

**CONTRACT NAME: AGREEMENT BETWEEN SUNBURST DIGITAL AND
DAVIS JOINT UNIFIED SCHOOL DISTRICT**

BRIEF DESCRIPTION OF CONTRACT: This agreement between Sunburst Digital and DJUSD is for the Type to Learn Program subscription. Pioneer Elementary School students use this program to learn keyboarding skills.

FISCAL IMPACT: The cost of this license is included in the 2017-2018 approved site budget.



TYPETOLEARN SUBSCRIPTION END USER Cloud solution LICENSE AGREEMENT

Please read this Agreement carefully.

By accessing the Cloud solution, you consent and agree with this Agreement. If you do not agree, do not install or continue to access or use the Cloud solution. This Sunburst Digital Curriculum Subscription End User Cloud solution License Agreement ("Agreement") entered into with Sunburst Digital Learning, Inc. and you and/or the educational institution affiliated with you, which you hereby represent that you are authorized to bind (hereafter, together referred to as "You") specifies the Agreement between the parties. By accessing the Cloud solution and/or authorizing any other person to access such Cloud solution, You and such other persons accept the terms and conditions of this Agreement along with details specified in the signed quote, invoice, proposal, purchase order or other documents regarding the acquisition of Sunburst Digital's Cloud solution.

IF YOU DO NOT WISH TO BE BOUND BY THIS AGREEMENT, YOU MUST NOTIFY Sunburst Digital IMMEDIATELY AND RETURN YOUR PURCHASE TO Sunburst Digital. THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION.

1. The Product. The Product consists of all of the Sunburst Digital products listed on the invoice that is delivered to you and includes the media content and Cloud solution as defined below.

2. Payment Terms. Unless specifically agreed to otherwise in writing, payment is due within 20 days of receipt of invoice. Payment shall be made in U.S. dollars. If payment is not made when due, Sunburst Digital may, in its sole discretion, in addition to other remedies, withhold all support, technical services and suspension of this license.

3. License; Title.

(a) License. Subject to payment of license fees, the Cloud solution made available under this Agreement is licensed, not sold, to You by Sunburst Digital by grant of a limited, revocable, non-transferable, non-exclusive subscription license. Access to use the Sunburst Digital proprietary curriculum program, including the Cloud solution, and any modifications or replacements thereof provided to You may be granted to teachers and students only for the number of users and specified sites as set forth in the related proposal, quote or other documents. You may not sell, sublicense, distribute or create derivative works of the Cloud solution.

(b) Definition. "Cloud solution" includes all, but is not limited to the TypeToLearn Cloud based system, media content, digitized printed materials, related documentation and other materials delivered to You. (c) Title. Title to or ownership of the Cloud solution will remain with Sunburst Digital or its licensor(s). No title to the Cloud solution will pass to You. Sunburst Digital reserves all rights not expressly granted to You.



(d) License Restrictions. You agree to strictly limit access only to the specified sites and number of users allowed and will exercise best practices not to share logins or passwords. You shall not provide, allow access or otherwise make available the Cloud solution or any part or copies thereof in any form to any third party. You are prohibited from modifying, reverse engineering, decompiling, disassembling or creating derivative works of the Cloud solution or any subsequent enhancement for any reason whatsoever. Any violation of this provision may result in immediate termination of this Agreement without notice and entitle Sunburst Digital to pursue any and all remedies against you, including equitable relief. Sunburst Digital reserves the right to audit compliance with this Agreement.

