

REDeLEARN Digital Access Agreement

REDeLEARN and its affiliates (“we”, “us”, or “our”) provides digital content and hosted websites for third parties, including entities or institutions that subscribe to REDeLEARN’s Digital service (“Customer”). This Access Agreement (“Agreement”) applies to Customer’s use of the REDeLEARN-hosted websites, applications, software, technologies and services related to the eLearning Resource Content (collectively referred to as “ERC Service”).

By accessing and/or using the REDeLEARN ERC Service, Customer agrees to be legally bound by this Agreement, our Terms and Conditions, and general Privacy Policy, which are expressly incorporated herein by reference and made a part of this Agreement. The terms and conditions in this Agreement and all incorporated agreements, terms, and policies take precedence over any and all Customers terms and conditions listed on purchase orders or other Customer documents sent to REDeLEARN.

1. ERC Service Licence

- 1.1. REDeLEARN grants Customer and authorised employees, staff, students and other users that Customer authorises to access, use and connect to the ERC Service (collectively “End Users”) a limited, revocable, non-exclusive, non-transferable licence to access and make personal, non-commercial use of the ERC Service. REDeLEARN reserves the right to prohibit any conduct involving the ERC Service, including but not limited to Customer allowing unauthorised access to the ERC Website, that it deems to be in violation of this Agreement in its sole reasonable discretion. If REDeLEARN makes the determination that any prohibited conduct in violation of this Agreement has occurred, REDeLEARN may take all necessary remedial measures, up to and including requiring the Customer to use an alternative authentication method to access the ERC Service and/or termination of this Agreement.
- 1.2. Customer and/or End Users shall not copy, rent, lease, sell, repair, transfer, assign, sub-licence, disassemble, reverse engineer or decompile, modify or alter the ERC Service including, but not limited to, translating or creating derivative works of any portion of the ERC Service without the prior written consent of REDeLEARN.

2. Digital Content Licence

- 2.1. REDeLEARN grants Customer and End Users a non-assignable, non-transferable, limited license to use the digital content provided by REDeLEARN (“Digital Content”) for personal, non-commercial use.
- 2.2. End Users and/or Customer may access and/or download the Digital Content:
 - a. On school-issued devices or school computers with exclusive and individual unique user accounts;
 - b. On school-issued, shared devices that are issued to students under a one-to-one device program where each device is assigned to or borrowed by a single student at a time;
 - c. On End User personal devices directly;
 - d. On shared school, classroom or media centre computers; or
 - e. For use projecting Digital Content on a classroom whiteboard, SmartBoard, or other similar technology, or listening and/or watching Digital Content in the classroom.
- 2.3. Customer and/or End Users may copy, transfer and burn the Digital Content only for personal, non-commercial use where permitted. REDeLEARN reserves the right to prohibit any conduct involving Digital Content that it deems in violation of this Agreement in its sole reasonable discretion.
- 2.4. Unless otherwise permitted, Customer and/or End Users shall not redistribute, repackage, transmit, assign, sell, broadcast, publicly display, rent, share, lend, modify, extract, reveal, adapt, edit, sub-licence and/or otherwise transfer or misuse the Digital

Content. All rights, title, and interest in the Digital Content are reserved by its owners and Customer and/or End Users do not acquire any ownership rights in the Digital Content as a result of downloading and/or accessing the Digital Content.

- 2.5. The licence granted to Customer and/or End Users to use the Digital Content is for the duration of the subscription. End Users agree and acknowledge that at the end of the Subscription all rights to access the Digital Content expire and terminate. At the end of the Subscription, End Users shall delete and/or destroy any and all copies of the Digital Content, including any copies that may have been transferred to, or created on portable devices, storage media, removable drives, CDs, and/or DVDs. In the event Customer, REDeLEARN, or a rights holder determine End Users of the ERC Service are violating the terms of this Agreement, Customer and/or REDeLEARN reserves the right to suspend or terminate End Users' ability to use the ERC Service.

3. REDeLEARN ERC Service

- 3.1. REDeLEARN shall create a single login for Customer's and End Users' use of the ERC Service. If Customer is utilising ERC Service for multiple school campuses, each individual school that orders package shall be required to establish its own authentication method for access to the platform (e.g. separate single-sign on passwords). Customer shall implement and maintain commercially reasonable measures to ensure that only authorised End Users have access to the ERC Service and Digital Content.
- 3.2. REDeLEARN has the right, at any time, to make modifications to the operation, performance, or functionality of the ERC Service to improve the quality of the ERC Service, in REDeLEARN's sole reasonable discretion. REDeLEARN has the right, at any time, to discontinue distribution of any or all components of the ERC Service or Digital Content, to add and/or remove supported services or Digital Content from the ERC Service, or to provide new versions, updates or corrections for any software, hardware or operating system.
- 3.3. REDeLEARN grants Customer access to an administrative account in the ERC Service where Customer may run reports and manage Digital Content. Login credentials to the administrative account are confidential and may not be disclosed to any third party or End User. Customer shall maintain the confidentiality of the administrative account and login credentials. Customer shall implement and maintain reasonable measures to ensure that only authorised administration personnel have access to the administrative account in the ERC Service.
- 3.4. The ERC Service and/or Digital Content may require the use of third-party applications or services that are subject to their own, separate licence agreements and/or terms and conditions not under REDeLEARN's control. REDeLEARN expressly disclaims any and all risks and liabilities associated with the use of any such third-party offerings.

