



HEINEMANN
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PLEASE SEND PURCHASE ORDERS TO:

Dee Camp

dee@deecampeducation.com

DATE: May 26,2021

VALID THROUGH NOVEMBER 30, 2021

Florence Elementary

103 Center Street

Florence KY

	Item Number	Price	QTY	Total cost
Benchmark Assessment System 1, 3rd Edition (Levels A–N Grades K–2)	978-0-325-07769-7			
		\$425.00	4	\$1,700.00
Benchmark Assessment System 2, 3rd Edition (Levels L–Z Grades 3–8)	978-0-325-07770-3			
		\$425.00	2	\$850.00
Subtotal				\$2,550.00
SHIPPING				\$250.50
TOTAL				\$2,800.50



Heinemann Terms of Purchase

The following Heinemann Terms of Purchase apply to the purchase of all Heinemann **Physical Products, Digital Products, Services and Pilots**. Additional terms and conditions may pertain to the use of specified platforms or products. In the event that Heinemann is an authorized licensor of any Digital Products owned by third parties, the Terms of Use and Privacy Policies associated with such third-party products may apply.

The Heinemann **Products Privacy Policy** governs all Heinemann Products in relation to privacy matters and is incorporated herein.

GENERAL TERMS APPLICABLE TO ALL PRODUCTS

- 1. CONTRACT.** The ordering or acceptance of any **Products** purchased from Heinemann or its applicable subsidiaries or affiliates by any **Customer** shall constitute an agreement to these standard terms and conditions (the "General Terms"). These General Terms, together with any other applicable terms, as specified below, any terms and conditions published by Heinemann in the applicable Heinemann catalog, the **Order Document(s)** (if applicable to Customer's purchase) and/or any other terms and conditions, attachments or exhibits associated with the purchased Products (collectively, the "Terms") constitute the entire agreement between the parties relating to the subject matter hereof, except for any agreements, amendments, or waivers agreed to in writing by both Heinemann and Customer. Any contrary or inconsistent terms appearing on purchase orders, acknowledgments, or other documents of Customer or oral stipulations shall not be binding on Heinemann.
- 2. PURCHASE AUTHORIZATION; SOLVENCY.** To purchase Products, Customer must be at least the applicable age of majority in their jurisdiction of residence. By ordering Products, Customer represents and warrants that it has complied with any and all of its own requirements necessary to authorize the purchase. Customer is solely responsible for all purchase decisions, including ensuring the compatibility and suitability of all Products. Further, by ordering and accepting delivery, Customer represents to Heinemann that Customer is solvent and will make payment in full when due for such Products in accordance with the applicable invoice. In the event that the Customer orders and/or accepts delivery of any Products while insolvent, Heinemann shall have the right to stop shipment of any and all Products en route and Customer shall immediately return all such Products actually received to Heinemann. Events which shall be deemed to establish Customer's insolvency include, but are not limited to, the filing of a bankruptcy petition by or against Customer and/or Customer's admission of its inability to pay its debts when due.
- 3. ACCEPTANCE, PRICES, CANCELLATIONS, AND TERMS.** Orders are subject to acceptance and availability. Heinemann's list prices and other terms shown are subject to change without notice. Heinemann may make changes in quantities, casepacks, specifications, delivery schedules, method of shipment, and packaging, and may cancel or terminate work on any order for its own convenience, in whole or in part, by written or electronic notice at any time. Any changes to orders requested by Customer may be approved or rejected in Heinemann's sole and absolute discretion. In the event of any errors relating to the pricing or specifications of any Products, Heinemann shall have the right to refuse or cancel any orders in its sole discretion. Please note that Heinemann does not provide price protection or refunds in the event of a price drop or promotional offering. All prices are in U.S. Dollars.
- 4. BILLING AND PAYMENT.** All amounts owing from Customer to Heinemann with respect to any Products purchased from Heinemann are subject to timely payment due within thirty (30) days of the date set forth on Heinemann's invoice. All payments must be made by Visa, MasterCard, American Express, personal or business checks. We currently do not accept cash or any other payment form, although in the future we may change this policy. Heinemann will automatically bill the Customer's credit card or other form of payment submitted as part of the order process for such price. Accounts must be current before subsequent deliveries will be made or Services will be delivered. Customer credit limits may be established and modified by Heinemann in its sole discretion. Past due accounts are subject to a one percent (1%) monthly finance charge. Unless a set-off or deduction is specifically provided for by Heinemann in a valid credit memo, Customer may not charge back to Heinemann or make any set-offs or deductions, including, but not limited to, set-offs or deductions for violations of customer shipping or routing guidelines and/or other promotional programs. Heinemann shall process any credit to Customer's account in accordance with Heinemann's standard practices and procedures. All claims relating to any delivery and/or applicable invoice and/or Products must be made in writing within 30 days of the date of the invoice. Any request for proof of delivery must be made within 30 days of the date of the invoice. If paying by credit card, Customer must provide a valid credit card number and associated payment information, which may include the following: (i) Customer name as it appears on the card, (ii) Customer credit card number, (iii) the credit card type, (iv) the date of expiration; and (v) any activation numbers or codes needed to charge Customer's card. By submitting this information, Customer hereby agree that Heinemann may authorize a charge to Customer's card at Heinemann's convenience but within thirty (30) days of credit card authorization. Your card issuer agreement governs your use of your designated card, and you must refer to that agreement and not these Terms to determine your rights and liabilities as a cardholder. You hereby represent and warrant that you will not use any credit card or other form of payment unless you have all necessary legal authorization to do so. You agree to pay all fees and charges incurred in connection with your purchases (including any applicable taxes) at the rates in effect when the charges were incurred. Unless you notify Heinemann of any discrepancies within sixty (60) days after they first appear on your credit card statement, you agree that they will be deemed accepted by you for all purposes. If Heinemann does not receive payment from your credit card issuer or its agent, you agree to pay all amounts due upon demand by Heinemann or its agents.
- 5. TAXES.** Where appropriate, Customer shall provide Heinemann with a duly executed tax certificate indicating that such purchase is for exemption or resale, and listing Customer's sales tax registration number for each state into which Heinemann's Products will be delivered. Heinemann shall have no liability for any tax required to be billed, collected, and/or remitted by Customer as a result of sales of Products made by Customer, and Customer shall defend, indemnify, and hold harmless Heinemann against all losses, penalties, interest, and expense (including reasonable attorneys' fees) arising out of any claims relating to such liability for taxes. Where applicable, all prices and payments for Products are exclusive of all taxes, and Customer agrees to pay all applicable national, state and local sales, use, valueadded and other taxes, customs duties and similar tariffs and fees, other than taxes imposed on Heinemann's net income.
- 6. SHIPPING; HANDLING; RISK OF LOSS.** Unless otherwise expressly indicated on the face of an order, the shipping term for all deliveries is F.O.B. Heinemann's shipping point (whether to a Heinemann or third-party facility). Risk of loss and title is passed to Customer upon transfer of the Physical Products to the carrier. Shipping costs quoted are estimates and may vary from the actual costs. Unless otherwise agreed, the cost of shipping is calculated by taking the Physical Product price and adding 10%. Minimum charge is \$7.00. Heinemann will ship Physical Products using its established methods of packing and transportation,