4. Annual Subscription and Technical Support for Cloud solution. Sunburst Digital will provide access to Sunburst Digital's service desk and updates of the Cloud solution along with other generally available technical material at no additional cost. These maintenance materials including the Cloud solution may not be used to increase the number of versions or copies of the Cloud solution. All patches, updates and releases shall be subject to this End User License Agreement. On each annual anniversary date, Sunburst Digital will invoice and you will need to confirm in writing whether you want to renew. If the Annual Cloud solution Subscription License Fee and Technical Support Fee are not remitted when due, certain components of the Cloud solution will be disabled. Payment of the annual fee is required to reactivate such components. Support provided under this Agreement shall not include (i) operating supplies or accessories; (ii) service due to failure of Cloud solution not supplied by Sunburst Digital; (iii) service provided when the reported problem is caused by network, hardware, firmware or media not supplied by Sunburst Digital, by operator error, by negligence or improper use of the Cloud solution.

5. Term & Termination. The term of this agreement renews only by written request by YOU. Upon written request to renew, on each anniversary date (one year from the date of invoice to YOU) the Annual Cloud solution Subscription Fee will be due. If the fees are not paid when due, access to the cloud solution will be shut off and access will be denied.

6. Training & Professional Development. Any training or professional development purchased must be scheduled at least two weeks in advance. As a condition to receiving any training & professional development, it is the sole responsibility of You to ensure the proper deployment of the Cloud solution as well as distribution of all related materials to all attendees before any training commences. Any Training or Professional Development services not utilized within one year of purchase shall expire and no credit will be given. Any cancellation of services not made within 5 business days of scheduled Training & Professional Development will result of forfeiture of services purchased.

7. WARRANTY. Sunburst Digital WARRANTS TO YOU THAT THE PRODUCT SHALL BE IN GOOD WORKING ORDER ON THE DATE OF DELIVERY PROVIDED THE PRODUCT IS UTILIZED IN ACCORDANCE WITH Sunburst Digital's HARDWARE REQUIREMENTS, EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 5 HEREIN, FOR A PERIOD OF NINETY (90) DAYS THEREAFTER. Sunburst Digital DOES NOT WARRANT OR GUARANTEE THE OPERATION OF THE Cloud solution TO BE



UNINTERRUPTED OR ERROR-FREE. Sunburst Digital DOES NOT MAKE ANY WARRANTY OR REPRESENTATION REGARDING THE USE OF THE Cloud solution IN TERMS OF ACCURACY, RELIABILITY OR OTHERWISE. Sunburst Digital's OBLIGATIONS UNDER THE WARRANTY IN THIS SECTION 8 SHALL BE LIMITED SOLELY TO Sunburst Digital MAKING, AT ITS COST AND EXPENSE, SUCH REPAIRS AND REPLACEMENTS AS ARE NECESSARY TO PLACE THE PRODUCT IN GOOD WORKING ORDER. Sunburst Digital will undertake reasonable efforts to provide technical assistance under this Agreement and to rectify or provide solutions to problems where the Cloud solution does not function as described in the Cloud solution documentation. Sunburst Digital's sole responsibility will be to use reasonable efforts to correct any defect it deems necessary. NOTWITHSTANDING THE FOREGOING, THE WARRANTY PROVIDED HEREIN SHALL BE VOID IN THE EVENT (1) THE PRODUCT FAILS, AS A RESULT OF IMPROPER HANDLING, MAINTENANCE, REMOVAL, MODIFICATION BY YOU OR A THIRD PARTY (NOT AUTHORIZED BY Sunburst Digital); OR (2) THE PRODUCT IS ABUSED OR IMPROPERLY USED; OR (3) THE PRODUCT IS ALTERED SUCH THAT Sunburst Digital IS UNABLE TO VERIFY THE DEFECT WITH ITS NORMAL TEST EQUIPMENT. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR USE, PURPOSE OR SUITABILITY.

8. LIMITATION OF LIABILITY. Sunburst Digital SHALL NOT BE LIABLE TO YOU FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES, WHETHER UNDER TORT, CONTRACT, OR ANY OTHER THEORY OF RECOVERY, EVEN IF Sunburst Digital HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU AGREE THAT Sunburst Digital's TOTAL LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF FEES PAID BY YOU TO Sunburst Digital DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTHS PERIOD.

