

MASTER ENTERPRISE LICENSE AGREEMENT

This Master Enterprise License Agreement ("Agreement") dated as of July 25, 2018, (the "Effective Date"), is made by and between **Rosetta Stone Ltd.**, a Virginia corporation having a business office at 135 W. Market Street, Harrisonburg, VA 22801 (the "Licensor") and the **State of Oregon**, having a business office at 1225 Ferry St. SE, Salem OR 97301, (the "State").

This Agreement establishes the terms and conditions under which the State of Oregon, its agencies as defined in ORS 174.111, and other public bodies that are members of ORCPP (defined below) (collectively, "Authorized Purchasers," and singly, an "Authorized Purchaser") may acquire subscription access to the Rosetta Stone® Product(s) (as defined below) offered hereunder. Each Authorized Purchaser that submits orders for Rosetta Stone Products wishes to acquire Rosetta Stone Product and that enters into this Agreement will be a "Licensee" under this Agreement, and each such Agreement between Licensor and an Authorized Purchaser will form an individual agreement under the terms of this Agreement, but separate and distinct from each other agreement between Licensor and an Authorized Purchaser.

WHEREAS, Licensor has developed the Rosetta Stone Product (as defined below) that is marketed under its ROSETTA STONE® brand, and makes the functionality of the Rosetta Stone Product available to its enterprise licensees and their Authorized End Users remotely by means of password-protected access to a Rosetta Stone website; and

WHEREAS, Licensee has familiarized itself with the Rosetta Stone Products and their associated capabilities, purposes, functionalities, procedures and restrictions, and Licensee has determined that the Products meet the Licensee's stated needs; and

WHEREAS, Licensee desires, on behalf of itself and its Affiliates and Authorized End Users (as defined herein) to license, access and use the Licensed Products specified herein, and Rosetta Stone desires to provide Licensee with online access to its Licensed Products, subject to the terms and conditions of this Agreement;

Now, therefore, for good and valuable consideration, the parties hereto, intending to be legally bound, hereby agree as follows:

1. DEFINITIONS:

"Affiliate" means, with respect Licensor, any entity controlling, controlled by or under common control with such party, where "control" is defined as (i) the ownership of at least 50% of the equity or beneficial ownership interests of the entity or (ii) the power to exercise a controlling influence over the management or policies of the entity and, with respect to Licensee, any subdivision of Licensee or other public entity to which the Licensee provides services.

"Authorized End User" means employees, students, or other personnel designated by Licensee with access to the Rosetta Stone Product.

"Enterprise Administrators" means the Authorized End Users designated by the Licensee to act as administrators for Licensee, with responsibility on behalf of Licensee for overseeing and managing the access of Authorized End Users to the Rosetta Stone Product. Licensee shall provide Licensor with the names of such Enterprise Administrators.

"ORCPP" means the Oregon Cooperative Purchasing Program, which allows qualifying public entities and organizations to purchase goods and services through contracts and price agreements entered into or established by State.

"Order Form" means the Rosetta Stone service order form quote(s) accepted by or on behalf of Licensee (or Licensee Affiliate purchaser) and Licensor in form and substance substantially similar to Exhibit A attached hereto.

"Password" means, collectively, the user ID, default password assigned to an Authorized End User and any personalized password created by such Authorized End User (if this option is available).

"Rosetta Stone" means Rosetta Stone Ltd. or any of its subsidiaries or affiliates as set out in the Order Form.

"Rosetta Stone Product" or "Product" means the language learning product(s) and/or services offered under the ROSETTA STONE® or other Rosetta Stone-owned brand as specified in Exhibit A hereto and the applicable Order Form, to include, without limitation, Rosetta Stone online Products, all of which are offered and provisioned by Licensor as SaaS-based subscriptions in a multi-tenant, shared database architecture, where individualized client-dedicated infrastructure and/or processing is not part of the Product or services offering, as well as any software (inclusive of any Rosetta Stone language learning and language learning management software, and any third party software), companion materials, password-protected access to a Licensor website (the "Website"), and any related products, materials, training, services, and documentation (together with any updates to, or new releases of, the foregoing that are made available to Licensee by Licensor) licensed by Licensor to Licensee under the applicable Order Form and pursuant to this Agreement.

2. ORDERING PROCESS.

A. Order Forms. Licensee and/or Licensee's Affiliates may submit orders for Rosetta Stone Products under to this Agreement. All orders are subject to Licensor's acceptance. Licensee or any Licensee Affiliate wishing to submit orders under this Agreement should contact the Rosetta Stone representative who will prepare and provide an Order Form quote materially similar to Exhibit A, which will describe the number, level, type, term and fees for the Product and/or any associated administrator training or other services to be purchased, as well as the name and billing location of the ordering entity. Each Order Form will also include a unique serial reference number for the order. Licensee or the Licensee Affiliate purchaser, as applicable, may confirm and accept the order by referencing the correct serial number from Order Form on its purchase order documentation and faxing the purchase order, together with the Order Form, to Rosetta Stone. As between Rosetta Stone and each Authorized Purchaser, this Agreement, as clarified by the accepted Order Form, shall govern all conditions and service terms between Rosetta Stone and the Authorized Purchaser for products and services purchased hereunder. Any reference to any additional terms or conditions contained in any individual Authorized Purchaser p.o. or other purchasing documentation shall be void and of no effect.

