

## Data and Identification Key License Agreement

Last Modified: 12/09/21

YOU UNDERSTAND AND AGREE THAT BY CHECKING THE BOX AND/OR CLICKING THE “ACCEPT” OR “I AGREE” BUTTON, YOU ARE AGREEING TO BE LEGALLY BOUND BY ALL OF THESE TERMS AND CONDITIONS, WHICH INCLUDE A LIMITED LICENSE, DISCLAIMER OF WARRANTY, AND LIMITATIONS OF LIABILITY. IF YOU DO NOT AGREE TO THIS AGREEMENT, YOU WILL NOT BE ISSUED A LICENSE TO THE LTD DATA, LTD API, OR ULTID IDENTIFICATION KEY.

**IMPORTANT:** This Agreement will become effective when you check the box or click on “ACCEPT” or “I AGREE” (“EFFECTIVE DATE”).

This Data and Identification Key License Agreement (the “**Agreement**”) is a binding contract between you (“**Licensee**,” “**you**” or “**your**”) and the International Society for Technology in Education (ISTE) (“**ISTE**,” “**we**,” or “**us**”). This Agreement governs your access to and use of the ISTE Learning Technology Directory (LTD), ISTE Universal Learning Technology ID (ULTID), and the related application programming interface and proprietary data.

### 1. Definitions.

(a) “**LTD Data**” means the Learning Technology Directory (LTD) proprietary data feed provided by your chosen Partnership Subscription.

(b) “**LTD API**” means the application programming interface (API) made available by ISTE to Licensee for access and delivery of LTD Data and the ULTID key(s).

(c) “**Licensed Product**” is defined in Section 2(a) of this Agreement.

(d) “**Partnership Fees**” means the annual fee(s) charged by ISTE for Licensee’s chosen Partnership Subscription as defined in Exhibit A.

(e) “**Permitted Use**” is defined in Section 2(a) of this Agreement.

(f) The “**Term**” of this Agreement is defined in Section 10(a) of this Agreement.

(g) “**ULTID(s)**” means the identification prefix and key(s) assigned to certain LTD Data and licensed by ISTE to you, the Licensee, to identify and track the LTD Data licensed to you.

### 2. License.

(a) License Grant. Subject to and conditioned on your payment of any Partnership Fees and compliance with all other terms and conditions of this Agreement, ISTE grants Licensee a limited, revocable, non-exclusive, non-sublicensable, and non-transferable license during the Term to use the LTD API, LTD Data, and ULTID(s) (collectively, the “**Licensed Product**”) solely for the permitted use set forth in your Partnership Subscription (the “**Permitted Use**”).

(b) Use Restrictions. Licensee shall only use the Licensed Product for the Permitted Use and shall not disclose, release, distribute, or deliver the Licensed Product, or any portion thereof, to any third party without ISTE's prior written consent. Any purpose or use not specifically authorized in this Agreement is prohibited unless otherwise agreed to in writing by ISTE. Without limiting the foregoing and except as otherwise expressly set forth in this Agreement, Licensee shall not at any time, directly or indirectly:

(i) Use any component of the Licensed Product for any other application or product that replicates or attempts to replace the unique user experience of the Licensed Product.

(ii) Combine or integrate the LTD API or related LTD Data and ULTID(s) with any software, technology, services, or materials not authorized by ISTE.

(iii) Interfere with or disrupt ISTE's services or servers or networks connected to ISTE's services, or disobey any requirements, procedures, policies or regulations of networks connected to ISTE's services, or transmit any viruses, worms, defects, Trojan horses, or any items of a destructive nature through your use of the LTD API.

(iv) Modify or create derivative works of any component of the Licensed Product, in whole or in part.

(v) Reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the LTD API, or the source of the LTD Data or methods used to compile the LTD Data, in whole or in part.

(vi) Remove any proprietary notices included within any component of the Licensed Product.

(vii) use any component of the Licensed Product in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.

(c) Reservation of Rights. ISTE reserves all rights not expressly granted to Licensee in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Licensee or any third party any intellectual property rights or other right, title, or interest in or to any component of the Licensed Product.

