

Successfully submitting Licence G

In order to complete Licence G successfully please observe the following:

DO:

- Read and understand the Deed
- Insert the proper registered company or association name on the front of the Deed (eg. Pty Ltd or Ltd). This will not be your business name or trading name unless it is also the full name of your company or association. If you are not a company or association, insert your own name
- Insert the correct physical address of the company under the company's name (note: a PO Box is not sufficient)
- Insert the company's ABN under the address (if an Australian company)
- Have 2 company directors sign the Deed, or a company director and company secretary
- Enter the date the Deed was signed where indicated in the signature block only
- Send two (2) signed copies of the Deed to:

Copyright and Permissions Manager
Curriculum Corporation
Level 5, 440 Collins Street
Melbourne, Victoria
3000

DO NOT:

- Date the front of the Deed. It will be dated when the Licensor signs the Deed.
- Insert your business name or trading name on the front of the Deed unless this is also the full name of your company or association, or your own name (if you are trading as an individual)
- Fax the Deed to the TLF. Two written copies are required to be sent.

TLF will arrange for the Deed to be countersigned if the application is successful. A copy will be returned you. You will also be provided with a username and password to access TLF's trial and demonstration content repository.

LICENCE DEED dated _____ 2009

Licence of TLF Content to Vendors (Licence G)

Parties:

Curriculum Corporation of Level 5 Casseldon Place, 2 Lonsdale Street, Melbourne, Victoria, ABN 18 007 342 421 (**'the Licensor'**)

and

Company Name: _____

of: _____

ABN: _____

(**'the Licensee'**)

Background:

- A. The Le@ming Federation Initiative (**'the TLF Initiative'**) is a collaborative, coordinated programme instituted by all Australian and New Zealand governments (**'the Participating Governments'**) aimed at generating online curriculum content, and information systems required to deliver such content, for the benefit of schools and other educational institutions in Australia and New Zealand. The TLF Initiative is managed by Curriculum Corporation (**'the Licensor'**).
- B. The Licensor has agreed to grant to vendors of learning management systems, digital repositories and software applications in the School Education Sector (**'Vendors'**) the right to Use TLF Content for Ordinary Activities.
- C. The Licensee, a Vendor of learning management systems, digital repositories and / or software applications, seeks a licence to use TLF Content. The Licensor grants the Licensee a licence on the terms set out in this Licence Deed.

Operative Part:

1. INTERPRETATION

1.1. In this Licence Deed, unless the context indicates otherwise:

Acknowledgments Statement	includes the 'Acknowledgments' statement so described, and any other Electronic Rights Management Information which appears in, on or in relation to particular Licensed Material, and which identifies the author and/or copyright owner of the Licensed Material
AESOC	means the Australian Education Systems' Officials Committee which exercises a governance role in relation to the TLF Initiative, and includes any body that may subsequently be appointed to undertake that role
Agent	means any person or entity acting or purporting to act for or on behalf of the Licensee in relation to Licensed Material.
Communicate	means to communicate to the public, within the meaning of the <i>Copyright Act 1968</i> , by making Licensed Material available online where it can be accessed by recipients, or by emailing it to recipients (compare ' Distribute ') and Communication shall be similarly construed
Compilation	has the same meaning as 'compilation' under the <i>Copyright Act 1968</i> , that is: a collection of items (which may or may not individually have copyright) which are assembled together using sufficient skill and care as to attract copyright protection for the collection as a whole
Copy	in relation to Licensed Material, means a reproduction in the same or a different medium, but without any alteration of the TLF Content
Development	means the making of a Derivative of the original Licensed Material
Derivative	means any work derived from or developed from TLF Content, including: <ul style="list-style-type: none">— an Edited Version— an Enhancement— Supplementary Work— a Compilation
Distribute	means to Supply Copies of Licensed Material in printed form or on some removable medium to a Third Party (compare ' Communicate ') and Distribution shall be similarly construed
Edited Version	means a modified version of Licensed Material in which the changes made are of such a minor nature that no fresh layer of copyright can be said to arise

Electronic Rights Management Information	means information: <ul style="list-style-type: none">— identifying TLF Content, the author and/or copyright owner, including the Acknowledgments Statement— indicating conditions on which TLF Content may be used, including these Conditions of Use.
Enhancements	means modifications to Licensed Material in which new copyright arises, but only to the extent that the Enhancements cannot meaningfully inform or entertain independently of the original Licensed Material
Exchange	means the Exchange repository established by the Joint Venture Companies, which consists of: <ul style="list-style-type: none">— TLF Content— infrastructure-related software systems and code
Licence	means the licence granted by the Licensor to the Licensee by the operation of this Licence Deed
Licensed Material	means particular TLF Content dealt with on a particular occasion under the Licence
Licensee	means the beneficiary of the Licence and, where the context permits, includes an employee
Licensor	means Curriculum Corporation and includes an assignee under clause 17
Moral Rights	includes the following rights of an author of copyright Material: <ul style="list-style-type: none">— the right of attribution of authorship— the right of integrity of authorship— the right not to have authorship falsely attributed
Ordinary Activities	Means the following activities of a Vendor: <ul style="list-style-type: none">— testing connectivity and the ability of a Vendor to download from the Exchange;— testing of learning management systems, digital repositories or software applications in Australia and New Zealand that are for the school education sector; and/or— demonstrating learning management systems, digital repositories or software applications in Australia and New Zealand in the school education sector.