B. Licensee's Affiliates. If an Affiliate of Licensee submits an Order Form to Licensor, the Affiliate will be subject to the terms and conditions of this Agreement applicable to the Licensee with respect to such Affiliate's order. In addition to the Affiliate, Licensee will serve as an authorized point of contact for Licensor with respect to Affiliate orders, and will be responsible for the compliance of its Affiliates and Authorized End Users hereunder.

3. LICENSE, INSTALLATION AND USE:

A. License: The Rosetta Stone Product is licensed, not sold. If Licensee accepts this Agreement, Licensor grants Licensee a limited, revocable, nonexclusive license to use the Rosetta Stone Product, subject to the terms and conditions set forth herein and the applicable Order Form. For purposes of the preceding sentence, "use" of the Rosetta Stone Product means access by an Authorized End User to the functionality of the Rosetta Stone Product by means of password-protected access to a Rosetta Stone Website, or, to the extent supported, via Licensee's LMS, SSO or via such other arrangement or media expressly agreed to by Rosetta Stone in the applicable Order Form, for language learning purposes only.

B. Rosetta Stone Online Product: Rosetta Stone's SaaS-based online solutions grant Licensee and its Authorized End Users the right to access the applicable Rosetta Stone Product according to the terms of the applicable Order Form as follows:

i. Licenses: The specific license term and any maximum number of Authorized End Users of the Rosetta Stone Product shall be as specified on the applicable Order Form. As applicable, each

Authorized End User may be required to specify his or her unique user name or identifier when first accessing the Rosetta Stone Product in the context of the specified license, and will then become a single Authorized End User for purposes of the above. Information regarding the counting mechanism may be accessible by the Licensee from a Rosetta Stone Online administrative portal, or may be obtained from Rosetta Stone Customer Support.

ii. Internet & Systems Requirements: Continuous Internet access, connectivity, and certain minimum systems and technical requirements are required to access and use the Rosetta Stone Product, which are not provided by Licensor and are the sole responsibility of Licensee and/or its Authorized End Users. Information regarding minimum systems and technical requirements for the Rosetta Stone Product may be obtained by Licensee from the Rosetta Stone website or Rosetta Stone Customer Support.

iii. Terms of Use: Use of Rosetta Stone Online Product is subject to the Authorized End User's compliance with the standard Terms of Use and Privacy Policy, available at www.rosettastone.com/agreements. (Not applicable for Rosetta Stone Educational Products to K-12 Educational Licensee Customers.)

4. SECURITY AND PASSWORDS:

A. Authorized End Users: Where applicable, Licensor will provide Licensee with a username and/or password for each Authorized End User. At the initial login, each Authorized End User will be given the option to change the default password provided by Licensor to a personalized password that will enable such Authorized End User to access the Rosetta Stone Product in accordance with this Agreement. If Licensee is a Rosetta Stone Online User, the transmission of any Authorized End User's name or password to allow any other person to use Rosetta Stone Online is expressly prohibited.

B. Enterprise Administrators:

Licensee will designate at least one Licensee Authorized End User to act as Enterprise Administrator for the licenses. The Enterprise Administrator will be granted administrator privileges for the account, enabling the Enterprise Administrator to assign, disable and otherwise administer all other Authorized User access. Licensee represents, warrants and agrees that each Enterprise Administrator shall have authority, on behalf of Licensee, to perform his or her duties, and serve as primary point of contact to and direct Licensor with respect to Product and service operations to Licensee and its Authorized End Users. If, during the term of the Agreement, a then-current Enterprise Administrator ceases to be an active employee of Licensee or ceases to serve as an Enterprise Administrator, and if there are no remaining Enterprise Administrators, Licensee shall promptly appoint another Authorized End User as an Enterprise Administrator. When an Enterprise Administrator accesses the Rosetta Stone Product using his or her Password, the Rosetta Stone Product shall provide the Enterprise Administrator with certain administrative capabilities with respect to Licensee's use of the Rosetta Stone Product that other Authorized End Users will not have, including the ability to cancel Password access and thereby deny access to the Product through use of such Password. Using such functionality provided by the Product, Licensee agrees that the Enterprise Administrator shall promptly deactivate and cancel Password access of any Authorized End User who (i) ceases to be employed by Licensee, (ii) Licensee no longer wishes to have access to the Product, or (iii) Licensee knows or reasonably believes is causing or may cause Licensee to breach any provision of this Agreement or is in any way mishandling Passwords or accessing or using the Rosetta Stone Product in violation of this Agreement. Licensee shall notify Licensor at the time a password access is deactivated or cancelled for any of the reasons specified in clauses (i) through (iii) above.

C. Passwords: Licensor shall have the right to replace Passwords with new Passwords during the term of this Agreement. Further, if Licensor reasonably believes that an Authorized End User is causing Licensee to breach this Agreement or is in any way mishandling a Password or using the Product in violation of this Agreement, then Licensor may, at its sole discretion, suspend the use of such Authorized End User's Password indefinitely without providing a replacement for such Authorized End User, in addition to any other rights or remedies provided under this Agreement or under law. All use of Passwords assigned to Licensee and its Authorized End Users shall be at Licensee's sole responsibility and risk. Licensee shall not, and shall cause its Authorized End Users not to, disclose, transfer or disseminate any Password to any third party; provided that Authorized End Users may disclose their user ID's to Rosetta Stone, or to an

entity engaged by and under the responsibility of the Licensee entity, for purposes of obtaining technical support or assistance with their use of the Rosetta Stone Product. Licensee shall take such actions as may be necessary to maintain the confidentiality of and to prevent the unauthorized use of each Password, and shall immediately notify Licensor in the event of a breach of security. For the avoidance of doubt, Licensee and its Authorized End User shall, at its option, reset its passwords following receipt of initial login credentials.

