



Standard Subscription Agreement

1. The bigchalk Services and Products.

bigchalk.com, inc. ("bigchalk") services and products for educational institutions provide resources, professional development, content and curriculum for students, teachers and librarians. Subscribing Institution is subscribing to and/or licensing the bigchalk services and products set forth on the Subscription Term Sheet of this Agreement ("Term Sheet"). bigchalk warrants and represents that these services and products, in addition to any and all other materials (including the bigchalk Software as defined in Section 10) made available by bigchalk to Subscribing Institution, (collectively the "Services and Products"), are owned, licensed and/or controlled by bigchalk. In addition, certain services and products that may be among the Services and Products subscribed to under this Agreement, as well as certain content within various services and products, are owned, licensed and/or controlled by bigchalk's licensors.

2. License to Use the Services and Products and Scope of Use.

Subject to the terms and conditions of this Agreement and upon payment of the fees set forth on the Term Sheet, bigchalk grants to Subscribing Institution a non-exclusive, non-transferable, license to access and use the Services and Products solely for educational, research, scholarly, and personal uses. All other right, title and interest (including all copyright and other intellectual property rights) in the Services and Products (in both print and machine-readable forms) belongs to bigchalk or its third party suppliers of materials. Only Authorized Users of Subscribing Institution shall be entitled to access and use the Services and Products under the license granted. "Authorized Users" shall consist solely of Subscribing Institution's staff, faculty, students officially affiliated with Subscribing Institution, and other authorized users of Subscribing Institution's facilities (for example, library patrons). Authorized Users shall be entitled to search, retrieve, display, download, and print content contained in the Services and Products solely for educational, research, scholarly, and personal uses, but may make no other uses of such content without the prior express written permission of bigchalk and the copyright owner (or its authorized agent) of such content. Authorized Users shall be entitled to download and print single copies of individual works of content contained in the Services and Products. All reproduction and other uses of the Services and Products and their content are subject to the Copyright Act of 1976, Title 17 U.S.C., and other applicable intellectual property laws.

Notwithstanding the above, bigchalk grants Subscribing Institution access to the web-based Service(s) solely through an authenticated access point, the URL for which shall be supplied by bigchalk, and access to the web-based Service(s) via any other means is not authorized by this license and is expressly prohibited by bigchalk. Neither Subscribing Institution nor Authorized Users shall use the Services and Products or their content in any way that would compete with any of the Services and Products.

If Remote Access is granted to Subscribing Institution under this Agreement (see Term Sheet), such access and use resulting therefrom shall be Internet-based only (no dial-up services will be provided), and limited to the scope of use, purposes, Authorized Users, and other limitations imposed on use of the applicable Service(s) as set forth above in this Section 2 and otherwise in this Agreement. Furthermore, Authorized Users who use remote access to access such Service(s) must do so only from their personal/individual computers from home, and not from another location or institution, regardless of whether such institution is a subscribing institution itself. Likewise, Subscribing Institution and its Authorized Users shall not access any of the bigchalk Services through remote access to another institution or subscriber, or use another institution's or other subscriber's remote access to access any bigchalk Service, without the prior express permission of bigchalk. Moreover, if Subscribing Institution's subscription allows for Remote Access, Subscribing Institution agrees to limit access to the applicable Service(s) through the use of user identification numbers and passwords, IP address verification or other secure method of user verification. Subscribing Institution shall immediately notify bigchalk if it is believed that any secure access method is being misused.

3. Unauthorized Use.

Subscribing Institution shall not be responsible for unauthorized use or infringement of the Services and Products, the content contained in the Services and Products, or the bigchalk Software, provided, that: (i) such unauthorized use or infringement is without the express or implied consent of Subscribing Institution, (ii) Subscribing Institution promptly notifies bigchalk of any such unauthorized use or infringement of which it becomes aware, and (iii) Subscribing Institution takes all reasonable steps to cause such unauthorized use or infringement of which it is aware to stop. Subscribing Institution shall cooperate fully with bigchalk in any investigation of such unauthorized use or infringement. Subscribing Institution agrees that bigchalk shall have the sole right, at its discretion, to bring any action on account of such unauthorized use or infringement.

4. Confidentiality and Privacy. bigchalk acknowledges that in the performance of this Agreement it may have access to Subscribing Institution's user information, data, lists, usernames or passwords. bigchalk agrees and understands that such information constitutes and shall be treated as Confidential Information.

The Children's Online Privacy Protection Act ("COPPA") and other federal laws and regulations restrict the collection, use and distribution of personally identifiable information from children under the age of thirteen. Services provided by bigchalk typically do not involve students entering such information, but bigchalk makes no representation as to whether COPPA may require users to obtain consent from the parent or legal guardian of students under the age of 13. bigchalk's Privacy Policy and Terms and Conditions are posted at www.bigchalk.com.