except as otherwise instructed by Customer and agreed to by Heinemann. If Customer requires other packing or preparation, Customer will pay the additional costs. In the event Heinemann approves a Customer request to pick up its own deliveries of Physical Products from Heinemann's primary warehouse facility by its own carrier, the pickup must occur within 48 hours of confirming the date and time of pickup or Heinemann will ship and charge standard shipping and handling rates to a maximum of 10%. Customer assumes full liability for the materials upon freight leaving our distribution center dock. Shipping charges are per shipment and will be added to your invoice. Contact customer service for rates on larger orders or to International destinations.

7. **REJECTION.** Customer may, immediately on receipt of any incorrect titles or damaged or defective Products, or if Products are not as described, reject and return them to Heinemann, with authorization from Heinemann and at Heinemann's expense. Customer assumes, and shall bear and pay, all risks and expenses of returning any such Products without Heinemann's authorization. Shortages, damaged Products or incorrect titles must be reported within thirty (30) days of delivery. In the event of a shortage, Heinemann shall ship the items or credit Customer's account for the shortfall. For damaged Products, Heinemann shall pick up the Products and issue an appropriate credit or ship replacement Products. For Products showing visible damage on the shipping carton, the carrier must note damages on the freight bill before accepting delivery. Merchandise damaged in transit must be reported to the carrier immediately. All original shipping cartons, packing slips, packing materials and damaged Products must be saved until they have been inspected or Customer's claim has been resolved.
8. **RETURNS.** Except for Products sold on a non-refundable basis, including all Digital Product, Customer may return, at Customer's risk and expense, purchased Physical Products no later than six (6) months after the invoice date, in accordance with Heinemann's standard practices and procedures. Customer assumes, and shall bear and pay, all risks and expenses of returning any such Products. If Customer returns any Product that is damaged by Customer, used or otherwise ineligible for credit for any reason specified in our policy, Heinemann has the right to dispose of it without any further obligation, including, without limitation, notice, credit obligation or obligation to return it to the Customer.
9. **DISCONTINUATION OR RECALL.** In the event a Product is discontinued by Heinemann or is the subject of a recall by Heinemann during the term of Heinemann's contract with the Customer, Heinemann shall be responsible only for, at Heinemann's election: (a) supplying Customer with a revised or corrected versions of the Product; (b) substituting the Product with a new product in the same subject area and the same type, quality, condition and price or (b) providing a pro-rated credit to Customer that may be applied toward the purchase of other Heinemann Products in the amount of the costs paid by Customer to Heinemann for the use of such Product during the remaining term of Heinemann's contract.
10. **COMPLIANCE WITH LAWS.** Customer shall comply with all applicable laws and regulations applicable to the purchase of Products. Furthermore, Customer warrants that it shall comply with all applicable data privacy laws, including federal and state laws including but not limited to the Family Educational Rights and Privacy Act, including the Protection of Pupil Rights Amendment ("FERPA") and the Children's Online Privacy Protection Act ("COPPA"). Please see our **Heinemann Products Privacy Policy**.