Rights	means any rights which may be granted by a licensor to a licensee under a licence, and includes: <ul style="list-style-type: none">— User Rights— Communication Rights— Development Rights— Supply Rights— Sublicensing Rights
School Education Sector	Means the school sector in which occurs: <ul style="list-style-type: none">— a structured program of learning and/or teaching for the benefit of a Student;— a public educational program; and/or— professional development and preparation activities for either of the above
Sublicense	means to grant permission for a Third Party to exercise Rights of the licensee in relation to Licensed Material
Sublicensee	means a Third Party to whom a licensee sublicenses some or all of its Rights under a licence
Supplementary Work	means substantial additional work which appends, incorporates, is appended to, or is incorporated into, Licensed Material, and which has some capacity to inform or entertain independently of the original Licensed Material, but does not include Enhancements
Supply	means to Distribute or Communicate Copies of Licensed Material to a Third Party, or to cause the Licensed Material to be performed in public
Technological Protection Measure	Means a device or process designed to inhibit infringement of copyright in that TLF Content by either of the following: <ul style="list-style-type: none">— by ensuring that TLF Content is accessible solely by use of an access code or process approved on behalf of the copyright owner— through a copy control mechanism
Third Party	means a person or entity other than the Licensor or the Licensee or an Agent of the Licensee

TLF Content	<p>Intellectual property in all TLF Content vests in Curriculum Corporation.</p> <p>TLF Content is intended primarily to inform or entertain a user, and includes related material which facilitates such purposes.</p> <p>TLF Content typically consists of learning objects (LOs) and component items such as: text, pictures, simple animation, sound, full motion video and computer coding or script that is necessary to provide in-built functionality of the LO, as well as any associated metadata.</p> <p>TLF Content does not include infrastructure-related software systems and code.</p>
TLF Initiative	means The Le@rning Federation Initiative
Use	<p>as a verb - means to read, view, play, perform or operate the Licensed Material.</p> <p>The term User Rights shall be similarly construed and accordingly does not (in itself) include the right to reverse engineer, de-compile or otherwise circumvent a Technological Protection Measure.</p>
Vendor	Means a vendor of learning management systems, digital repositories or software applications which are designed for, developed for or applied to the school education sector

- 1.2. In this Licence Deed, unless the contrary intention appears:
- a) a reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision
 - b) if any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning
 - c) a reference to writing is a reference to any representation of words, figures or symbols, whether or not in a visible form.

2. COMMENCEMENT

- 2.1. The Licence Deed shall be deemed to commence as from the date it is executed by both parties.
- 2.2. In relation to particular Licensed Material, the Licence commences when that Material is made available within the Exchange as TLF Content for access by the Licensee.

3. SUBJECT MATTER OF LICENCE

- 3.1. The Licence granted under this Licence Deed applies in relation to all TLF Content contained in the Exchange, subject to the Licensor's rights under clause 13.1.

4. PROVISION OF ACCESS TO THE EXCHANGE

- 4.1. The Licensor may provide the Licensee with access to the Exchange, in accordance with its ordinary arrangements in place from time to time.
- 4.2. The Licensor reserves the right to impose at any time a fee for access to the Exchange on the Licensee.
- 4.3. At the time of execution of this Licence Deed, no fee applies to the provision of such access.

5. RIGHTS GRANTED UNDER THE LICENCE

- 5.1. The Rights granted by the Licensor to the Licensee under the Licence include:
- a) User Rights, as described in clause 6
- but do not include:
- b) Supply Rights
 - c) Sublicensing Rights
 - d) Development Rights.
 - e) Communication Rights
- 5.2. The Rights granted may be exercised for the Ordinary Activities of the Licensee only.

6. USER RIGHTS

- 6.1. The Licensee may Use Licensed Material for the Licensee's Ordinary Activities.
- 6.2. Such Ordinary Activities:
- a) include Use of the Licensed Material internally by the Licensee
 - b) include Use of the Licensed Material externally by the Licensee to support promotional activities in the school education sector, such as in seminar

presentations or demonstrations to establish the learning management or software development capabilities of the Licensee.

- c) include the right to make Copies only as necessary to support the exercise of the User Right in accordance with the terms of the Licence Deed
- d) do *not* include the incorporation of any part of the Licensed Material in a product provided to a Third Party.

