.

You may contact edCount Management if you have any general programmatic or administrative questions about the Alternate Assessment Test Items and Content Package, and edCount Management for up to (but no more than) one hour of time will attempt to answer your questions. edCount Management's assistance is provided strictly on an "as is" basis without any express or implied warranty whatsoever. If you need additional assistance, you and edCount Management may agree in a separate signed document regarding such assistance.

For operational or technical assistance regarding the Alternate Assessment Test Items and Content Package, you may contact Katrina Kasten, Project Manager at Breakthrough Technologies, LLC (BT) at [Katrina.kasten@breaktech.com](mailto:Katrina.kasten@breaktech.com). BT was a subcontractor for the U.S. Department of Education grant under which the works were developed. edCount Management's reference to BT is not a requirement or endorsement, however, and you are free to contract (or not) with other service providers, so long as they comply with the License terms.

FULLY  
EXECUTED

**Connecticut State Department of Education**

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**December 10, 2015**

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The CSDE agrees not to release any Items until after December 31, 2020. You may in the meantime release certain Items, or the Item bank, if expressly permitted in writing by NCSC.

Sincerely,



Ellen Forte, Ph.D.

SEEN and AGREED

Signature: Kathy Demsey  
Name: Kathy Demsey  
Title: Chief Financial Officer  
Date: 12.11.15

## ALTERNATE ASSESSMENT TEST ITEMS

### LICENSE AGREEMENT

#### A. NOTICES

Test Items: Copyright © 2015 National Center and State Collaborative

The Alternate Assessment Test Items (the "Items") were developed by the National Center and State Collaborative ("NCSC"), a consortium led by the University of Minnesota (the "University") comprising national education centers and State departments of education. In 2011, the U.S. Department of Education awarded a General Supervision Enhancement Grant, grant no. PR/Award H373X100002, to NCSC through the University as grantee, to develop an alternate assessment system and test items to assess the English Language Arts and Math achievement of students with significant cognitive disabilities.

The Items, including their contents, were developed under a grant from the U.S. Department of Education. However, the Items, including their contents, do not necessarily represent the policy of the U.S. Department of Education, and you should not assume endorsement by the Federal Government.

This license allows you to freely use, display, copy, redistribute and/or modify the Items. However, this license does not allow you to incorporate the Items in whole or in part into proprietary works.

#### B. TERMS AND CONDITIONS GOVERNING THE USE, DISPLAY, COPYING, DISTRIBUTION AND MODIFICATION OF THE ITEMS

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1. You may display, copy and distribute the Items provided that you conspicuously and appropriately publish on each copy an appropriate copyright notice; keep intact all the notices that refer to this License; and give any other recipients of the Items a copy of this License. You may charge a fee for the physical act of transferring a copy.

2. You may modify the Items or any portion of the Items, thus forming a work based on the Items, and use, display, copy and distribute such modifications or work under the terms of this License, provided that you also meet all of these conditions:

a) You must cause the Items as modified to carry prominent notices stating that you changed the files and the date of any change.

b) You must cause any work that you use, display, distribute or publish, that in whole or in part contains or is derived from the Items or any part thereof, to be licensed as a whole at no charge to all third parties under the terms of this License.

These requirements apply to the modified work as a whole. If identifiable sections of that work are not derived from the Items, and can be reasonably considered independent and separate

works in themselves, then this License, and its terms, do not apply to those sections when you distribute them as separate works. But when you distribute the same sections as part of a whole which is a work based on the Items, the distribution of the whole must be on the terms of this License, whose permissions for other licensees extend to the entire whole, and thus to each and every part regardless of who wrote it. Thus, it is not the intent of this section to claim rights or contest your rights to work written entirely by you; rather, the intent is to exercise the right to control the distribution of derivative or collective works based on the Items.

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among countries not thus excluded. In such case, this License incorporates the limitation as if written in the body of this License.

10. If you wish to incorporate parts of the Items into free programs whose distribution conditions are different, write to the University to ask for permission.

### **NO WARRANTY**

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### **C. ADDITIONAL TERMS CONDITIONS**

1. This License gives you all or some of the Items that NCSC used in its Spring 2015 operational assessment.
2. You hereby release NCSC (including its supplier and partner organizations) from any responsibility for evidence supporting scores.
3. If and when you use the Items in an assessment you must cite NCSC as the source of the Items in your assessment materials.
4. You agree not to release any Items until after December 31, 2020. You may in the meantime release certain Items, or the Item bank, if expressly permitted in writing by NCSC.

**STATE DEPARTMENT OF EDUCATION  
DIVISION OF LEGAL AND GOVERNMENTAL AFFAIRS**

**MEMORANDUM**

**TO:** FILE

**FROM:** Laura Anastasio, Staff Attorney

**DATE:** December 7, 2015

**RE:** edCount Management Licensing Agreement

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The State Board of Education is seeking to enter into a licensing agreement with edCount Management, which is related to the Agreement with edCount Management in the conduct of alternate assessments of students with significant cognitive disabilities for the purpose of accountability and reporting, as required by Section 10-14n of the C.G.S. and the Elementary and Secondary Education Act. Specifically, this agreement shall provide to the CSBE licenses necessary to protect the intellectual property and the security of the Alternate Assessment Technology System, Test Items and Content Package.

edCount Management is providing the CSDE with a license to use its Program and Test Items, which the CSDE needs to comply with the requirements of the aforementioned statutes. The Program and Items contain warranty disclaimers—there is no warranty or implied warranty of merchantability. Moreover, while the license allows for the CSDE to modify and redistribute the Program as provided in the agreement, it does not permit the CSDE to incorporate the Program or Items into a proprietary program. It does not contain the standard provision of indemnification, and the CSDE is willing to have the agreement remain silent on that issue.

The CSDE is willing to enter into this Agreement as a business decision. The benefit of obtaining this Program outweighs the risk of not having the standard contractual provisions. This Program will benefit a small number of students with significant cognitive disabilities and comes at a cost to the CSDE of \$10,000.