11. **HEINEMANN'S INTELLECTUAL PROPERTY RIGHTS.** The intellectual property contained in the Products (and any derivative works based on the Products) is confidential and/or proprietary information of Heinemann or its licensors and is protected by copyright, trademark, and other intellectual property laws. Heinemann, or its licensors, are the sole and exclusive owners and shall retain all right, title and interest in and to the Products, including without limitation all materials, software, documentation, training and implementation materials, methodology, all parts of presentations and other materials provided in connection therewith, related software code, specifications, documentation, technical information, copyrighted and other proprietary content, Heinemann trademarks and brands, information and other materials of Heinemann, its licensors and other third parties; as well as corrections, modifications, additions, improvements and enhancements to the foregoing (collectively, "Heinemann IP"); subject to the personal, nonexclusive license to use the Heinemann IP granted to Customer for its own non-commercial, incidental use as contemplated herein.
12. **EQUAL OPPORTUNITY CLAUSE.** Heinemann does not and Customer shall not engage in any discriminatory practices based on race, color, religion, sex, national origin, protected veteran status, or disability. To the degree they are applicable, the following provisions are incorporated herein by reference and are binding upon Heinemann and Customer as if set forth fully at length herein: 41 CFR 60-1.4, 60-250.4 and 60-300.5; and 41 CFR 60-741.4 and 60-741.5.
13. **FORCE MAJEURE.** Heinemann shall not be deemed in default of its obligations to Customer to the extent that performance of its obligations or attempts to cure any breach are delayed, cancelled, rescheduled or prevented by reason of any act of God, war, civil commotion, strikes, labor disputes, fire, natural disaster, accident, riots, acts of government, shortage of materials and supplies, or any other cause beyond its reasonable control.
14. **INDEMNIFICATION.** To the extent allowed by law and subject to the right of Customer to raise the defense(s) of sovereign governmental or qualified immunity against third party claims, Customer will indemnify, defend and hold harmless Heinemann, its parent companies, subsidiaries, affiliates, directors, officers and employees from any third party claims, causes of action, damages, costs, liabilities or expenses that arise from a breach of these Terms or from improper, illegal or unauthorized use, distribution or operation of the Products.
15. **DISCLAIMER OF WARRANTIES AND INDEMNITIES; LIMITATION OF LIABILITY.** ALL PRODUCTS ARE PROVIDED ON AN "AS IS" BASIS, AND HEINEMANN EXPRESSLY EXCLUDES THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT. WHILE HEINEMANN DOES ITS BEST TO DESCRIBE EVERY PRODUCT OFFERED AS ACCURATELY AS POSSIBLE, HEINEMANN DOES NOT WARRANT THAT PRODUCTS, SPECIFICATIONS, PRICING, AND/OR OTHER CONTENT HEINEMANN PROVIDES ARE COMPLETE, ACCURATE, RELIABLE, CURRENT, OR ERROR-FREE. TO THE EXTENT PERMITTED BY LAW, CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS HEINEMANN AND ITS PARENT, AFFILIATES, SUCCESSORS AND ASSIGNS AND THEIR RESPECTIVE OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ANY AND ALL LOSSES, COSTS AND EXPENSES (INCLUDING REASONABLE OUTSIDE ATTORNEYS' FEES AND EXPENSES) INCURRED IN DEFENDING ANY CLAIM, JUDGMENT OR PROCEEDING RELATING TO OR ARISING OUT OF: (I) CUSTOMER'S BREACH OR ALLEGED BREACH OF ITS REPRESENTATIONS, WARRANTIES, OBLIGATIONS AND AGREEMENTS CONTAINED IN THESE TERMS; AND/OR (II) THE DISTRIBUTION, RESALE AND PROMOTION OF PRODUCTS BY CUSTOMER. HEINEMANN WILL HAVE THE RIGHT TO CONTROL THE DEFENSE AND SETTLEMENT OF ANY CLAIMS SUBJECT TO INDEMNIFICATION HEREIN. HEINEMANN SHALL HAVE NEITHER LIABILITY NOR RESPONSIBILITY TO ANY PERSON OR ENTITY WITH RESPECT TO ANY LOSS OR DAMAGE ARISING FROM THE PRODUCTS, INCLUDING, WITHOUT LIMITATION, HEINEMANN'S FAILURE OR ALLEGED FAILURE TO FILL ORDERS BY CUSTOMER IN WHOLE OR IN PART. HEINEMANN DOES NOT GUARANTEE THAT ANY DIGITAL PRODUCTS WILL BE DELIVERED ERROR-FREE OR UNINTERRUPTED. HEINEMANN DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND DIGITAL PRODUCTS MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. HEINEMANN SHALL NOT BE LIABLE FOR ANY DAMAGES TO COMPUTERS, COMMUNICATION SYSTEMS, DATA OR SERVICES THAT MAY ARISE AS A RESULT OF THE USE OF DIGITAL PRODUCTS. IN NO EVENT SHALL HEINEMANN BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER IN TORT, CONTRACT, STRICT LIABILITY, WARRANTY OR OTHERWISE, AND REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH

DAMAGES. IN NO EVENT SHALL HEINEMANN'S TOTAL AGGREGATE LIABILITY IN CONTRACT, TORT OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH THESE TERMS EXCEED THE FEES PAID OR PAYABLE BY CUSTOMER DURING THE MOST RECENT TWELVE (12) MONTH PERIOD PRIOR TO THE CLAIM.

16. **TERMINATION; EFFECT OF TERMINATION.** Heinemann may terminate this Agreement upon the failure of Customer to comply with any of the Terms, at any time by giving Customer 30 days' prior written notice, specifying the breach upon which the notice is based. If Customer has not cured the breach to Heinemann's satisfaction within the notice period, this Agreement will terminate. Heinemann shall have, in addition to any other remedies available to it, the right to injunctive and other equitable relief to restrain action by Customer inconsistent with this Agreement, and Customer hereby acknowledges that other remedies are inadequate in such cases. Upon termination for any reason, Heinemann will disable access to any applicable Digital Products, including at the end of the **Subscription Term**. In addition, Sections 11, 14 through 18 and 20 shall survive any termination of this Agreement.
17. **MODIFICATION AND SEVERABILITY.** If any provision of these Terms is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining portions of the Terms shall remain in force and in effect and be construed so as to best effectuate the intention of the parties. The waiver of one default shall not waive subsequent defaults of the same or different kind. Heinemann reserves the right to make changes to these Terms at any time.
18. **JURISDICTION; VENUE; CHOICE OF LAW.** THE STATE COURTS OF THE COMMONWEALTH OF MASSACHUSETTS SITTING IN SUFFOLK COUNTY AND, IF THE JURISDICTIONAL PREREQUISITES EXIST AT THE TIME, THE UNITED STATES DISTRICT COURT FOR MASSACHUSETTS SHALL HAVE THE SOLE AND EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY DISPUTE OR CONTROVERSY ARISING UNDER OR CONCERNING THIS CONTRACT. THIS CONTRACT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS, WITHOUT REFERENCE TO ITS PRINCIPLES OF CONFLICTS OF LAWS, EXCEPT THAT FOR GOVERNMENTAL CUSTOMERS IN THE UNITED STATES THESE TERMS SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH THE GOVERNMENT AGENCY CUSTOMER IS LOCATED.
19. **EXPORT.** Import duties, taxes and customs clearance fees relating to Products shipped outside the United States will be borne by Customer. Export laws and regulations of the United States apply to all Products. Customer agrees that export control laws govern its use of the Digital Products and related Services (including technical data) and any Digital Products deliverables provided to Customer by Heinemann, and Customer agrees to comply with all such export laws and regulations (including "deemed export" and "deemed re-export" regulations). For Products exported outside the United States, Customer agrees that it will not import or allow a third party to import such Products into the United States.
20. **CONFIDENTIALITY.** Customer acknowledges that in the course of providing Products under this Agreement, representatives of Heinemann may disclose certain confidential information to Customer. All concepts, work, materials, and related information disclosed to Customer by any person acting on behalf of Heinemann are proprietary and confidential information of Heinemann. Customer acknowledges this and agrees not to disclose any such concepts, work, material or related information to any other parties, or to make any use of the Products other than the use that is intended by Heinemann through its provision of the Products.