5. Term of Agreement and Termination. The term of this Agreement shall begin on the Effective Date and shall end on the End Date specified on the Term Sheet. Either bigchalk or Subscribing Institution may terminate this Agreement at any time if the other party commits a material breach of any term or condition of this Agreement and the breach remains uncured for thirty (30) days after written notice of the breach has been furnished to the breaching party. Upon any termination or expiration of this Agreement, the licenses granted in Sections 2 and 10 shall terminate also, and Subscribing Institution shall return or destroy all Services and Products upon bigchalk's request. Unless this Agreement is terminated by Subscribing Institution for the uncured material breach of bigchalk, bigchalk shall not pro rate or refund any fees to Subscribing Institution upon the termination or expiration of this Agreement.

6. Payment to bigchalk. Subscribing Institution shall pay the fees set forth in the amounts and under the terms set forth on the Term Sheet within 30 days of the beginning of service under this Agreement. Payments to bigchalk shall be in United States dollars. Subscribing Institution's failure to pay fees to bigchalk when due shall give bigchalk the right to suspend Subscribing Institution's license granted in Section 2 and to terminate this Agreement. Subscribing Institution shall be obligated to pay the fees to bigchalk regardless of the extent to which the Services and Products are used. The term of this agreement shall not be affected by the date of first use.

6.1 Non-Appropriation of Funds. Notwithstanding any other provisions of the Agreement, if funds anticipated for the continued fulfillment of this Agreement are at any time not forthcoming or insufficient, either through appropriations failure, discontinuation or material alteration of the program for which funds were provided,

then Nebraska Library Commission shall have the right to terminate this Agreement without penalty by giving not less than thirty (30) days written notice documenting the lack of funding, discontinuance or program alteration. If appropriation to cover the cost of the Agreement becomes available within sixty (60) days subsequent to termination under this clause, Nebraska Library Commission agrees to re-enter an Agreement with bigchalk under the same provisions, terms, and conditions as the original Agreement. For the avoidance of doubt, the Nebraska Library Commission expressly agrees that it has secured all required funding for the initial term of this Agreement and that no termination of this Agreement during the initial term shall be made under this provision.

7. Rights in the Content and the Services and Products. The Services and Products and content thereon and thereof are protected by copyright, patent, trademark, and other applicable intellectual property and proprietary rights laws and are owned, controlled, and/or licensed by bigchalk. Subscribing Institution does not acquire any ownership, possessory, or intellectual property rights in the Services and Products, except as expressly and unambiguously granted herein and such grant shall be subject to the terms and conditions of this Agreement. Subscribing Institution may not remove or obscure the copyright notice or other notices contained in the Services and Products.

8. Warranties, Disclaimers, and Limitation of Liability. bigchalk warrants that it has the authority to enter into this Agreement and to grant the licenses made under this Agreement. bigchalk further warrants that it shall make all commercially reasonable best efforts to keep the Internet-based Services available, functional and operational on a 24X7 basis (24 hours per day, 7 days per week), routine scheduled downtime excepted (for example, for system maintenance) and failures outside of bigchalk's control excepted (for example, a failure of the Internet or a failure of Subscribing Institution's network). In addition, bigchalk warrants that the Services and Products shall conform in all material respects to the then-current specifications for the Services and Products published by bigchalk. Subscribing Institution warrants that it has the authority to enter into this Agreement and to perform all of its obligations under this Agreement. bigchalk, ITS CONTENT PROVIDERS, ITS LICENSORS, AND ITS DISTRIBUTORS EACH EXPRESSLY DISCLAIM ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES AND PRODUCTS, THE CONTENT CONTAINED IN THE SERVICES AND PRODUCTS, OR THE bigchalk SOFTWARE. NEITHER bigchalk NOR ITS CONTENT PROVIDERS, ITS LICENSORS, OR ITS DISTRIBUTORS MAKES ANY WARRANTIES OR REPRESENTATIONS REGARDING THE ACCURACY, ADEQUACY, TRUTHFULNESS, TIMELINESS, COMPLETENESS, OR USEFULNESS OF THE SERVICES AND PRODUCTS, THE CONTENT CONTAINED IN THE SERVICES AND PRODUCTS, OR THE bigchalk SOFTWARE. bigchalk MAKES

NO WARRANTIES OR REPRESENTATIONS THAT THE SERVICES AND PRODUCTS OR ACCESS TO AND USE OF THE SERVICES AND PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE. SUBSCRIBING INSTITUTION ACKNOWLEDGES AND AGREES THAT THE CONTENTS, FEATURES, AND OTHER ASPECTS OF THE SERVICES AND PRODUCTS MAY CHANGE FROM TIME TO TIME.

