



ACADEMIC EDGE

PO Box 23605
Lexington, KY 40523-3605

***Your students will read well. Really well.
Let's do this...together! Renew Today!***

Account#

DATE

Proposal #

5/19/2020

10-5057

1954-5374-3289-8109

District

Prepared for:

Boone County Schools
Accounts Payable
8330 US Highway 42
Florence, KY 41042

Rector A. Jones Middle School, Boone County
Ryan Montgomery, Principal 859-282-4610
8000 Spruce Drive
Florence, KY 41042
tony.pastura@boone.kyschools.us

Subscription Renewal Proposal - Proforma Invoice

Subscription renewal is due soon, please issue a PO. If you need further info or would like to revise the expire date, contact your representative.	Current Expire	REP	New Expire Date	RP Code
	8/31/2020	JBH	8/31/2021	

Valid until Current Expire Date as shown above. If expired, please contact your representative for an update.

Please issue PO's to: Academic Edge, Inc PO Box 23605 Lexington, KY 40523-3605
Fax to: 859-422-4989 email to:success@academicedge.com

ITEM	DESCRIPTION	QTY	Item	Total
Lexia Ren...	Renewal of Lexia Learning PowerUp Site License through expiration date above. Buy longer. Save a lot! As low as \$8,075/year. Two year Investment \$17,575, save \$1,425. Three year investment \$24,225, save \$4,275.	1	9,500.00	9,500.00
501-1000	Plus any multiyear purchase protects you from price increases. Reading Plus Site License, Large School (800-999 Users) Multiyear purchases save up to 20%	1	13,850.00	13,850.00
JBH	Brad Hilton, Educational Consultant brad.hilton@academicedge.com 859-412-0225 (cell) 859-252-3000 (office/support)			

Proposals and pricing are based on product(s) and units proposed and are subject to specific vendor minimum purchases. Please request an updated proposal if your needs have changed. Errors & omissions excepted.

Thank you for continuing your partnership with us! How can we help?

Total	\$23,350.00
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These TERMS OF SERVICE (“Terms”) are expressly incorporated into and made a part of that certain Software License Agreement by and between Reading Plus LLC. (Reading Plus) and Customer. Capitalized terms used but not defined herein shall have the meanings given to them in the Software License Agreement.

1. License Grant

Subject to the terms and conditions of this Agreement, Reading Plus hereby grants to Customer, and Customer hereby accepts, a personal, non-transferable, non-sublicenseable, revocable, non-exclusive, limited right and license to allow Administrative Users (as defined in Section 2 below) and End Users (as defined in Section 3 below) to access and use the specific Reading Plus software bundles identified in the Order Form (the “Software”), solely during the period beginning upon the start of the License Term (as defined in the Order Form) and ending upon the expiration of Term (as defined in Section 7 below), and solely for the purposes expressly permitted in this Agreement.

2. Administrative Users

Reading Plus will issue to the Customer administrator who will run and/or supervise the courses offered by the Software (the “Main Administrator”) a username and associated password required for access to and administration of the Software. The Main Administrator will then be permitted to create usernames and passwords for additional Customer administrators who will assist the Main Administrator in running and/or supervising the courses offered by the Software (“Additional Administrators”). The Main Administrator and all Additional Administrators will be referred to collectively herein as “Administrative Users.”

3. End Users

Administrative Users may create usernames and passwords for permitted end users of the Software (in accordance with Section 4) that will allow such end users to access and use the Software. All end users who receive such usernames and passwords will be referred to herein as “End Users.” Administrative Users (i) shall grant such usernames and passwords solely to permitted End Users in accordance with Section 4, and (ii) shall not grant usernames and passwords to a number of End Users that exceeds the maximum number of End Users permitted in the Order Form.

4. Scope of License.

a. Permitted End Users. Customer and Customer’s Administrative Users shall access and use the Software solely for the Customer’s internal operations, solely for the benefit of the Customer’s permitted End Users and solely for the purpose of administering courses offered by the Customer using the Software to permitted End Users. By way of example: if Customer is a single school, Customer shall use the Software solely for the benefit of students enrolled at the school and such students shall be the sole End Users of the Software; if Customer is a school district, Customer shall use the Software solely for the benefit of the students enrolled in the school district and such students shall be the sole End Users of the Software; if Customer is a clinic, Customer shall use the Software solely for the benefit of the clients enrolled in the clinic and such clients shall be the sole End Users of the Software; if the Customer is a vision specialist, Customer shall use the Software solely for the benefit of the patients affiliated with the vision specialist’s practice and such patients shall be the sole End Users of the Software; if the Customer is a private (for profit) organization, Customer shall use the Software solely for the benefit of the clients enrolled in Reading Plus® courses through the organization and such clients shall be the sole End Users of the Software. Such permitted End Users may access and use the Software solely for the purpose of taking courses offered by the Customer using the Software. Failure to adhere to the Agreement may result, in addition to all other rights and remedies available to Reading Plus, in additional usage fees. b. Permitted Access. Customer shall not, and Customer shall ensure that its Administrative Users and End Users do not, divulge, sublicense or otherwise transfer to any third party any user names or passwords for the Software. Customer shall be solely responsible for the actions and inactions of its Administrative Users and End Users, and for maintaining the integrity, security and confidentiality of the usernames and passwords for the Software. Customer shall advise Reading Plus immediately if any of the usernames or passwords for the Software have been compromised.