TERMS APPLICABLE TO DIGITAL PRODUCTS

In addition to the above General Terms applicable to all Products, the following terms are applicable to the purchase of Digital Products. In the event of a discrepancy between the General Terms and the Terms Applicable to Digital Products, the Terms Applicable to Digital Products shall apply.

1. **SUBSCRIPTION TERM.** Any subscription to Digital Products is for the price and time period or term listed in the applicable Order Document(s). If Customer wishes to extend any Subscription Term, a purchase order, change order, or amendment is to be negotiated for additional fees. If no commencement date for the Subscription Term to the Digital Products is specified in the applicable Order Document(s), the Subscription Term shall be deemed to commence on the date on which the Customer is granted access to the Digital Product as delivered by Heinemann, NOT upon Customer activation of the Digital Product, and shall continue until the end of the Subscription Term. Upon expiration or termination of the Subscription Term, Customer will no longer have permitted access to the Digital Product. In the event that Heinemann must discontinue access to a Digital Product prior to expiration of the Subscription Term, Heinemann shall provide a pro-rated credit to Customer applicable toward the purchase of other Heinemann Products. Such pro-rated credit shall reflect the portion of the Subscription Term that remains unused as of the date of discontinuation of the Digital Product.
2. **HOSTING.** Any Digital Products purchased for a limited Subscription Term shall be hosted by or through Heinemann. Any Heinemann Digital Products Customer wishes to self-host would be considered a separate transaction, and separate agreements and fees are to be negotiated. Self-hosted versions of many of Heinemann's Digital Products are not available for license. In the case of Digital Products that are self-hosted in whole or in part, upon expiration or termination of the applicable Subscription Term, Customer must immediately cease using the Digital Product, delete or destroy any copies of the Digital Product and, if requested, confirm to Heinemann that the Customer has complied with these requirements.
3. **ALLOCATION OF LICENSES.** Heinemann will provide Customer with the number of credentials with respect to Digital Products equal to the number of students, teachers or administrators licensed by Customer under the applicable Order Document(s).
4. **LICENSE LIMITATIONS.** Customer may not: (1) re-sell, rent or lease a Digital Product or any part of it; (2) copy any part of a Digital Product, except where specifically indicated otherwise or for back-up purposes; (3) reverse engineer, decompile or disassemble a Digital Product or the software through which it is delivered, or convert it into any other format or medium; (4) use more copies of a Digital Product, or deploy a Digital Product on more devices or at more sites, than are authorized by these Terms Applicable to Digital Products and the applicable Order Document(s), or (5) sub-license the Digital Products except as permitted by Heinemann.
5. **SECURITY.** Customer acknowledges that Digital Products may include security technology to ensure that they may only be used in accordance with the applicable license rights. Customer shall take all reasonable security measures to prevent unauthorized access to the Digital Products. Customer agrees to: (1) accept all responsibility for all activities that occur under user name(s) or password(s) used by Customer; and (2) immediately notify Heinemann of any unauthorized use of any password or account assigned to Customer, or any other breach of security or confidentiality thereof. In such event, Heinemann shall have the right, without limitation of any other rights under this Agreement, to terminate any such account or this Agreement in its entirety. In the event that Customer transmits **Customer Materials** to Heinemann outside of Heinemann's secure software (e.g. in association with the provision of any Services), Customer agrees to use a secure conduit (e.g., HTTPS) for the transmission of such Customer Materials. Heinemann shall have no obligation to monitor Customer Materials, but Heinemann reserves the

right to do so and to remove or disclose any Customer Materials as necessary to satisfy any applicable law, regulation, legal process or governmental request, and Heinemann will use reasonable efforts to notify Customer reasonably in advance.