D. Responsibility: Except to the extent otherwise expressly provided in this Agreement, Licensee agrees that it shall be responsible and liable for any costs or expenses arising from or related to, any misuse of Passwords or any Rosetta Stone Product, or other breach of the restrictions or conditions contained in this Agreement, by Licensee's Authorized End Users or other personnel.

5. **TRANSFER**: Licensee may not, and may not permit others to, directly or indirectly, sell, rent, lease, loan, timeshare or sublicense the Rosetta Stone Product.

6. **LIMITATIONS ON USE**: Licensee agrees not to, and not to permit others to, directly or indirectly (a) reverse assemble, reverse compile, or otherwise reverse engineer or attempt to derive the source code of all or any part of the Rosetta Stone Product (b) copy, modify, translate, alter, change or collect information that can be used to create derivative works of all or any part of the Rosetta Stone Product, (c) download, copy or collect information that could be used to copy all or any part of the Rosetta Stone Product except as authorized by Rosetta Stone and as necessary to access and use the Product for language learning purposes, or (d) access or use all or any part of the Rosetta Stone Product for any purpose other than for language learning purposes, except as and only to the extent expressly permitted by applicable law, notwithstanding this limitation, or expressly authorized in writing by Licensor. Any such information supplied by Licensor, and any information obtained by Licensee by any such expressly permitted de-compilation may only be used by Licensee for the purpose expressly authorized by Licensor, and may not be disclosed to any third party, or used to create any software that is substantially similar to the Rosetta Stone Product. If the applicable Order Form or invoice specifies a maximum number of Authorized End Users or concurrent users that may access the Rosetta Stone Product, Licensee agrees not to exceed such maximum number without the prior written approval of Licensor. Licensee agrees, upon request by Licensor, to exchange its current version of the Rosetta Stone Product for an updated version and to discontinue use of the version that was replaced.

7. **OWNERSHIP OF INTELLECTUAL PROPERTY**:

A. Licensor reserves all rights in the Rosetta Stone Product not expressly granted to Licensee in this Agreement. Licensee acknowledges and agrees that Licensor or its third-party licensors own all right, title and interest in and to the Rosetta Stone Product (including, without limitation, all software, code, interfaces, text, photographs, graphics, animation, applets, music, video and audio incorporated therein and any related user guides and documentation), the trademark ROSETTA STONE and other marks owned by Licensor and/or related to the Rosetta Stone Products, URLs that incorporate all or any portion of any Rosetta Stone marks, and the trade dress, and look and feel of the Rosetta Stone Product, all of which are covered by various protections including, without limitation, copyright, trademark, and trade secrecy law. If Licensee suggests new features or functionality that Licensor, in its sole discretion, adopts for the Rosetta Stone Product, such new features or functionality will be the sole and exclusive property of Licensor and any and all claims of Licensee as to the same are hereby waived and released. Licensor reserves the right, in its sole discretion and without incurring any liability to Licensee, to update, improve, replace, modify or alter the specifications for and functionality of all or any part of the Rosetta Stone Product from time to time.

B. Licensor shall indemnify, defend and hold the Licensee and its agencies, subdivisions, officers, directors, employees and agents (individually and collectively "Licensee Indemnified Party") harmless from any and all third party claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of or relating to any claims that the Rosetta Stone Products, or the Licensee's, or Licensee Indemnified Party's, use thereof in accordance with this Agreement, infringe or violate any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right (collectively, "Intellectual Property Rights") of any third party. Licensor shall have no obligation to indemnify hereunder for claims arising from or relating to: (a) content,

information or materials of any type provided by a Licensee Indemnified Party and/or approved by a Licensee Indemnified Party for use in the Rosetta Stone Product; or (b) combination of the Rosetta Stone Product by a Licensee Indemnified Party or any Authorized End User with services or products not provided or authorized by Licensor; or (c) use of the Rosetta Stone Product in violation of the terms of this Agreement; or (d) the fraud, gross negligence, willful misconduct or violation of law of any Licensee Indemnified Party. In the event that the Rosetta Stone Product or any portion thereof is held or believed by Licensor to infringe, Licensor will have the right, at its sole option and judgment, to elect to (1) modify the Rosetta Stone Product so that it is non-infringing but still functionally equivalent in performance; (2) replace the Rosetta Stone Product with non-infringing products that are functionally equivalent in performance; (3) obtain a license for Licensee to continue to use the Rosetta Stone Product as provided hereunder; or (4) if any of the foregoing options are determined by Licensor not to be practicable, then Licensor may terminate the license and this Agreement, and, as Licensor's sole liability to Licensee, refund the pro rata portion of the fees paid by Licensee to Licensor for the affected licenses based on the unused portion remaining on the Subscription Period (as defined in the Order Form) from the date of termination. The foregoing sets forth Licensor's entire liability and Licensee's exclusive remedy for any claim arising from or related to Licensor's intellectual property warranty or infringement indemnity under this Agreement.

- C. Licensor is not required to indemnify Licensee as set forth in the previous subsection B for any amounts for which Licensor would not be liable but for Licensee's failure to provide Licensor prompt notification of the related claim or potential claim upon becoming aware of such claim. Licensor will have control of the defense and settlement of any claim that is subject to subsections A or B above; however, neither Licensor nor any attorney engaged by Licensor will defend the claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the approval of the Attorney General, nor will Licensor settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that Licensor is prohibited from defending the State of Oregon, is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense.

