

Subscription Agreement

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Subscriber desires to obtain a license to access the Choices Program’s Digital Editions (the “Digital Editions”), and Brown is willing to grant such license in accordance with the terms and conditions set forth below. Subscriber agrees to the terms and conditions of this Agreement by accessing the Digital Editions.

For good and valuable consideration, the parties hereby agree as follows:

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- 2. Term and Termination.** This Agreement shall commence on the date of purchase (“Effective Date”) and terminate on the date specified on the Order Confirmation, provided, however, that the term may be renewed by the written agreement of both parties. In the event that either party believes that the other has materially breached any obligations under this Agreement, or if Subscriber has exceeded the scope of the license, such party shall so notify the breaching party in writing. The breaching party shall have thirty (30) days from the receipt of notice to cure the alleged breach and to notify the non-breaching party in writing that cure has been effected. If the breach is not cured within the thirty (30) day period, the non-breaching party shall have the right to terminate the Agreement upon written notice to the other party. Upon Termination of this Agreement for cause, online access to the Digital Editions by Subscriber shall be terminated.
- 3. License Fee.** Subscriber agrees to pay the license fee listed on website or in the quotation provided by Brown to Subscriber.
- 4. Brown’s Obligations.**
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5. Subscriber's Obligations.

- a. Notice of License Terms. Subscriber shall provide Subscriber with appropriate notice of the terms and conditions under which access to the Digital Editions is granted under this Agreement including, in particular, any limitations on access or use of the Digital Editions as set forth in this Agreement.
- b. Intellectual Property Infringement. Subscriber shall prevent the infringement of any intellectual property or other rights of Brown in the Digital Editions. Subscriber shall promptly notify Brown of any infringement that comes to Subscriber's attention and take appropriate steps to avoid its recurrence.
- c. Prohibited Use of Materials. Subscriber may not modify, adapt, alter, reformat, download, upload, post on a shared or public site, reproduce, broadcast, publish, display, transfer, redistribute, or create derivative works from any Digital Editions in any form, format, or media or by means of any technology without obtaining the prior written authorization of Brown. In addition, Subscriber shall not post the Digital Editions, nor answers to any student homework or test questions provided by Brown to homework sites, educational sharing groups, mail lists, electronic bulletin boards, newsgroups, content aggregators, file storage services, or any other online destination without the prior written authorization of Brown. The foregoing prohibitions include the reproduction of any document-based questions, illustrations, charts, photographs, outlines, or text excerpts in the Digital Editions.
- d. Protection from Unauthorized Use. Subscriber shall protect the Digital Editions from any use that is not permitted under this Agreement and agrees to cooperate with Brown regarding an actual or suspected unauthorized use. In the event of any unauthorized use of the Digital Editions by Subscriber, (i) Brown may terminate such offending

Subscriber's access to the Digital Editions, and/or (ii) Brown may terminate the access of the IP address(es) from which such unauthorized use occurred.

- e. Maintaining Confidentiality of Access Passwords. Access to the Digital Editions is controlled by use of passwords. Subscriber shall ensure that Subscriber does not disclose Subscriber's credentials and passwords to any third party.
- f. End User Content. Any end-user content posted by Subscriber shall be the property of Subscriber or End User. Brown assumes no responsibility for any content posted by any other party. Subscribers should only post end-user content that is their own original work and which does not infringe upon the property rights of others.
- g. Confidentiality. The terms of this Agreement are confidential. Subscriber may not disclose the terms of this Agreement to any third party absent the written consent of Brown, except as required by law. In addition, Subscriber agrees to maintain the confidentiality of any data relating to its usage of the Digital Editions. Such data may be used solely for purposes directly related to the Digital Editions. Subscriber shall not provide raw usage data, including but not limited to information relating to the identity of specific users and/or uses, to any third party without the written consent of Brown.
- h. Implementation of Developing Security Protocols. Subscriber shall cooperate with Brown in the implementation of security and control protocols and procedures as they are developed during the term of this Agreement.
- i. Commercial Purposes. Subscriber may not use the Digital Editions for commercial purposes, including but not limited to the sale of the Digital Editions, fee-for-service use of the Digital Editions, or bulk reproduction or distribution of the Digital Editions in any form.
- j. Removal of Copyright Notice. Subscriber may not remove, obscure, or modify any copyright or other notices included in the Digital Editions.

6. Curriculum Deletion Policy. Brown will send a notification to Subscriber thirty (30) days prior to deleting a previous or retiring version of the Digital Editions. Subscriber will be responsible for retaining any previous content.

7. Warranties. Brown warrants that it has the right to license the rights granted under this Agreement to use the Digital Editions, that it has obtained any and all necessary permissions from third parties to license the Digital Editions, and that use of the Digital Editions by Subscriber in accordance with the terms of this Agreement shall not infringe the copyright of any third party. Except for the express warranties stated herein, the Digital Editions are provided on an "as is" basis, and Brown disclaims any and all other warranties, conditions, or representations (express, implied, oral or written), relating to the Digital Editions or any part thereof, including, without limitation, any and all implied warranties of quality, performance, merchantability or fitness for a particular purpose. In the event of any defects in the delivery or access to the Digital Editions, Brown's sole obligation shall be to cure any software defects in the online platform or, if unable to do so, provide the Digital Editions to Subscriber in another format.