9. Indemnity. Sunburst Digital will defend, at its expense, and indemnify and hold you harmless from and against any claim that the Product, or any portion thereof, infringes any trademark, trade secret, patent, copyright, or other proprietary right. You shall promptly notify Sunburst Digital of any such claim, and Sunburst Digital will promptly undertake the defense of such claim. If the Product, or any portion thereof, is found to be infringing as a result of a final adjudication, Sunburst Digital, at its sole discretion, shall have the right to: (a) procure for you the right to continue use of the Product; (b) replace the Product with a noninfringing system; or (c) modify the Product so it becomes non-infringing; provided that, if (b) or (c) is the option chosen, your intended use of the Product is not impaired. Notwithstanding, if (a), (b), or (c) are unavailable as options to Sunburst Digital, Sunburst Digital shall refund to you the amounts you have paid to Sunburst Digital Hereunder.

10. Website Registration. To gain access to product registration and utilize on-line information services we may provide from time to time, you may be required to create a log-in ID and password. You are responsible for all activity occurring under your Log-In Information and You must keep your Log-In Information confidential and not share your Log-In Information with third parties. Sunburst Digital has no obligation or responsibility



with regard to your use, distribution, disclosure or management of Log-In Information. Notwithstanding the foregoing, Sunburst Digital may require You to change your Log-In Information.

11. Storage and Use of Information. Sunburst Digital may collect certain data regarding your use of the Cloud solution, such as curriculum viewed, media pieces used, TypeToLearn lessons, time and date of use in order to evaluate and make improvements in future product releases. Sunburst Digital may also make this data available to you if requested. While Sunburst Digital has implemented technical safeguards and procedures to protect communication sent over the Internet, use of the Internet is subject to many factors outside of Sunburst Digital's control and, as a result, Sunburst Digital does not guarantee the security or privacy of such communications.

12. Entire Agreement. Each party acknowledges that this Agreement and the documents incorporated by reference herein constitutes the complete and exclusive statement of the terms and conditions between the parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the parties relating to this Agreement. This Agreement may not be modified or altered except by written instrument duly executed by both parties.

13. Force Majeure. Neither party shall be liable to the other for any delay or failure to perform due to causes beyond its reasonable control. Your invocation of this clause shall not relieve you of your obligation to pay for the Product received.

14. Assignment. Sunburst Digital may assign this Agreement or its obligations hereunder without your consent.

15. Notice. Any notice provided pursuant to this Agreement shall be in writing and shall be deemed given (i) if by hand delivery, upon receipt thereof, (ii) if mailed, three (3) days after deposit in the U.S. mail, postage prepaid, certified mail return receipt requested.

16. No Waiver. The waiver or failure of either party to exercise any right in any respect provided for herein shall not be deemed a waiver of any further right hereunder.

17. Severability. In the event that any provision of this Agreement or any obligation or grant of rights by either party is found invalid or unenforceable pursuant to a judicial decree or decision, any such provision, obligation or grant of rights shall be deemed and construed to extend only to the maximum permitted by law and the remainder of this Agreement shall remain valid and enforceable according to its terms.

18. Governing Law. This Agreement shall be governed by the laws of the State of Texas, without giving effect to its provisions on conflicts of laws.

19. ARBITRATION. Sunburst Digital AND YOU AGREE THAT ANY CLAIM, DISPUTE OR CONTROVERSY



ARISING FROM, RELATING TO OR RESULTING FROM THIS AGREEMENT (INCLUDING THE SERVICE PLAN) SHALL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION IN AUSTIN, TEXAS.