8. **SUPPORT:** Licensor offers support to Licensees of the Rosetta Stone Product in accordance with its published support policies. Hours of support may vary for certain products and territories. The hours of operation and means of accessing Licensor's customer support are available at the following web address: <http://www.rosettastone.com/policy>, or may be obtained from Rosetta Stone Customer Support. Licensor reserves the right to make changes to these customer support provisions at any time and will post those changes on the support page.

9. LIMITED WARRANTY, DISCLAIMERS, AND LIABILITY LIMITATIONS:

A. Limited Warranty and Disclaimer:

- i. General: Licensor represents and warrants to Licensee that: (a) its facilities, personnel, experience, and expertise are sufficient to provision and perform the Product and services as described in any executed Order Form; (b) it will perform the services in a professional and workmanlike manner, conforming materially to industry standards and practices; (c) it will maintain industry-standard and commercially-reasonable organizational and technical safeguards to protect Licensee Data; and (d) there is no pending or threatened litigation that would have a material adverse impact on Licensor's performance to Licensee under this Agreement.
- ii. Hosted Products: Licensor warrants that the online hosted Products will perform substantially in accordance with the descriptions and specifications applicable to such Product for each annual subscription period of the relevant Product license (the "Hosted Product Warranty Period") under normal use. Notwithstanding anything to the contrary, Licensor makes no representation or warranty with respect to any third party software, and undertakes no obligations with respect to any third party software. Licensor's sole liability and Licensee's sole remedy for breach of the foregoing Product warranty during the Hosted Product Warranty Period will be, at Licensor's option, the repair or replacement of the Product, or a refund of the prepaid subscription fees received by Licensor from

Licensee for the unused portion of the Product subscription licenses under the applicable Order Form(s) from the date written notice of deficiency was received from the Licensee by Licensor.

- iii. Headset units: Licensor warrants that any Headset units included under any Order Form will perform substantially in accordance with the descriptions applicable to such unit for thirty (30) days following delivery ("Headset Warranty Period") under normal use. Except for the foregoing limited warranty, Licensor provides the Headset units "as is," and all other representations and warranties regarding the Headset units, express or implied, are hereby disclaimed. Licensor's sole liability and Licensee's sole remedy for breach of the foregoing Headset unit warranty will be limited to replacement of the defective Headset unit, including, at Licensor's option, with an alternative Headset unit of similar quality and functionality. Defects must be reported within the Headset Warranty Period.

B. DISCLAIMER OF WARRANTIES: OTHER THAN AS STATED IN SECTION 9. A. ABOVE, AND TO THE MAXIMUM EXTENT PERMITTED BY THE LAW, NEITHER LICENSOR NOR ITS THIRD PARTY LICENSORS MAKE ANY OTHER WARRANTIES OR PROMISES, WHETHER EXPRESS OR IMPLIED, OR BY STATUTE, COMMON LAW, CUSTOM, USAGE OR OTHERWISE, ABOUT THE SOFTWARE, THE EMBEDDED SOFTWARE OR ANY SERVICES PROVIDED HEREUNDER, AND PROVIDE THE SOFTWARE AND SUPPORT SERVICES (IF ANY) "AS-IS" WITH ALL FAULTS AND THE ENTIRE RISK AS TO THE SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT OF SUCH SOFTWARE (IF ANY) SHALL BE WITH THE LICENSEE. THERE IS NO REPRESENTATION OR WARRANTY HEREIN AGAINST INTERFERENCE WITH LICENSEE'S ENJOYMENT OR AGAINST INFRINGEMENT. LICENSOR AND ITS THIRD PARTY LICENSORS DISCLAIM ANY AND ALL OTHER EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE SOFTWARE, THIRD PARTY SOFTWARE AND ANY SERVICES PROVIDED HEREUNDER, INCLUDING ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, NON-INFRINGEMENT, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, OR THAT LICENSEE'S USE OF THE SOFTWARE WILL BE UNINTERRUPTED, VIRUS FREE, OR ERROR FREE. LICENSEE ACKNOWLEDGES THAT NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES ARE MADE BY ANY THIRD PARTY LICENSORS HEREIN.

C. Licensee Assurance. Licensee warrants to Licensor that it has all rights, licenses and permissions necessary to enter into this Agreement; that its provision of Licensee Data (as defined herein) to Licensor and its instructions to Licensor related to the processing of such Licensee Data shall at all times be in compliance with all applicable laws, including applicable data protection laws, in particular with any notice and/or consent requirements.

D. Limitations of Liability: In no event will a party or Licensor's third party licensors or any other person or entity be liable to the other party for any indirect, incidental, special or consequential damages, or damages for loss of profits, revenue, data or use, incurred by either party or any third party, whether in an action in contract or tort, even if the other party has been advised of the possibility of such damages. In no event shall Licensor or its third party licensors' total liability for all actual direct damages, if any, whether arising in contract, tort, including negligence, or otherwise, exceed the cumulative payments actually received by Licensor from Licensee pursuant to this Agreement. 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, ROSETTA STONE'S, ROSETTA STONE'S LICENSORS' AND ROSETTA STONE'S AFFILIATES' LIABILITY SHALL BE LIMITED TO THE FULL EXTENT PERMITTED BY LAW.

10. TERMINATION AND SURVIVAL:

A. This Agreement is effective until terminated. By accepting this Agreement Licensee authorizes Licensor to immediately terminate Licensee's rights under this Agreement, including access to the Rosetta Stone Product, if Licensee fails to comply with any terms of this Agreement, including the specific terms stated on the applicable Order Form. Restrictions imposed by Licensor for a breach of this Agreement may include, but are not restricted to:

- i) Terminating the IP address of a non-compliant workstation;
- ii) Terminating account access to the Licensed Product.