8. Indemnification. Subscriber shall indemnify, defend, and hold harmless Brown, including the Corporation and its trustees, officers, employees, representatives, and agents for

any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any alleged or actual breach of this Agreement by Subscriber.

9. Limitation of Liability. In no event shall either party be liable to the other party for any indirect, special, incidental, punitive or consequential damages, including but not limited to loss of data, business interruption, or loss of revenue, arising out of this Agreement. The aggregate liability of Brown to Subscriber or any end user under this Agreement shall be limited to the amounts paid by Subscriber to Brown in the twelve (12) month period prior to the date the cause of action arose.

10. Amendment; Assignment. No amendment or modification to this Agreement shall be effective unless and until the amendment or modification is in writing and signed by both parties. Subscriber may not assign its rights or responsibilities under this Agreement to another party without the prior written consent of Brown.

11. Force Majeure. Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including but not limited to Acts of God, government restrictions, wars, insurrections, strikes or other work stoppages, and/or any other cause beyond the reasonable control of the party whose performance is affected.

12. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable, or in conflict with the law of any jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

13. Waiver of Contractual Rights. The waiver of any provision in this Agreement shall not be deemed a waiver of any other provision, nor shall waiver of any breach of this Agreement be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement.

14. Notices. All notices given pursuant to this Agreement shall be sent via electronic mail. Notices to Brown should be sent to choices@brown.edu. Notices to Subscriber should be sent to the electronic mail address that the Subscriber provides when purchasing the Digital Images. Either party may from time to time change its notice address by written notice to the other party.

15. Governing Law & Jurisdiction. This Agreement shall be governed by the laws of the State of Rhode Island, excluding its conflicts of laws principles. Each party submits to the exclusive jurisdiction to the state and federal courts in the State of Rhode Island to resolve any disputes arising under this Agreement.

16. Entire Agreement. This Agreement, Addendum A, and Addendum B attached hereto collectively constitute the entire agreement of the parties and supersede all prior communications, understandings, and agreements relating to the license to use the Digital Editions, whether oral or written.

Addendum A: Terms of Use

Please read these Terms of Use carefully before using the Digital Editions. The Terms of Use govern your access to the Digital Editions. As explained more fully below, Brown created and/or compiled all of the content that you will have access to on Curriculum.choices.edu, including the videos, pictures, stories, charts, questions, and other materials. Brown has invested time and effort in making these materials rich resources for staff and students. You may not share these materials with any third party.

1. General Agreement

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2. Digital Editions

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- b. Remove any copyright or other proprietary notices contained in the Digital Editions on any copy you make of the Digital Editions.
- c. Sell, transfer, assign, license, sublicense, or modify the Digital Editions or use the Digital Editions for any public or commercial purpose.
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- e. Use Digital Editions to violate any laws in your jurisdiction or the jurisdiction of the United States. You may not post any content that constitutes personal information of students (as defined by the Children's Online Privacy Protection Act (COPPA), or violates the copyright, trademark, or other intellectual property rights of Brown or a third party.

Brown may disable and/or terminate a user's account if Brown determines that the user is violating applicable copyright or other intellectual property rights of Brown or any other third party.

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4. Account Guidelines

You understand that login credentials may not be shared with others or otherwise disclosed to third parties for any purpose whatsoever. Compliance with the following guidelines is mandatory:

- a. You are solely responsible for the confidentiality of your user account, as well as for its use and misuse. You will immediately inform Brown of any need to deactivate a user name or password. Brown reserves the right to delete or change your user name and/or password at any time should Brown in its sole discretion deem such action to be necessary.
- b. You are responsible for all transactions that occur from within your account or under your screen name. You are responsible for keeping your password secure. You must immediately notify Brown of any breach of security or unauthorized use of your account. Brown is not liable for losses caused by unauthorized use of your account. You, however, may be liable to Brown or others for such unauthorized use.
- c. The use of the Digital Editions requires the creation of a personal account. You may never use another user's account. You may never share your account information with another user.
- d. You will not impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity.

5. Online Conduct

You must exhibit professional online conduct when using the Digital Editions including but not limited to the following:

- a. You agree not to employ automated systems (including crawlers, spiders, robots, etc.) that send more requests to curriculum.choices.edu servers than possible to do by a human using a conventional web-browser in the same amount of time.
- b. You may not use the Digital Editions for any illegal, illicit, or unauthorized purposes. Users agree to comply with all applicable laws and school acceptable use policies regarding online conduct and acceptable content.
- c. You will not interfere with or attempt to interrupt the proper operation of the Digital Editions through the use of any virus, device, information collection or transmission mechanism, software or routine, or access or attempt to gain access to any data, files, or passwords related to the Digital Editions through hacking, password or data mining, or any other means.
- d. You agree not to modify, adapt, or impair any service in the Digital Editions or its derivative products or services. Additionally, you agree not to falsely imply association with Brown or the Digital Editions.
- e. You may not transmit any code, worms, or viruses or destructive code to the Digital Editions or to hosts such code on this web services.
- f. You will not spam or use the Digital Editions to engage in any commercial activities, including, without limitation, raising money, advertising or promoting a product, service, website, or company, or engaging in any pyramid or other multi- tiered marketing scheme.