5. Restrictions

Except as may be otherwise expressly permitted in another agreement with Reading Plus to which Customer is a party, Customer may not: (i) modify or create any derivative works of the Software, including customization, translation or localization; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code for the Software; (iii) redistribute, encumber, sell, rent, lease, sublicense, or otherwise transfer or make the Software available to any third party; (iv) remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the Software; (v) publish any results of benchmark tests run on the Software to a third party without Reading Plus’s prior written consent; (vi) create software that is substantially similar to the Software; or (vii) during the Term and for a period of three (3) years thereafter, create any software that competes with the Software. The Software may contain links to third-party websites. Linked websites are not under Reading Plus’s control, and Reading Plus is not responsible for their content or Customer’s use of the third-party website.

6. Suspension of Access

In addition to Reading Plus's right to terminate this Agreement under Section 8 below, Reading Plus may terminate Customer's access to the Software upon notice to Customer if Customer fails to pay any fees due to Reading Plus on a timely basis or breaches any material provision of this Agreement.

7. Term

The term of this Agreement will begin on the Effective Date identified on the Cover Page and, unless earlier terminated in accordance with Section 8, terminate upon the expiration of the License Term identified on the Order Form (the "Term").

8. Termination.

a. Termination For Breach. Reading Plus may terminate this Agreement if Customer violates any material provision of this Agreement and fails to cure that violation within ten (10) days after its receipt of written notice from Reading Plus identifying the violation. b. Effect of Termination. Upon expiration or earlier termination of this Agreement for any reason, all rights granted to Customer under this Agreement shall immediately terminate, Customer (including all Administrative Users and End Users) shall have no further right to access or use the Software and Customer must promptly cease all use of the Software. As soon as commercially reasonable (but in no event more than thirty (30) days following termination), Customer shall return to Reading Plus or destroy, at Customer's expense, all documentation relating to or derived from the Software. c. Survival. Any provisions of the Agreement which by their nature or express terms should survive termination or expiration shall survive termination or expiration including, without limitation, Sections 5, 8, 10, 11, 12 and Sections 14 through 21 of these Terms.

9. Technical Assistance

During the Term, Reading Plus personnel shall be available from 9:00 a.m. to 5:00 p.m. ET to provide Customer a reasonable amount of technical assistance regarding use of the Software by telephone, email or other web based communication tools.

10. License Fees

In consideration for the rights and licenses granted to Customer herein, Customer shall pay Reading Plus the fees set forth in the Order Form. All fees are in U.S. Dollars and are non-refundable. Unless otherwise provided in the Order Form, all fees shall be due and payable within thirty (30) days of Customer's receipt of an invoice from Reading Plus.

11. Additional Fees

Customer acknowledges and agrees that there may be features or additional services made available by Reading Plus for additional fees. If Customer chooses to utilize such features or services, Customer agrees to be bound by any additional terms and conditions governing the use of such features or services and to pay all additional fees related to such features or services. These fees may relate to technical support contracts, user orientation training, information back ups, additional program access or other program enhancements.

12. Proprietary Rights

The Software is the sole property of Reading Plus and its licensors. All right, title and interest in and to the Software and all intellectual property rights therein shall remain exclusively with Reading Plus and its licensors. Customer acknowledges such right, title and interest of Reading Plus and its licensors and will not take any action to jeopardize, limit or interfere in any manner with Reading Plus and its licensors' ownership of or rights with respect to the Software. Customer further acknowledges the Software is protected by copyright and other intellectual property laws and by international treaties.

13. Scheduled Maintenance for Online Customers

Reading Plus will perform routine maintenance on the servers used to run the Software. Such routine maintenance often requires taking the servers and the Software off-line. Reading Plus estimates that it will require at least one hour of server and Software unavailability per month for such routine maintenance. Reading Plus will provide advance notice of such routine maintenance on Reading Plus’s website when possible. Server and Software unavailability associated with such routine maintenance shall not be included in any server or Software uptime calculations. Reading Plus will use commercially reasonable efforts to perform such routine maintenance during off-peak hours.