- B. For purposes of clarity and notwithstanding anything to the contrary, except in the event of Licensor's termination of an order or the Agreement due to material breach by Licensee, the term of any individual license acquired under this Agreement shall be as set forth in the applicable accepted Order Form, and the rights in such licenses shall not be transferred from the entity named as the receiving party in the applicable Order Form to any other entity. By accepting this Agreement, Licensee authorizes Licensor upon written notice (email being sufficient) to suspend Licensee's rights under this Agreement, including suspending access to the Rosetta Stone Product, if Licensee fails to comply with any material terms of this Agreement, including the specific terms stated on the applicable Order Form. Licensor may terminate this Agreement for a material breach by Licensee if Licensor has provided written notice of the identified breach and Licensor has not rectified such breach within ten (10) business days of receipt of such notice. Licensee may terminate this Agreement at any time for convenience by providing thirty (30) days prior written notice to Licensor of its intent to terminate the Agreement and paying all outstanding and/or remaining fees under this Agreement and all Order Forms. For clarity, termination of this Agreement by Licensee for convenience shall not relieve Licensee of its obligation to pay all amounts and fees owed for all Products and/or services ordered by Licensee and/or Licensee Affiliates under all Order Forms, including, but not limited to any and all past due fees and fees associated with multi-year services and/or installment payment amounts.
- C. Upon termination of this Agreement, Licensee shall cease all use of the Rosetta Stone Product. Personally identifiable data of Licensee's Authorized End Users ("Licensee Data") is available for export by Licensee's designated Enterprise Administrator(s) at any time during the applicable Product Subscription Period through self-service reporting tools available in the Product. In addition, Licensor will make such Licensee Data available for export by Licensee upon written request made within thirty (30) days of termination or expiration of the services under the Order Form. After the aforementioned thirty (30) day period, Licensor shall have no obligation to maintain or provide any Licensee Data and shall, unless legally prohibited, securely remove and delete or otherwise render unreadable or undecipherable Licensee Data in its possession or control in accordance with Licensor's then-current data removal schedule and protocols, with no liability to Licensee, unless otherwise agreed to by Licensor and Licensee in writing in the Order Form for the applicable service. Upon completion of such removal and upon written request, Licensor will provide written confirmation to Licensee that such Licensee Data has been disposed of in accordance with the foregoing.
- D. Termination for Lack of Funding. Nothing in this Agreement may be construed to permit any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. If Licensee is an agency of the State of Oregon that expends funds appropriated by the Oregon Legislative Assembly, then Licensee's payment for license fees due after the last calendar day of the current State of Oregon biennium is contingent upon Licensee receiving funding, appropriations, limitations, allotments or other expenditure authority from the Oregon Legislative Assembly (including its Emergency Board) sufficient to allow Licensee, in the exercise of its reasonable administrative discretion, to continue to compensate Licensor. For clarity, (a) where the applicable Order Form indicates that the fees for all Rosetta Stone Products and services in the Order Form are invoiced and paid in full upon order, by signing the Order Form or issuing a purchase order under this Agreement, each Licensee purchaser confirms that sufficient funds are and have been allocated and secured to pay the total purchase price set forth in the order Form; and (b) where the applicable Order Form indicates that the fees for all Rosetta Stone Products and services in the Order Form are invoiced and paid in full upon order, by signing the Order Form or issuing a purchase order under this Agreement, each Licensee purchaser confirms that sufficient funds are and have been allocated and secured to pay the first annual installment of total purchase price set forth in the Order Form. In the event that sufficient funds have not be allocated to enable Licensee to pay a subsequent installment under an installment Order Form, Licensee will notify Licensor in writing prior to the payment due date for the applicable subsequent installment invoice that sufficient funds have not been allocated and secured to pay such invoice, and in such event, Licensee may immediately terminate the applicable Order Form upon written notice and Licensor's recourse will be to discontinue the Licensee's use of the Rosetta Stone Product under the applicable Order Form. Termination for lack of funding pursuant to this subsection D shall not be characterized as a termination for convenience subject to subsection A.

E. The provisions of Sections 7, 9, 10, 12 - 21, and any other obligations which expressly or by their nature are to continue after termination, cancellation, or expiration of this Agreement shall survive and remain in effect, but this shall not imply or create any continued right to use the Rosetta Stone Product after termination of this Agreement.

11. **FEES AND PAYMENTS:** Licensee agrees to pay Licensor the fees set forth on the Order Form for the Rosetta Stone Product. Licensor shall invoice the Licensee entity designated as Customer on the Order Form for the total amount stated on each Order Form. Unless otherwise specified in the Order Form, all invoiced amounts shall be due and payable net forty-five (45) days of date of invoice. Except as otherwise required by court order pursuant to receivership action, payments due hereunder shall be made by Licensee without any deduction, setoff or bank charges to Licensor at the banking institution in the United States designated by Licensor in U.S. dollars or on any other terms mutually agreed upon and set forth in the applicable Order Form. Except as otherwise set forth herein, all payments made by Licensee are non-refundable. Overdue payments required to be paid by Licensee pursuant to this Agreement (other than amounts that are the subject of a legitimate dispute) shall accrue interest in accordance with ORS 293.462. The amounts due to Licensor as set forth in the applicable Order Form do not include, and Licensee shall pay, any sales, use, property, value-added or other taxes (including any amounts to be withheld for the purpose of paying the foregoing) relating to, resulting from or based on use of the Licensor Product. If Licensor is required to pay any of the foregoing taxes, then such taxes shall be billed to and promptly paid by Licensee.