(d) Delivery. ISTE shall deliver the LTD Data and ULTID(s) to Licensee via the LTD API, or by other means, in ISTE's sole discretion.

3. No Support; Updates. This Agreement does not entitle you to any support for the LTD API except as defined by your chosen Partnership Subscription type. You acknowledge that we may update or modify the LTD API from time to time and at our sole discretion (in each instance, an "**Update**"), and may require you to obtain and use the most recent version of the LTD API. Your continued use of the LTD API following an Update constitutes binding acceptance of the Update.

4. Collection and Use of Your Information. We may collect certain information about you or any of your employees, contractors, or agents through your use of the LTD API to access the LTD Data and related ULTID(s). By accessing, using, and providing information to or through the LTD API, the LTD Data, and related ULTID(s), you consent to all actions taken by us with respect to your information in compliance with the then-current version of our privacy policy available at <https://www.iste.org/privacy-policy>.

5. Confidential Information and Data Security.

(a) The LTD API, LTD Data, and ULTID(s) constitute ISTE's confidential information ("**Confidential Information**"). You hereby agree (i) to hold the Confidential Information in confidence and to take reasonable precautions to protect such Confidential Information (including, without limitation, all precautions that you employ with respect to your own confidential materials), (ii) not to divulge any Confidential Information to any third person, (iii) not to use any Confidential Information except for the permitted purposes set forth in this Agreement, and (iv) not to copy or reverse engineer any Confidential Information.

(b) Data Security. Licensee shall use all reasonable legal, organizational, physical, administrative, and technical measures, and security procedures to safeguard and ensure the security of the LTD Data and ULTID(s) and to protect them from unauthorized access, disclosure, duplication, use, modification, or loss.

6. Intellectual Property Ownership. You acknowledge that, as between you and ISTE, ISTE owns all right, title, and interest, including all intellectual property rights, in and to any component of the Licensed Product. You further acknowledge that: (a) the LTD Data and ULTID(s) are original compilations protected by United States copyright laws; (b) ISTE has dedicated substantial resources to collect, manage, and compile the LTD Data and ULTID(s); and (c) the LTD Data and ULTID(s) constitute trade secrets of ISTE.

7. Disclaimer of Warranties. THE LICENSED PRODUCT AND ITS COMPONENT PARTS ARE PROVIDED "AS IS" AND ISTE HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. ISTE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. ISTE MAKES NO WARRANTY OF ANY KIND THAT THE LICENSED PRODUCT, ITS COMPONENT PARTS, OR RESULTS OF ITS USE, WILL MEET YOUR OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, ERROR FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

8. Indemnification. You agree to indemnify, defend, and hold harmless ISTE and its officers, directors, employees, agents, representatives, affiliates, successors, and assigns (each, an "**Indemnified Party**") from and against any and all claims, losses, damages, liabilities, deficiencies, judgments, settlements, fines, costs or expenses (including interest, penalties, and attorney' fees and disbursements) threatened, claimed, suffered, sustained, incurred or required to be paid by any such Indemnified Party due to, arising out of, or based upon Licensee's (i) negligence or willful misconduct; or (ii) use of the Licensed Product or any of its component parts in a manner not authorized by this Agreement, provided that Licensee may not settle any third-party claim against ISTE unless such

settlement completely and forever releases ISTE from all liability with respect to such third-party claim or unless ISTE consents to such settlement. In the event ISTE seeks indemnification or defense from Licensee under this provision, ISTE will notify Licensee in writing of the claim(s) for which it seeks indemnification or defense. ISTE reserves the right, at its option and in its sole discretion, to defend itself against any such third-party claim or to participate in the defense thereof by counsel of its own choice.

9. Limitations of Liability and Damages.

(a) IN NO EVENT WILL ISTE BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, (b) INCREASED COSTS, DIMINUTION IN VALUE, OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS, (c) LOSS OF GOODWILL OR REPUTATION, (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY, OR RECOVERY OF ANY DATA OR BREACH OF DATA OR SYSTEM SECURITY, OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER ISTE WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE.