6.3 The Licensee must not:

- circumvent any Technological Protection Measure
- interfere with any Electronic Rights Management Information.

Territory

6.4 The User Right may be exercised only within Australia and New Zealand.

7. DEVELOPMENT OF DERIVATIVES

7.1 The Licensee must not make:

- a) an Edited Version
- b) an Enhancement
- e) a Compilation
- f) a Supplementary Work

or any other Derivative of the Licensed Materials.

8. MORAL RIGHTS PRESERVED

8.1 Nothing in the Licence Deed authorises the Licensee to do anything in relation to Licensed Material which would constitute an infringement of the Moral Rights of the author of that Licensed Material.

9. MISLEADING OR DECEPTIVE CONDUCT

9.1 Nothing in the Licence Deed authorises the Licensee to do anything in relation to Licensed Material which would constitute misleading or deceptive conduct.

10. REMUNERATION FOR GRANT OF LICENCE

10.1 The Licence is granted free of any licence fee or royalties in relation to the TLF Content, subject to clause 4.

11. EXCLUSIVITY

11.1 The Licence is non-exclusive.

12. ORDINARY LICENCE PERIOD

12.1 The Licence is perpetual, subject to clause 13.

13. TERMINATION AND REVOCATION

13.1 The Licensor reserves the right to temporarily or permanently vary, add to or remove part or all of the TLF Content from the Exchange at any time.

13.2 The operation of the Licence in relation to particular Licensed Material shall be deemed to be revoked if and when that Licensed Material is no longer available within the Exchange as TLF Content for access by the Licensee.

13.3 The Licence Deed (and its operation in relation to all TLF Content) may be immediately terminated in its entirety by notice from the Licensor to the Licensee in the event of a breach of the Licence Deed by the Licensee.

13.4 The Licence Deed (and its operation in relation to all TLF Content) may be immediately terminated in its entirety by notice from the Licensor to the Licensee if AESOC agrees to alternative arrangements regarding ownership of the TLF Content.

13.5 Notwithstanding clauses 13.3 and 13.4, the Licence Deed (and its operation in relation to all TLF Content) may be immediately terminated in its entirety for convenience by the Licensor by written notice from the Licensor to the Licensee at any time.

13.6 Upon termination of the Licence, the Licensee must: immediately cease to Use the Licensed Material.

13.7 Upon ceasing to Use the Licensed Material, the Licensee must not retain or store in any form whatsoever, whether electronically or in hard copy, any copy of the Licensed Material.

14. LIABILITY ISSUES

- 14.1 The Licensee indemnifies the Licensor in respect of any loss, damage, liability or expense arising from:
- a) a breach of the Licence Deed
 - b) any wilful, unlawful or negligent act or omission by the Licensee or its employees, servants or Agents, or any person claiming to exercise the Licence under or through the Licensee.
- 14.2 The Licensor makes no representation or warranty:
- a) that access to the Exchange will be uninterrupted
 - b) as to the suitability or compatibility of the Licensee's computer systems to access and use the Exchange
 - c) that the Exchange and the TLF Content is free of error, defect, virus or other harmful element
 - d) that any particular Licensed Material is accurate, complete or up to date or fit for the purpose to which the Licensee proposes to put the Licensed Material.
- 14.3 The Licensee acknowledges that it has relied on its own inquiries, and releases the Licensor from any liability, in regard to all the matters set out in clause 14.2.
- 14.4 The Licensor is not liable for any loss, damage, liability or expense suffered by the Licensee by or arising from its use of, or inability to use, the Licensed Material.

15. NOTICES

- 15.1 A notice under this Licence Deed:
- a) must be emailed to the other party (in the case of The Licensor, to ipmanager@thelearningfederation.edu.au)
 - b) will be deemed to be effective from the date of receipt by the addressee
 - c) if received after 5.00 pm (according to the time standard of the receiver of the notice), is deemed to be effected on the next business day.

16. AMENDMENTS

- 16.1 This Licence Deed may only be amended by agreement in writing between the Licensor and the Licensee.

17. ASSIGNMENT

17.1 The Licensor may assign this Licence to a successor.

17.2 The Licence is not assignable by the Licensee.

18. APPLICABLE LAW

18.1 This Licence Deed shall be governed by and construed according to the law of the State of Victoria.

Executed by the parties as a Deed:

Signed, sealed and delivered by the Licensor:

_____	_____
<i>name of and title of authorised signatory</i>	<i>signature</i>
date:	

Signed, sealed and delivered by the Licensee:

_____	_____
<i>[name of Director]</i>	<i>[signature of Director]</i>
date:	

_____	_____
<i>[name of Secretary/Director]</i>	<i>[signature of Secretary/Director]</i>
Date:	

[Note: appropriate form of execution clause to be verified by solicitors or accountants for the Licensee]