12. **GOVERNING LAW AND FORUM:**

A. This Agreement, and the legal relationship between the Licensor and Licensee hereunder, will be governed in all respects, by and construed in accordance with the substantive laws in force in the State of Oregon, USA, without reference to its laws relating to conflicts of law, and each party agrees that any action arising out of or related to this Agreement must be brought exclusively in a state or Federal court serving the county in Oregon in which Licensee is located based on Licensee's address as set forth in the applicable Order Form.

B. Notwithstanding Section 12 (A) above, if the Licensor address specified on the Order Form is in Canada, this Agreement shall be governed by and construed in accordance with the law of the Province of Ontario and the federal laws of Canada applicable thereto, excluding those provisions relating to conflicts of laws. The parties hereby irrevocably attorn to the jurisdiction of the courts of the Province of Ontario or the Federal Court of Canada sitting in that province.

C. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

D. Each party shall have the right to commence and prosecute any legal or equitable action or proceeding to obtain injunctive or other relief against the other party in the event that, in the opinion of Licensor, such action is necessary or desirable.

E. Nothing herein shall be construed as either (i) a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any claim, or (ii) consent by the State of Oregon to the jurisdiction of any court.

13. **WAIVER:** Failure to insist upon strict compliance with any of the terms, covenants or conditions of this Agreement shall not be deemed a waiver of that term, covenant or condition or of any other term, covenant or condition of this Agreement. Any waiver or relinquishment of any right or power hereunder at any one or more times shall not be deemed a waiver or relinquishment of that right or power at any other time.

14. **SEVERABILITY:** All provisions of this Agreement apply to the maximum extent permitted by applicable law. If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law, then the

invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement will continue in effect.

15. **THIRD PARTY RIGHTS:** Except as expressly set forth herein, nothing in this Agreement shall be construed as giving any person or entity, other than the parties hereto and their successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.

16. **NOTICES:** All notices, requests, or other communications hereunder shall be in writing, addressed to the parties at the addresses set forth in the Order Form and in the case of notice to Licensor addressed to the attention of the Legal Department. Notices mailed by registered or certified mail shall be conclusively deemed to have been received by the addressee on the fifth business day following the mailing of (or) sending thereof. Notices sent by facsimile shall be conclusively deemed to have been received when the delivery confirmation is received. If either party wishes to alter the address to which communications to it are sent, it may do so by providing the new address, in writing, to the other party.

17. **CONFIDENTIALITY:**

A. **Obligations.** Each party agrees to hold Confidential Information in confidence and not use or disclose it to a third party as long as the information is confidential. The receiving party will protect the Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination or publication of Confidential Information as the receiving party uses to protect its own confidential information of like nature. **"Confidential Information"** means the proprietary information exchanged between the parties, which is (i) marked "confidential" or "proprietary" at the time of disclosure by the disclosing party; or (ii) by its nature or content is reasonably distinguishable as confidential or proprietary to the receiving party, and includes, without limitation, information (tangible or intangible) regarding a party's technology, designs, techniques, research, know-how, specifications, product plans, pricing, customer information, user data, current or future strategic information, current or future business plans, policies or practices, employee information, and other business and technical information, and shall include the terms and conditions of this Agreement or of any Order Form and the pricing provisions thereof. The receiving party may disclose the Confidential Information to its employees, agents, financial advisers and independent contractors, only as necessary to fulfill the Services and provided such parties have executed a written nondisclosure agreement substantially as protective of the Confidential Information as this Agreement, or as may be required under regulatory requirements.

B. **Exclusions.** Confidential Information will not include information that (a) is made generally available in the public domain prior to time of disclosure; (b) is or becomes publicly available through no act or omission by the receiving party; (c) was already in the receiving party's possession without restriction before receipt from the disclosing party and was not subject to a duty of confidentiality; (d) is rightfully disclosed to the receiving party by a third party without confidentiality restrictions; or (e) that the receiving party independently developed without use of or reference to Confidential Information. The receiving party may disclose the disclosing party's Confidential Information as required by law or court order provided: (i) the receiving party reasonably notifies the disclosing party in writing of the requirement for disclosure, unless notice is prohibited by law; and (ii) discloses only that portion of the Confidential Information legally required.

C. Any obligation of Licensee to maintain the confidentiality of Licensor's proprietary information provided to Licensee is conditioned by and subject to Licensee's obligations under the Oregon Public Records Law, Oregon Revised Statutes (ORS) 192.410 to 192.505 which may require disclosure of proprietary information as a "public record" unless exempt under ORS 192.501 or ORS 192.502.

D. Licensor shall comply with the Oregon Consumer Identity Theft Protection Act, ORS 646A.600 through 606A.628, to the extent applicable to this Agreement.

18. **DATA COLLECTION AND USE:** Licensee acknowledges and agrees that the online Products are publicly available offerings of Rosetta Stone's SaaS-based subscriptions that are provided in a multi-tenant, shared database architecture, and that individualized client-dedicated infrastructure and/or processing is not part of the Product or services. Licensee understands and agrees that certain limited Licensee Data is typically required and used to enable Product and service provisioning and functionality, that such information is stored by

Licensor in centrally organized data center facilities, and that certain services and functionality of the Products and associated services are provisioned through utilization of third-party provider services engaged by Licensor to deliver and support the Product and services to all of Licensor's enterprise customers. Licensor reserves the right to collect and use information provided by Licensee and/or its Authorized End Users to process and provision the Rosetta Stone Product and associated services. Licensor reserves the right to collect and analyze data relating to use of the Rosetta Stone Product in accordance with Rosetta Stone's Privacy Policy and Rosetta Stone's Standard Data Processing Addendum, incorporated and made part by this reference (see below for a link to the current version of these documents). Data may be used by Rosetta Stone in anonymized or aggregate form to assess, improve and/or develop the Rosetta Stone Product and/or services, to assess compliance with the terms and conditions of this Agreement and for other lawful purposes.