Davis Joint Unified School District

Sunburst Digital

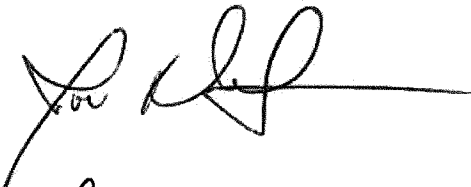
Terms of Service

Jurisdiction, Venue, & Interpretation

The Terms of Service shall be governed by and construed in accordance with the laws of the State of California. Each party consents to personal jurisdiction and venue in Yolo County. The United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed. If a court of competent jurisdiction rules as invalid any provision of this agreement or the application of any provision to any person or circumstance, the parties agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and all other provisions shall remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to the Service, the use of the Sunburst Digital website or iOS Apps, or the Terms of Service must be filed within one (1) year after such claim or cause of action arose or be forever barred.

Accepted as addendum to Terms and Conditions for Sunburst Digital and Davis Joint Unified School District.

By:



Title:

GENERAL MANAGER

Date:

9/21/2017

N/A
JCS

Ref 181059



Sunburst Digital, Inc.
3150 W. Higgins Road, Suite 140
Hoffman Estates, IL 60169
800-321-7511

Providing Sunburst and Educational Resources Brands

Account Name PIONEER ELEMENTARY SCHOOL
Contact Name Blake Hutchings
Phone (707) 863-1611
Email bhutchings@djued.net
Created Date 9/7/2017

Quote Number 00016825

PURCHASE ORDERS MUST BE MADE OUT TO:
Sunburst Digital, Inc. (FEIN#45-3009141)

Proposal is valid for 30 days

Billing Address 5215 HAMEL ST
DAVIS, CA 95618
United States

Product Code	Product	List Price	Sales Price	Quantity	Total Price
TTL0200	TTL Subscription 1-Small Bldg (Max 300 Students) 12-Mo	\$749.95	\$749.95	1.00	\$749.95
TTL0001	TTL Subscription 1-Student Add-On (Bldg License Required) 12-Mo	\$1.00	\$1.00	100.00	\$100.00
		Subtotal	\$849.95		
		Total Price	\$849.95		
		Grand Total	\$849.95		

Frequently Asked Questions

How do I place my order?

Please send this proposal along with an authorized purchase order -

via Email: Send to email below

via Fax: 888-800-3028

via Mail: Sunburst Digital, Inc.
3150 W. Higgins Road, Suite 140
Hoffman Estates, IL 60169

What is an 'authorized purchase order'?

A document that contains School or District Name that acts as authorization for Sunburst Digital, Inc. to bill your organization for the amount stated on the purchase order.

Frequently, this is a form issued by the accounting department for the district. However, we will also accept a signed letter on official letterhead.

What is the return policy?

Merchandise may be returned unused within 30 days for credit or exchange. All returns must be in 100% resalable condition (packaging & support materials intact) unless defective. All damaged products must be reported within 10 days of receipt. If you receive a product that is defective, call our Customer Service Department to receive a Return Authorization (RA) number. If the products may be returned, you will receive either a replacement product or credit to your account. A copy of your invoice or packing slip must be included with your return. Clearly mark the RA number on the outside of the box. Send your return product back insured and traceable via UPS, FedEx, Ground or US Mail prepaid. Please be advised that the following products are NOT returnable unless defective: Special Orders, Books, Hardware, Furniture, Carts, Network Versions, Site Licenses & Products contained in a license agreement envelope that has been opened. Sunburst Digital, Inc. reserves the right to charge a stocking fee under certain circumstances.

What is the Cancellation Policy?

Cancellations must occur prior to the product shipping to avoid shipping and handling costs. Cancellations of hardware & furniture items made after receipt or in transit will result in the customer paying all return freight charges and a restocking fee. Any outstanding backorders on either school or personal orders, due to periodic manufacturer delays in shipping, will be automatically cancelled after 60 days of your original order.

Prepared By Michelle Eddy
Phone (847) 383-7027
Email meddy@sunburst.com

PLEASE NOTE: Type to Learn 4 is not compatible with virtual environments. Including but not limited to Thin Client, N-Computing, Windows Multi-Point Servers, Novell Server, Linux Server.