6. **THIRD PARTY PRIVACY POLICIES.** In connection with Customer's use of Digital Products owned and hosted by Heinemann, **Heinemann Products Privacy Policy** shall apply. Please note that in some instances Digital Products are owned and hosted by third parties. In such cases, there may be other specific privacy policies that apply. In such cases, you should refer to the applicable third-party privacy policy for that Digital Product(s).

TERMS APPLICABLE TO SERVICES

In addition to the General Terms, the following terms apply to the purchase of Services. In the event of a discrepancy between the General Terms and the Terms Applicable to Services, the Terms Applicable to Services shall apply.

1. **PURCHASE ORDER.** At least thirty (30) days prior to the first date of Services, Customer shall provide Heinemann with a purchase order. If Customer's purchase practice is not to provide a purchase order, Customer agrees that it shall sign a Services Agreement or contract and make prompt payment under the terms set forth herein for all Services delivered to Customer by Heinemann.
2. **LOGISTICS.** No less than thirty (30) days before a Services Date, Customer shall provide to Heinemann the following information: shipping address for physical materials, email address for digital delivery, the address and other pertinent details (e.g., room number) of Services delivery sites, and the number of participants for each day of Services to be delivered. Heinemann reserves the right to charge Customer expedited shipping charges if additional shipping or handling charges are incurred by Heinemann, or to reschedule the Services without penalty, as a result of Customer's failure to provide the necessary information within this timeframe.
3. **REGISTRATION, SCHEDULING, RESCHEDULING AND CANCELLATION.**

a. REGISTRATION AND SCHEDULING.

1. **Seminars and Speaker Services.** The scheduling of Seminars and Speaker Services to be delivered on specified dates ("Services Dates") shall be outlined in the purchase order or agreement. Seminars and Speaker Services to be delivered on dates to be determined ("TBD Dates") must be delivered within twelve (12) months of Heinemann's receipt of the purchase order or other agreement. Fees paid for any TBD Dates not consumed within twelve (12) months will be forfeited by the Customer. When scheduling TBD Dates, the Customer shall contact Heinemann at least six (6) weeks prior to the first day on which the Customer would like the Seminar and/or Speaker Services to begin. Heinemann cannot guarantee availability of dates for specific consultants.
2. **One-day Workshops, Webinars, and Multi-day Institutes.** Each of these events are scheduled under open-enrollment and registrations are accepted up until the date of the event. Events fill quickly so register early.
3. **On-Demand Courses.** Once registered, access continues for 365 days from the date you activate your course.

b. DATE CHANGES/RESCHEDULING.

1. **Seminars and Speaker Services.**
 - i. Seminars and Speaker Services Dates, once scheduled, may be changed only upon the mutual agreement of Heinemann and the Customer. In addition to rescheduling fees, as set forth below, any change to the dates or the type of Seminars and Speaker Services herein may change the fees that will be charged.
 - ii. Any date change requests must be received by Heinemann from the Customer no less than thirty (30) days prior to the scheduled Seminars and Speaker Services Date. All rescheduled Seminars and Speaker Services Dates must be delivered within twelve (12) months of Heinemann's receipt of the purchase order or other agreement. All rescheduled Seminars and Speaker Services Dates not consumed within twelve (12) months will be forfeited by the Customer and no refund of any prepaid fees shall be given.
 - iii. For any Seminar and Speaker Services Date changes made at any time by Customer for any reason, Customer shall reimburse Heinemann 100% of any out-of-pocket expenses or travel costs spent by Heinemann in connection with preparation for providing the Seminar and Speaker Services (e.g., travel already booked).
2. **One-Day Workshops and Multi-Day Institutes.** Substituting a participant for a One-Day Workshop or Multi-Day Institute is permitted at any time prior to the workshop and/or institute start.
3. **Webinar:**
 - i. **Live Webinar Series.** Customers are provided access to a recording of the webinar that can be viewed after the scheduled live webinar series occurs.
 - ii. **Pre-recorded Webinar Series.** Access to recordings will vary. Please see specific product webpage for more information.
4. **On Demand Courses.** Customer may access an on demand course at any time during the 365 day period from activation.

c. CANCELLATIONS/DEFAULT.