4. Third Party Content

REDeLEARN is a distributor of Digital Content supplied by third parties, including authors and others. Accordingly, any opinions, advice, statements, offers, services or other information or content expressed by third parties are those of the respective author(s) and not REDeLEARN. REDeLEARN neither endorses nor is responsible for the accuracy or reliability of information in the ERC Service or Digital Content made by anyone other than authorised REDeLEARN employee spokespersons acting in their official capacities.

5. Technical Support Services

- 5.1. Customer agrees to perform primary support services to its End Users, including day-to-day help, support, technical aid and other assistance for End User's use of its ERC Service or for any issues arising from the use of the ERC Service ("Primary Support"). Customer shall assign personnel with appropriate skills and expertise in computer, data processing and related services to enable operation of the ERC Service and to provide Primary Support.

- 5.2. REDeLEARN shall provide Secondary Support to Customer. "Secondary Support" shall consist of technical support services by email and phone in the English language to Customer, including reasonable efforts to assist Customer in providing Primary Support. REDeLEARN shall provide such Secondary Support by email and phone during its normal business hours of Monday – Friday 9:00 AM to 5:00 PM Australian Eastern Standard Time.
- 5.3. REDeLEARN shall use reasonable efforts to make the ERC Service perform substantially in accordance with the product description, as it may exist from time to time. However, Customer acknowledges that inevitably some errors may exist in the ERC Service, and the presence of such errors shall not be a breach of this Agreement. REDeLEARN's sole obligation with regard to such errors shall be to use commercially reasonable efforts to correct such errors and provide Secondary Support as stated in this Agreement.

6. Privacy

REDeLEARN respects the privacy of its visitors, and is especially mindful of protecting the privacy of children under the age of 13 years old who utilise the ERC Service. For more information on REDeLEARN's privacy policies, please see our Privacy Policy.

7. Compliance with Copyright Protection Technologies and Data Security

- 7.1. Customer shall take reasonable steps to prevent unwarranted intrusion into data managed or maintained by REDeLEARN that is acquired in the course of the operation of the ERC Service. This includes reasonable steps to protect its password and access to the administrative account for management of the ERC Service.

8. Copyright, Trademark and Intellectual Property Ownership

- 8.1. The laws of copyright protect the Digital Content that is made available through the ERC Service and associated REDeLEARN services. Copyrights in the Digital Content are held by their respective owners. The Digital Content embodies the intellectual property of a third party and is protected by law.
- 8.2. The Digital Content and any other copyrighted material shall not be modified, copied, distributed, repackaged, shared, displayed, revealed, extracted, emailed, transmitted, sold or otherwise transferred, conveyed or used, in a manner inconsistent with this Agreement or the rights of the copyright owner. Customer and/or End User shall not redistribute, repackage, transmit, assign, sell, broadcast, rent, share, lend, modify, extract, reveal, adapt, edit, sub-licence or otherwise transfer the Digital Content. Customer and/or End User are not granted any synchronisation, public performance, promotional use, commercial sale, resale, reproduction and/or distribution rights for the Digital Content.
- 8.3. The trademarks, logos, and service marks displayed in Customer's ERC Service are owned by REDeLEARN or third parties, and the ERC Service's trade dress is owned by REDeLEARN (collectively, "Trademarks"). All Trademarks not owned by REDeLEARN are the property of their respective owners, and are used with permission. Nothing contained in the ERC Service may be construed as granting, by implication, estoppel, or otherwise, any right or licence to use any Trademarks.
- 8.4. During the Agreement Term and any renewal periods, Customer will reasonably cooperate with REDeLEARN to achieve REDeLEARN's and its publishers' and suppliers' objectives of protecting certain intellectual property interests relating to REDeLEARN supplied Digital Content and products.

9. Disclaimer of Warranty, Limitation of Liability and Indemnity

- 9.1. REDeLEARN disclaims all warranties, express or implied, including, but not limited to, warranties of merchantability, title, noninfringement, or fitness for a particular purpose. REDeLEARN neither assumes nor authorises any other person to assume for REDeLEARN any other liability in connection with the licensing of the digital content and ERC Service and their use by the customer and/or end users.