14. DISCLAIMER OF WARRANTY

EXCEPT AS EXPRESSLY PROVIDED IN SECTION 13 ABOVE, THE SOFTWARE AND ALL DATA, AND CONTENT AVAILABLE THROUGH THE SOFTWARE ARE PROVIDED “AS IS” AND ON AN “AS AVAILABLE” BASIS, WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED, AND READING PLUS EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, INCLUDING WITHOUT LIMITATION WARRANTIES THAT THE SOFTWARE IS FREE OF DEFECTS, VIRUS FREE, ABLE TO OPERATE ON AN UNINTERRUPTED BASIS, MERCHANTABLE, FIT FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. THE ENTIRE RISK AS TO THE RESULTS ACHIEVED WITH THE SOFTWARE IS BORNE BY CUSTOMER. IN ADDITION, THE SECURITY MECHANISMS IMPLEMENTED BY THE SOFTWARE HAVE INHERENT LIMITATIONS, AND CUSTOMER MUST DETERMINE THAT THE SOFTWARE SUFFICIENTLY MEETS ITS REQUIREMENTS. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT. NO USE OF THE SOFTWARE IS AUTHORIZED HEREUNDER EXCEPT UNDER THIS DISCLAIMER.

15. EXCLUSION OF CONSEQUENTIAL DAMAGES

NEITHER READING PLUS, NOR ITS EMPLOYEES, DISTRIBUTORS, RESELLERS, DIRECTORS OR AGENTS SHALL BE LIABLE TO CUSTOMER OR ANYONE ELSE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS AND LOST DATA, IN ANY WAY ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IN THE EVENT READING PLUS, ITS EMPLOYEES, DISTRIBUTORS, RESELLERS, DIRECTORS OR AGENTS HAVE BEEN ADVISED AS TO THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS, TO LIABILITY SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW.

16. LIMITATION OF LIABILITY

THE ENTIRE COLLECTIVE LIABILITY OF READING PLUS, ITS EMPLOYEES, DISTRIBUTORS, RESELLERS, DIRECTORS AND AGENTS UNDER ANY PROVISION OF THIS AGREEMENT SHALL NOT EXCEED IN THE AGGREGATE THE SUM OF THE FEES CUSTOMER ACTUALLY PAID TO READING PLUS PURSUANT TO THIS AGREEMENT FOR ACCESS TO AND USE OF THE SOFTWARE IN THE PRIOR TWELVE (12) MONTH PERIOD. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS, READING PLUS LIABILITY SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW.

17. User Data

The Software will automatically send information from Administrative Users and End Users back to the servers operating the Software. Reading Plus, and its authorized resellers, sales representatives and agents, may use the non-user identifiable portions of this data, for purposes including improvements to Reading Plus programs, educational research and promotional purposes. The information may include, for example, data relating to the performance of End Users within the various programs in the Software, conflicts or errors encountered during the download and install process, and conflicts created during the download and install process based on the hardware configuration encountered. Customer has sole responsibility for

maintaining student records and monitoring student, teacher, class and school (in the case of district sales) additions, edits and deletes.

18. Customer Representations

Customer represents and warrants to Reading Plus that Customer has the adequate legal capacity to enter into this Agreement and to use and authorize Reading Plus to use (as contemplated by this Agreement) all data uploaded to the Software by Customer, Administrative Users and End Users. Customer further represents and warrants that Customer will use the Software only for lawful purposes and in accordance with this Agreement, and that Customer will not use the Software to violate any law, regulation or ordinance or any right of Reading Plus including, without limitation, any right of privacy, publicity, copyright, trademark, or other intellectual property right.

19. Injunctive Relief

Customer acknowledges that the Software contains Reading Plus proprietary and confidential information, and that disclosure of such information to any third party or misuse of the Software is both (i) expressly prohibited and (ii) will give rise to irreparable injury to Reading Plus, inadequately compensable in damages. Accordingly, Reading Plus may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available.

20. Miscellaneous

(a) This Agreement shall be governed by the laws of the State of Vermont, U.S.A., excluding its conflict of law provisions. (b) Customer expressly agrees that the exclusive jurisdiction and venue for any claim or dispute arising from the use of the Software or this Agreement resides in the federal and state courts located in the State of Vermont. (c) This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods. (d) If any part of this Agreement is held invalid or unenforceable, that part shall be construed to reflect the Parties’ original intent, and the remaining portions remain in full force and effect. (e) The controlling language of this Agreement is English. If Customer has received a translation into another language, it has been provided for Customer’s convenience only. (f) A waiver by either party of any term or condition of this Agreement or any breach thereof, in any one instance, shall not waive such term or condition or any subsequent breach thereof. (g) Customer may not assign or otherwise transfer by operation of law or otherwise this Agreement or any rights or obligations herein except in the case of a merger or the sale of all or substantially all of Customer’s assets to another entity, and any attempted assignment or transfer in violation of this Section 20(g) shall be null and void. (h) This Agreement shall be binding upon and shall inure to the benefit of the Parties, their successors and permitted assigns. (i) If any dispute arises under this Agreement, the substantially prevailing Party shall be reimbursed by the other Party for any and all reasonable legal fees and costs associated therewith. (j) Reading Plus may use Customer’s name in any customer reference list or in any press release issued by Reading Plus regarding the licensing of the Software and/or provide Customer’s name and the names of the Software licensed by Customer to third parties.

21. Entire Agreement

This Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter of this Agreement and supersedes all prior proposals, discussions, other oral communications, written communications and agreements with respect to such subject matter. This Agreement may be modified only by mutual written agreement of the Parties.