1. **Seminars and Speaker Services.**

- i. Customer may cancel Seminar and Speaker Services without incurring any cancellation fee prior to the scheduling of a Seminar and Speaker Services Date by providing Heinemann no less than thirty (30) days' written notice prior to the Seminar and Speaker Services Date.
 - ii. Cancellations received from Customer less than thirty (30) days prior to the Seminar and Speaker Services Date shall result in payment by Customer of a cancellation fee of 50% of the fees for the cancelled Seminar and Speaker Services. Cancellations received from Customer less than seven (7) days in advance of the Seminar and Speaker Services Date shall result in payment by Customer of a cancellation fee of 75% of the fees for the cancelled Seminar and Speaker Services.
 - iii. Cancellations received from Customer less than 24 hours prior to the Seminar and Speaker Services Date, or if Customer is absent from the scheduled Service, shall result in payment by Customer of a cancellation fee of 100% of the fees for the cancelled Seminar and Speaker Services.
 - iv. If a cancellation involves more than one Seminar and Speaker Service Date, any cancellation fees shall be prorated accordingly. In all cases, Customer shall pay for any Seminar and Speaker Services actually delivered.
 - v. For any cancellation of Seminar and Speaker Services Dates at any time for any reason, Customer shall reimburse Heinemann 100% of any out-of-pocket travel or other ancillary costs spent by Heinemann in connection with preparation for providing the Seminar and Speaker Services in accordance with this Agreement (e.g., travel already booked).
2. One-day Workshops. Customers have up until seven (7) days prior to the workshop to cancel for a full refund. All cancellations must be communicated in writing to workshops@heinemann.com. If a Customer cancels within seven (7) days of the workshop, we will retain a \$25.00 cancellation fee and you will be refunded the remainder. If we do not receive prior written notice of cancellation and you do not attend, there will be no refund given. For cancellations, please email us at workshops@heinemann.com.
 3. Webinar series. All cancellations must be communicated in writing to workshops@heinemann.com. Once a live or recorded webinar is viewed, refunds are no longer available.
 4. Multi-day Institutes. All cancellations must be communicated in writing to workshops@heinemann.com. Customers have up to fourteen (14) days prior to the institute to cancel for a full refund. If a Customer cancels between fourteen (14) and seven (7) days of the institute, we will retain a 25% cancellation fee and Customer will be refunded the remainder. If a Customer cancels between seven (7) days and the start of the Institute, we will retain a 50% cancellation fee and Customer will be refunded the remainder. If we do not receive prior notice of cancellation and a Customer does not attend, there will be no refund given.
 5. On Demand Courses. Customer may cancel an on demand course only prior to activating said course. No refunds will be provided after activation.
4. PROHIBITION ON REPRODUCTION. No part of the Services or any related materials, whether delivered in person or virtually, may be videotaped, audio taped, photographed or in any way copied, including screen grabs, excerpted, reproduced, shared or distributed without the prior written consent of Heinemann. Participants must also refrain from using their cell phones and other electronic devices during the presentation of the Services, unless instructed as part of participating in the presentation of Services. To ensure the quality of the Services for other participants, participants may be asked to leave if they engage in this activity.
 5. COURSE CREDITS AND OTHER THIRD PARTY OFFERS. Heinemann may offer the availability to purchase third party products or services through its website, and may facilitate Customer's ability to order from these parties such as by means of a link or an order form. Heinemann is not responsible for these third parties or their products or services. One example is continuing educational credits offered through third party providers for Customer's successful completion of certain Heinemann courses. When you order such credits, Heinemann will provide information required by the provider to facilitate its determination as to what if any credits are available. However, the purchase and award of such credits, and whether they will be accepted by a Customer's employer, professional certification organization, state or any other third party are not Heinemann's responsibility.