A. If Licensee is a US school, US school district or US state or federal agency, and Licensee Data includes personally identifiable information about a student protected under the Family Educational Rights and Privacy Act of 1974, as amended (20 U.S.C. § 1232g et seq.) or other applicable state student educational records privacy law ("FERPA Protected Data"), Licensor covenants and agrees that shall use and process such FERPA Protected Data in compliance with FERPA and such applicable state student records privacy law. Licensee agrees that Licensor shall be considered a "School Official" for its institution for purposes of the performance of services under this Agreement in accordance with FERPA, and shall provide reasonable assistance to Licensor with respect to Licensor's compliance obligations thereunder. In addition to any other terms entered into between Licensee and Licensor with respect to Licensor's handling of Licensee FERPA Protected Data, Licensor shall process such FERPA Protected Data in accordance with the Rosetta Stone Student Records Privacy and Security Statement available at: www.rosettastone.com/student-records and incorporated herein. SECTIONS B AND C BELOW DO NOT APPLY TO US K-12 EDUCATIONAL INSTITUTIONS.

B. If Licensee purchases the Rosetta Stone Products and services under an Order Form with Rosetta Stone Ltd., the terms of the *Rosetta Stone (US) Data Processing Addendum* available at www.rosettastone.com/RS-US-DPA and fully incorporated by reference, shall apply.

C. If Licensee purchases the Rosetta Stone Products and services under an Order Form with a Rosetta Stone EU Affiliate Entity, the terms of the *Rosetta Stone (EU) Data Processing Addendum* available at www.rosettastone.com/RS-EU-DPA and fully incorporated by reference, shall apply.

D. Rosetta Stone reserves the right to collect and retain data generated through the use by Licensee and Authorized Users of the Rosetta Stone Product, from which all personally identifiable information and attributes about such data has been removed ("De-identified Data"). Rosetta Stone may use and disclose De-identified Data for any lawful purposes, including, without limitation, benchmarking, development of best practices, improvement or development of Rosetta Stone products and services, and/or research and statistical purposes, without obligation of any kind to Licensee or Authorized End Users. All De-Identified Data collected by Rosetta Stone in connection with Licensee (including its Affiliates) or its Authorized End Users' use of the Rosetta Stone shall be the property of Rosetta Stone. Rosetta Stone will not use or publish such De-Identified Data in any way that associates or identifies Licensee or any Authorized End User as the source of that data without the prior written consent of Licensee and/or the applicable Authorized End User.

19. U.S. GOVERNMENT RIGHTS. If Licensee is a U.S. government entity, Licensee acknowledges that elements of the Rosetta Stone Product constitute software and documentation and are provided as "Commercial Items" as defined at 48 C.F.R. 2.101, and are being licensed to U.S. government end users as commercial computer software subject to the restricted rights described in 48 C.F.R. 2.101 and 12.212.

20. EXPORT: Licensee agrees to comply with all relevant export laws and regulations of the United States. Licensee agrees to comply with all applicable international and national laws that apply to the Rosetta Stone Product, including the U.S. Export Administration Regulations and Office of Foreign Assets Control Regulations, as well as end-user, end-use, and destination restrictions issued by U.S. and other governments.

21. COMPLETE AGREEMENT; TRANSLATION AND ASSIGNMENT:

A. Except as expressly provided herein, this Agreement, together with each applicable Order Form, constitutes the entire agreement between the parties with respect to the use of the Rosetta Stone Product and supersedes all prior or contemporaneous understandings regarding such subject matter. No amendment to or modification of this Agreement, or action, or delay, will be binding unless in writing and signed by Licensor.

B. In the event of a dispute between the English and any translated version, the English version of this Agreement shall prevail.

C. Licensor may assign this Agreement, in whole or in part, at any time with or without notice to Licensee. This Agreement and rights hereunder may not be assigned, delegated or otherwise transferred by Licensee without the express prior written consent of Licensor.

D. It is the express wish of the parties that this Agreement, as well as all correspondence and documents relating to this Agreement, be written in English. The following is a French (Canadian) translation of the preceding sentence: *Il est de la volonté expresse des parties que la présente entente, de même que toute la correspondance et la documentation relative à cette entente, soient rédigées en langue anglaise.*

22. MISCELLANEOUS PROVISIONS:

A. Incorporation of Oregon Statutes. ORS 279B.220, 279B.230 and 279B.235 are incorporated into this Agreement by reference.

B. Independent Contractor. Licensor is at all times an independent contractor and not as an agent, employee, or representative of Licensee. Licensor has no right or authority to incur or create any obligation for or legally bind Licensee in any way. Licensor is not an "officer," "employee" or "agent" of Licensee or any other agency, office, or department of the State of Oregon, as those terms are used in ORS 30.265, and Licensor shall make no representations to third parties to the contrary. Neither party shall make any statements, representations, or commitments of any kind or to take any action binding on the other except as provided for in the Contract or authorized in writing by the party to be bound.