bigchalk's (AND ITS CONTENT PROVIDERS', LICENSORS', AND DISTRIBUTORS') ENTIRE LIABILITY TO SUBSCRIBING INSTITUTION AND SUBSCRIBING INSTITUTION'S SOLE AND EXCLUSIVE REMEDY FOR DAMAGES OR ANY LOSS IN ANY WAY CONNECTED TO THE SERVICES AND PRODUCTS OR THE CONTENT CONTAINED IN THE SERVICES AND PRODUCTS SHALL BE LIMITED TO THE AMOUNT OF THE APPLICABLE SUBSCRIPTION FEE(S) ACTUALLY PAID TO bigchalk FOR THE PRODUCT(S) AND/OR SERVICE(S) GIVING RISE TO SUCH DAMAGE/LOSS. UNDER NO CIRCUMSTANCES SHALL bigchalk (AND ITS CONTENT PROVIDERS, LICENSORS, AND DISTRIBUTORS) BE LIABLE TO SUBSCRIBING INSTITUTION OR ANY OTHER PERSONS, INCLUDING BUT NOT LIMITED TO AUTHORIZED USERS, FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, DAMAGES ARISING OUT OF THE USE OF, OR THE INABILITY TO USE, THE SERVICES AND PRODUCTS, ANY CONTENT CONTAINED IN THE SERVICES AND PRODUCTS, OR THE bigchalk SOFTWARE. THESE LIMITATIONS APPLY REGARDLESS OF WHETHER bigchalk WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY OF SUCH DAMAGES.

9. Indemnification. This section is intentionally omitted.

10. Software License. For any software provided by bigchalk to Subscribing Institution ("bigchalk Software"), bigchalk grants Subscribing Institution and the Authorized Users a non-exclusive, non-transferable license to copy and use the bigchalk Software solely as expressly permitted herein or as necessary to access and/or use the Services and Products in accordance with the provisions of this Agreement. The bigchalk Software and all proprietary rights within the software are the sole and exclusive property of bigchalk and/or its licensors. This license to use the bigchalk Software terminates automatically upon the termination or expiration of this Agreement. Subscribing Institution and the Authorized Users may not modify the bigchalk Software in any manner, nor may they reverse engineer, decompile, translate, disassemble or make any derivative works from the bigchalk Software. bigchalk's ENTIRE LIABILITY TO SUBSCRIBING INSTITUTION AND SUBSCRIBING INSTITUTION'S SOLE AND EXCLUSIVE REMEDY REGARDING THE bigchalk SOFTWARE SHALL BE THE REPLACEMENT OF THE bigchalk SOFTWARE PROGRAM BY bigchalk.

RESTRICTED RIGHTS LEGEND. Any software or documentation that is either downloaded from the Services and Products or otherwise provided under an agreement for or on behalf of the United States of America, its agencies and/or instrumentalities ("U.S. Government"), including the bigchalk Software, is provided with Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights at 48 CFR 52.227-19, as applicable.

11. General.

Entire Agreement. Subscribing Institution agrees to be governed by the Terms and Conditions, and Privacy Policy of bigchalk, as posted on bigchalk.com, and as amended from time to time in the future. Apart from such Terms and Conditions, and Privacy Policy, this Agreement constitutes the entire agreement of the parties with respect to its subject matter. In the event of any conflict between this Agreement and such Terms and Conditions, and Privacy Policy, the terms and conditions of this Agreement shall govern. The terms and conditions of any Purchase Orders are not agreed to by bigchalk and shall not supersede the terms and conditions herein regardless of when received.

Modifications, Amendments, and Waivers. Any modifications or amendments to this Agreement shall be effective only in a written instrument agreed to and signed by the authorized representatives of both parties. Failure by either party to enforce any provision of this Agreement shall not be deemed a waiver of future enforcement of that or any other provision.

Severability. If any provision of this Agreement is found invalid or unenforceable pursuant to a decree or decision of competent jurisdiction, the remainder of this Agreement shall remain valid and enforceable according to its terms.

Notices. All notices under this Agreement shall be in writing and may be delivered personally, or by any mail or delivery service providing a written receipt, to the addresses specified in the Term Sheet, or to those other addresses the parties are subsequently notified of in accordance with this Section. Any notice given as provided for shall be deemed to have been given on the date personally delivered or the date on the service's written receipt.

Applicable Law and Forum This Agreement shall be governed by and construed in accordance with the laws of Nebraska, without giving effect to principles of the conflicts of laws. Subscribing Institution hereby irrevocably and unconditionally submits to the exclusive jurisdiction of courts of the state of Nebraska for purposes of all legal proceedings arising out of or relating to this agreement or the transactions contemplated hereby, and the Subscribing Institution agrees not to commence any legal proceeding related thereto except in such court. Subscribing Institution irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such courts and any claim that any such proceeding brought in such courts has been brought in an inconvenient forum. Subscribing Institution irrevocably waives, to the fullest extent permitted by law, any right to trial by jury in any such proceeding.

Assignment. This Agreement shall be binding upon and inure to the benefit of bigchalk and Subscribing Institution and their successors, and permitted assigns. Except in the case of a merger, acquisition, sale of substantially all of the assets of a party, or accounts receivable or similar financing(s), neither party may assign this Agreement, or any of its rights or obligations under this Agreement, without the prior written consent of the other party, which consent shall not unreasonably be withheld.

Taxes. Subscribing Institution shall be responsible for any sales, use, VAT, personal property or other local taxes (except those based on bigchalk's income), and, if it is located outside the United States, any import duties imposed on the Products and Services.

Survival. Sections 4, 6, and 8 through 11 shall survive termination of this Agreement.

Execution by Counterparts and Fax. Copies of this Agreement as executed by Subscribing Institution and sent to bigchalk by fax shall be legally binding as if an original, fully-executed copy of this Agreement were presented.