6. Teacher-Generated Content

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If you post content in the teacher notes, hereinafter referred to as “Teacher Generated Content,” you should only post content that is your own original work. The views and opinions expressed in any third party content do not necessarily reflect the views of Brown, and users who post content shall be solely responsible for such content. Brown does not pre-screen user content. Therefore, teachers who use the text box to add comments to certain materials are expected to adhere to standards of professionalism and must refrain from posting inappropriate comments that may be read by students. Accordingly, Brown reserves the right to remove Teacher Generated Content that does not adhere to the Terms of Use or that is offensive or otherwise unacceptable to Brown in its sole discretion.

Teachers are responsible for any and all content (data, text, information, screen name, graphics, photos, profiles, audio, video clips, links, or any information that they contribute to the Digital Editions) that they submit, post, create, and display on the Digital Editions.

Acceptable use policies are the responsibility of the district when it comes to teacher and student use of the Digital Editions. Brown does not endorse any teacher, student, teacher generated content, or performance data. You acknowledge that the Digital Editions merely acts as a platform that allows students to complete the reading assignments provided by their teachers.

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Any violation of the foregoing requirements will warrant your immediate removal from the Digital Editions and will be reported to your school district.

7. Compliance with Applicable Laws

You are solely responsible for ensuring compliance with the laws of your specific jurisdiction and the jurisdiction of the United States.

8. Changes in Terms of Use and Service and Termination

Brown may terminate your access to all of any part of the Digital Editions for violation of these Terms of Use, the Subscription Agreement, or the Privacy Policy. Brown also reserves the right to remove any user's account containing content, which in its sole judgment, may be unlawful, offensive, inappropriate for students, threatening, libelous, defamatory, obscene, or otherwise objectionable or violates intellectual property rights or violates the Terms of Use.

9. Limited Warranty

Brown warrants that it is the owner of the Digital Editions and has the legal right and authority to provide the Digital Editions to Authorized Users (as that term is defined in the Subscription Agreement) as set forth in these Terms of Use.

The provisions on warranty, indemnification, and damage limitation, as set forth in the Subscription Agreement, apply to you and are incorporated into these Terms of Use.

Addendum B: Privacy Policy

This Privacy Policy governs how Brown University (“Brown”) collects, protects, uses, and shares information gathered on the Digital Editions. By using the Digital Editions, you are confirming that you are a Subscriber (as that term is defined in the Subscription Agreement), and you are agreeing to the terms of this Privacy Policy.

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Brown collects information needed to enable you to use the Digital Editions. Brown only collects teacher name, email, and district name so Brown can set up an account for teacher to access the Digital Editions.

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If you access the Digital Editions from outside the United States, your connection may be through and to servers located in your country or the United States. Any information you provide may be processed and maintained in the United States on servers and/or other network systems operated by Brown or for Brown's benefit. Regardless of where you live, you consent to have your information transferred, processed, and stored in the United States and allow Brown to use and collect your information in accordance with this Privacy Policy. If you access the site from and/or reside outside of the United States, your information may be stored, transmitted, and shared in accordance with United States data privacy laws which may not be equivalent to those in effect in your country. You expressly agree that you will not use the Digital Editions with any expectation of greater privacy rights than those to which you have expressly agreed as stated in this Privacy Policy.

6. Cookies and Other Technology Used to Collect Information

With the use of cookies and other technologies, Brown may receive and store certain types of information about you whenever you interact with the Digital Editions. Cookies are small text files that Brown transfers to your local device, through your web browser, to (a) speed your navigation on the Digital Editions, (b) recognize you and your access privileges, (c) track your usage and preferences of the Digital Editions, (d) detect the existence of any cookies previously set by Brown's server, and (e) identify certain information on how and when you accessed the Digital Editions such as type of browser, operating system, domain names, IP addresses, and the like. The help portion of the toolbar on most browsers will tell you how to prevent your browser from accepting new cookies, how to have the browser notify you when you receive a new cookie, or how to disable cookies altogether. You can also disable or delete similar data used by browser add-ons, such as Flash cookies, by changing the add-on's settings or visiting the website of its manufacturer. Cookies allow you to take full advantage of the Digital Editions (disabling cookies may prevent proper functioning of certain parts of the Digital Editions), so Brown recommends that you leave them turned on for the Digital Editions.

7. Questions

If you have any questions about the Privacy Policy please contact choices@brown.edu.