(b) IN NO EVENT WILL ISTE'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, EXCEED THE TOTAL AMOUNT OF PARTNERSHIP FEES PAID TO ISTE UNDER THIS AGREEMENT IN THE ONE (1) YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

10. Term and Termination.

(a) Term. The term of this Agreement begins on the Effective Date and, unless terminated earlier pursuant to any of the Agreement's express provisions, will continue in effect until one (1) year from the Effective Date (the "**Initial Term**").

(b) Renewal. Upon expiration of the Initial Term, this Agreement and the licenses granted under the Agreement shall automatically renew for one (1) year, and thereafter for successive one (1) year periods (the "**Renewal Term(s)**") until the Agreement is terminated pursuant to any of the Agreement's express termination provisions.

(c) Termination. ISTE may, in its sole discretion, terminate this Agreement and your right to use the Licensed Product immediately if you, the Licensee, do not comply directly or indirectly with any terms and conditions of this Agreement. Licensee may terminate this Agreement at any time by ceasing access to and use of the Licensed Product and complying with subsection (d) below. This Agreement and the licenses granted under it shall terminate if Licensee ceases doing business.

(d) Effect of Termination. Upon expiration or termination of this Agreement for any reason, all licenses and rights granted to Licensee under this Agreement will also terminate and Licensee shall cease using and delete or destroy all copies of the Licensed Product and, upon request by ISTE, certify in writing to ISTE that the LTD Data and the ULTID(s) have been deleted or destroyed, and that all copies of or other means of accessing the LTD API have been deleted, destroyed, and permanently erased and disabled from all devices and systems you directly or indirectly control. No expiration or termination will

affect Licensee's obligation to pay all Partnership Fees that may have become due before such expiration or termination or entitle Licensee to any refund.

(e) Survival. Any rights, obligations, or required performance of the parties in this Agreement which, by their express terms or nature and context are intended to survive termination or expiration of this Agreement, will survive any such termination or expiration.

11. Governing Law, Jurisdiction, and Venue. This Agreement is governed by and construed in accordance with the internal laws of the State of Virginia without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Virginia. Any legal suit, action, or proceeding arising out of this Agreement or the licenses granted under the Agreement will be instituted exclusively in the United States District Court for the Eastern District of Virginia, Alexandria Division, or the courts of the State of Virginia located in Arlington County. Each party irrevocably consents and submits to the exclusive jurisdiction of such courts and waives any objections based on venue or personal jurisdiction.

12. Miscellaneous.

(a) Entire Agreement. This Agreement, together with any other documents incorporated herein by reference and all Exhibits, constitutes the sole and entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter.

(b) Notices. Any notices to us must be sent to our corporate headquarters address available at <https://www.iste.org/about/contact> and must be delivered either in person, by certified or registered mail, return receipt requested and postage prepaid, or by recognized overnight courier service, and are deemed given upon receipt by us. Notwithstanding the foregoing, you hereby consent to receiving electronic communications from us. These electronic communications may include notices about applicable fees and charges, transactional information, and other information concerning or related to the Licensed Product. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing.

(c) Modification of Agreement. You acknowledge and agree that ISTE has the right, in its sole and exclusive discretion, to revise the terms and conditions of this Agreement. You will be notified of any material modifications by email. No modification or amendment to this Agreement or the license granted under the Agreement shall be enforceable against ISTE unless it is in writing and signed by an authorized representative of ISTE.

(d) Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(e) No Waiver. Except as otherwise set forth in this Agreement, (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

(f) Assignment. Licensee may not assign or transfer any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without ISTE's prior written consent. Any purported assignment, transfer, or delegation in violation of this Section is null and void. ISTE expressly reserves the right to assign or transfer any of its rights or delegate any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of any such ISTE successors or assigns.

(g) Equitable Relief. Licensee acknowledges and agrees that any breach of this Agreement or use of the Licensed Product or any of its components in a manner contrary to the license granted by this Agreement will cause irreparable injury to ISTE for which money damages alone will not provide a complete or adequate remedy. Licensee agrees that that, in the event of such breach or threatened breach, ISTE shall be entitled to equitable relief, including a temporary restraining order, a preliminary injunction and/or permanent injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.