E. Counterparts. This Agreement may be executed in two or more counterparts, by facsimile or otherwise, each of which is an original, and all of which together constitute one and the same instrument, notwithstanding that all parties are not signatories to the same counterpart.

F. Tax Compliance. By executing this Agreement, the undersigned certifies under penalty of perjury that Licensor has complied with the tax laws of the State of Oregon and the applicable tax laws of any political subdivision of this state. Licensor shall, for the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this section, "tax laws" includes: (i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of this state that apply to Licensor, to Licensor's property, operations, receipts, or income, or to Licensor's performance of or compensation for any work performed by Licensor; (iii) Any tax provisions imposed by a political subdivision of this state that apply to Licensor, or to goods, services, or property, whether tangible or intangible, provided by Licensor; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

G. This Agreement will be reported to the Oregon Department of Revenue. The Department of Revenue may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including (i) garnishing Licensor's compensation under this Agreement or (ii) exercising a right of setoff against Licensor's compensation under this Agreement for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the Department of Revenue collects debts.

IN WITNESS WHEREOF, this Agreement has been executed and delivered by the duly authorized officers of the parties hereto as of the date first above written.

ROSETTA STONE LTD.

DocuSigned by:
By: Sean Hartford
Authorized Signing Authority

Sean Hartford/VP Controller & PAO

Printed Name/Title

July 25, 2018

Date

LICENSEE

By: [Signature]
Authorized Signing Authority


Debbie Dennis CPD
Printed Name/Title

7.25.18
Date

Approved by J McCormick
DOJ
via e-mail 7-24, 2018

Exhibit A

Service Order Form (Example)

	Rosetta Stone Ltd. 135 W Market Street Harrisonburg, Virginia
---	---

Serial Number:

[Date]

Rosetta Stone Contact:

Phone:

Email:

Customer Address:**Billing Address:**

Contact Phone:

Contact Email:

Tax ID Number: _____

This Order Form is submitted to Rosetta Stone in accordance with the terms of, and is governed by, the terms and conditions set forth in the Master License Agreement dated _____, between Rosetta Stone Ltd. and The State of Oregon (the "Master License Agreement").

PRODUCT DESCRIPTION	QTY	UNIT PRICE	TOTAL PRICE
Notes <ul style="list-style-type: none"> Any applicable sales, use, excise, property or other federal, state, county, municipal, local or foreign taxes, levies, VAT, GTS, or other indirect taxes, customs duties, tariffs, or other imposts are the responsibility of the purchaser; any such amounts included in this quote are estimates for informational purposes only. 			
Industry : Corporate			

Pricing is valid through [Date].

Grand Total:	USD
---------------------	-----

TERM AND TERMINATION

This Order Form becomes effective upon its acceptance by both parties and continues in effect for a period of [] months following the service activation date of [] (the "Term"). The Term of this Order Form is renewable upon mutual agreement of the parties.

Rosetta Stone, without prejudice to its other rights hereunder, may, upon written notice to Customer, suspend the availability of the Rosetta Stone Product and/or terminate this Order Form in the event that Customer: (i) fails to make any payment (other than an invoiced amount subject to good faith dispute) when due or (ii) becomes insolvent or bankrupt or ceases paying its debts generally as they mature. Without derogation of Rosetta Stone's rights under the preceding sentence, either party may, without prejudice to its other rights, terminate this Order Form forthwith on duly providing written notice to the other party to that effect in the event that the other party neglects or fails to perform or observe any of the material covenants, conditions or agreements contained in this Order Form, and such default is continued for thirty (30) days after the date of the non-defaulting party's notice to the other party. In the event of the expiration or termination of this Order Form for any reason, all rights granted to Customer hereunder shall terminate, and Customer shall immediately discontinue, and cause its authorized users to immediately discontinue, all use of Rosetta Stone Product. In the event of the termination of this Order Form, Rosetta Stone shall have the right to notify all authorized users that their rights to access the Rosetta Stone Product have been terminated.

INVOICING AND PAYMENT TERMS

Rosetta Stone will invoice Customer for the total purchase price stated above plus all applicable taxes upon acceptance of this Order Form by both parties. Invoices are payable net forty-five (45) days of invoice receipt, FOB Origin.

ORDER PROCESS

To submit an order, please fax this Order Form along with the applicable Purchase Order to: 540-437-2843.

Note: Each Purchase Order must include the correct serial number provided on the applicable Order Form, and should attach the applicable Order Form. All orders are subject to Rosetta Stone's acceptance.

ACCEPTANCE

All Products and services are offered subject to the Master License Agreement, as supplemented by the terms herein. By placing this order, Customer confirms its acceptance of the Master License Agreement and the terms and fees in this Order Form, which together, constitute the entire agreement between Customer and Rosetta Stone regarding the Products and services herein (the "Agreement"). CUSTOMER AND ROSETTA STONE AGREE THAT THE TERMS AND CONDITIONS OF THE MASTER LICENSE AGREEMENT SUPERSEDE ANY ADDITIONAL OR INCONSISTENT TERMS OR PROVISIONS IN ANY CUSTOMER DRAFTED PURCHASE ORDER, WHICH SHALL BE VOID AND OF NO EFFECT, OR ANY COMMUNICATIONS, WHETHER WRITTEN OR ORAL, BETWEEN CUSTOMER AND ROSETTA STONE RELATING TO THE SUBJECT MATTER HEREOF. IN THE EVENT OF ANY CONFLICT, THE TERMS OF THE MASTER LICENSE AGREEMENT SHALL GOVERN.