- 9.2. In no event shall REDeLEARN be liable to Customer or End Users for any damages arising from or related to failure or interruption of the ERC Service, or for incidental, indirect or consequential damages, or for loss of opportunity, loss of use, or other loss arising out of or in connection with the licence, transfer or use of the ERC Service. In no event shall REDeLEARN's liability hereunder exceed the total amount received by REDeLEARN from customer up to the time the cause of action giving rise to such liability occurred. Customer agrees to indemnify and hold harmless REDeLEARN and its affiliates, officers, employees, agents, business partners, licensors and licencees from any damages, liabilities, costs and expenses (including reasonable lawyers' fees) on account of any claim, suit, action, demand or proceeding made or brought against any such party, or on account of the investigation, defence, or settlement thereof, arising in connection with School Account's use and/or End Users' use of the ERC Service.

10. Term, Termination and Payment

- 10.1. Unless otherwise agreed, the term for Customer's access to the ERC Service shall be for a period of twelve (12) consecutive months starting the effective date of service launch. REDeLEARN, in its sole discretion, may launch the ERC Service sixty (60) days after receipt of the Customer's order form if the ERC Service has not launched before that time. The ERC Service and the terms of this Agreement shall automatically renew for successive terms of twelve (12) consecutive months unless either party provides written notice of intention not to renew at least thirty (30) days prior to the expiration of the then current twelve (12) month term.
- 10.2. Customer obtains certain rights and access to use the Digital Content and ERC Service for the term of its agreement with REDeLEARN. At the end of such term, all the licences granted to School Account shall be terminated immediately, including Customer's access to the ERC Service and any and all Digital Content.
- 10.3. All payments are due to REDeLEARN within thirty (30) days of receipt of invoice. REDeLEARN, in its sole discretion, may require payment by Customer before REDeLEARN will set the ERC Service live. In the event of a breach of any of its obligations, including but not limited to non-payment or latepayment for services, Customer shall remedy the breach within thirty (30) days upon receipt of written notice from REDeLEARN. If Customer fails to remedy such a breach within the period of thirty (30) days, REDeLEARN may, in its sole discretion, terminate the Agreement with Customer upon written notice to Customer and/or temporarily or permanently suspend Customer's access to the ERC Service.
- 10.4. This Agreement is a commitment of the current revenues of the Customer and its governing body. If Customer's governing body or similarly related entity fails to appropriate sufficient funds in any fiscal year for payments due under this Agreement, then a non-appropriation event shall be deemed to have occurred. If a non-appropriation event occurs, (1) Customer shall give REDeLEARN immediate notice of such non-appropriation event and provide written evidence of such failure by School Account's applicable governing body and (2) on or before sixty (60) days from REDeLEARN's receipt of notice of non-appropriation, the parties shall cooperate to determine an appropriate course of action as it relates to the REDeLEARN ERC Service provided under this Agreement. In the event that after such sixty (60) day period, no determination is reached on payment and continued provision of services is not possible, then the Agreement and all ERC Services hereunder shall terminate on the first day of the fiscal year in which funds are not appropriated.

11. General Provisions

- 11.1. This Agreement shall be governed by the laws of the State of New South Wales, Australia without regard to any conflict of laws principles. Any dispute regarding this Agreement or the relationship that has been established by this Agreement shall be brought in the state

- or federal courts residing in the State of New South Wales, Australia, and the local laws of New South Wales will apply to any such action related to the above without regard to any conflicts of laws principles. Both parties submit to venue and jurisdiction in these courts.
- 11.2. REDeLEARN may assign this Agreement. In the event REDeLEARN enters into an agreement to sell substantially all the assets of REDeLEARN, this Agreement shall be binding upon the purchaser. This Agreement may not be assigned by Customer nor any duty hereunder be delegated by School Account without the prior written consent of REDeLEARN which shall not be unreasonably withheld. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective heirs, legal representatives, successors and permitted assigns.
 - 11.3. Neither REDeLEARN nor its licensors shall be liable or deemed to be in default for any delays or failure in performance resulting directly or indirectly from any cause or circumstance beyond its reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authority, rain, fire, flood, accidents, earthquake(s), strikes or labour shortages, transportation facilities shortages or failures of equipment, or failures of the Internet.
 - 11.4. In the event that a court of competent jurisdiction determines that any portion of the Agreement is unenforceable, void, invalid or inoperative, the remaining provisions of this Agreement shall not be affected and shall continue in effect as though such invalid provisions were deleted.
 - 11.5. This Agreement, and all incorporated documents herein, constitutes the entire Agreement and understanding of the parties. We may make changes to this Agreement. Please check this page periodically for updates. Customer acknowledges that Customer's continued use of the ERC Service means that Customer agrees to be bound by such changes.

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