TERMS APPLICABLE TO PILOTS

In addition to all of the above Terms, where Pilots are permitted by applicable law and otherwise available, the following terms are applicable to the Pilots. In the event of a discrepancy, the Terms Applicable to Pilots shall apply. The **Heinemann Products Privacy Policy** shall govern the use of any data collected and/or used for a Pilot.

1. CONSIDERATION. In partial consideration of its participation in the Pilot, Customer agrees to cooperate with Heinemann's efforts to gather data (including but not limited to performance, usage, and other data at the building, grade, teacher and student levels), testimonials and other information relating to the Pilot. Heinemann may meet with the Customer to review success data and other information obtained in connection with the Pilot or from the use of Products in the Pilot ("Pilot Materials"). Customer agrees that de-identified or anonymized data and other information may be quoted, reproduced and otherwise used in any manner whatsoever, including without limitation, in Product development, Product improvement, demonstration of Product efficacy, white papers or research studies.
2. PILOT MATERIALS. Pilot Materials shall be provided in limited quantities as specified in the Pilot Proposal and only for the duration of and otherwise within the scope of the Pilot. Participation in the Pilot shall not thereby entitle Customer to participation in future pilots or additional access to Pilot Materials or to other instructional materials.
3. OWNERSHIP. To the fullest extent permitted by law, where the Customer does not share in the funding of the Pilot, Heinemann retains ownership of all Pilot Materials. Heinemann also retains all right, title and interest in and to any Pilot Materials consisting of software licensed to the Customer for the limited period of the Pilot. In the event that the Heinemann program relating to the Pilot is selected and purchased by Customer at the end of the Pilot, Customer will have the

option to purchase or license the Pilot Materials on terms to be negotiated between Heinemann and Customer. Where the Customer does not share in the funding of the Pilot, and the piloted Heinemann program is NOT selected by the Customer at the end of the Pilot, Customer shall discontinue use of all Pilot Materials provided under license and return such Pilot Materials to Heinemann (and Heinemann is entitled to terminate access to or collect all Pilot Materials owned by Heinemann at its discretion). Customer is not permitted to resell any Pilot Materials.

4. **DAMAGE AND/OR LOSS.** Customer is responsible for any damage or loss to Heinemann owned Pilot Materials during the Pilot.
5. **TERMINATION.** Where Customer has not participated in the funding of the Pilot, Heinemann may terminate the Pilot at any time upon thirty days prior written notice to Customer.

DEFINITIONS

The following terms used throughout this agreement, whether used in the singular or plural, shall have the meanings set forth herein.

- a. "Customer" means the legal entity identified on the purchasing or registration materials. For purposes of this Agreement, Customer includes affiliates specifically listed in a purchase order or in other purchasing or registration materials. Such affiliates agree to be bound by the terms of this Agreement. Customer is responsible for compliance with the terms of this Agreement by all affiliates, subsidiaries and subdivisions purchasing Products hereunder.
- b. "Customer Materials" means the materials, data and information belonging to a Customer and provided to Heinemann, either directly or by granting Heinemann access to Customer's files/systems, for the purpose of using a Heinemann Product.
- c. "Digital Product(s)" means non-tangible, digital versions of Products, whether licensed on a fixed, perpetual or subscription term.
- d. "Order Document(s)" means the Heinemann cost proposal or Heinemann quotation and order form.
- e. "Physical Product(s)" means any Product versions that are not Digital Products, including printed books, other printed materials, and the physical media (CDs, DVDs, videos, other audio/ video/multimedia products) that carry copies of any Digital Product(s) delivered to Customer, and any other physical copies of Products.
- f. "Pilot" means the paid or unpaid, full or partial access to Products for a specific, limited period of time for evaluation and trial of the Product prior to Customer's decision on whether or not to purchase the Product in full. Pilots are generally of short-duration and for limited Product in order for a Customer to evaluate how a full-scale implementation of Products will work in practice. Ownership of the Product remains with Heinemann unless and until full purchase of the Pilot Materials, as hereinafter defined, is completed.
- g. "Product(s)" collectively refers to all Heinemann Physical Products, Digital Products, Pilots and Services.
- h. "Services" means professional development services delivered personally to the Customer either , in person or on site as specified in the purchase order or other ordering documents or statement of work(s), which may include training, professional development, coaching, consulting, conferences, courses, "Getting Started" and implementation training, and software implementation, for Customer as agreed to by the parties, under this Agreement.
- i. "Subscription Term" means the license term for the subscription to a Digital Product.