

Stenhouse
Publishers

ONLINE WEB ACCESS END USER LICENSE AGREEMENT

Rev.03/04/2020

NOTICE: PLEASE READ THIS ONLINE WEB ACCESS END USER LICENSE AGREEMENT (THE "LICENSE") CAREFULLY PRIOR TO USING THE SERVICE AND DOCUMENTATION OR DOWNLOADING ANY ASPECT OF THE SERVICE. THE INDIVIDUAL AND/OR ENTITY USING THIS SERVICE (THE "LICENSEE") AGREES TO BE BOUND BY THE TERMS OF THIS LICENSE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE OR YOU ARE NOT AN AUTHORIZED USER OF THE TEACHER LICENSE, DO NOT ACCESS OR USE THE SERVICE.

1. **Definitions.**

"Company" means SDE, INC. dba Stenhouse Publishers, a New Hampshire corporation, whose principal office is located at 282 Corporate Drive, Suite 1, Portsmouth, NH 03801-8009 (the "Publisher".)

"Content" means all information presented through the Website, including by way of example and not limitation, Website text, graphics, logos, icons, images, Software, illustrations, auditory and visual elements, and the arrangement and compilation of the foregoing and any other materials pertaining to the Service which are furnished to Licensee by Company, or accessed by Licensee through the Website, in connection with the Service.

"Intellectual Property" means all intellectual property rights applicable to the Service and the Content, including but not limited to any and all inventions, patents, copyrightable works, trade secrets and confidential business information, trademarks, service marks, trade dress, logos, and trade names, all goodwill associated therewith, and rights to protection of interests therein under the laws of all jurisdictions.

"Teacher License" means an alphanumeric code used to access this web-hosted Service through this Website that is issued and owned by the Company. Each Teacher License is provided to the purchaser of the Company's products or services and grants permission to enter this Website and use this Service as limited for a specified time and purpose and for specified authorized users detailed in the documentation from the Company accompanying the purchase.

"Service" means the web-hosted Software you are accessing that is owned or licensed by the Company pertaining to one or more of the educational programs offered by the Company including but not limited to student and teacher editions of textbooks.

"Software" means the Company's computer software programs that operate the programs offered through the Service, which includes any modified, updated, or enhanced versions of

the Software that Company may provide to Licensee pursuant to this Agreement, including Third Party Software.

“Third Party Software” means software that is proprietary to a third party that is used or incorporated to access or use the Service.

“Users” means someone who accesses the Service through this License using a valid Company issued Teacher License in accordance with the permission granted by the Company when the Teacher License was provided by the Company.

“Website” means the website located at popplus.stenhouse.com and any web pages included therein.

2. **Acceptance.** Licensee’s access of the Service through the Website, indicates Licensee’s acceptance of, and agreement to, the terms of this Agreement. Access to and use of the Service through the Website is restricted by a Teacher License and no one is permitted to bypass or manipulate the Website to avoid use of a Teacher License. The Teacher License should only be used by a User authorized in accordance with the purchase documentation from the Company. Any other access or use of the Teacher License is prohibited. Use of the Service is not permitted without any required payment in accordance with the purchase documentation.

3. **License Grant.** Subject to the terms hereof, Company grants to Licensee, and Licensee accepts from Company, a non-exclusive, non-assignable, and nontransferable license to access through the Website and use the Service and the Content in the manner and for the purposes permitted and only for the specified time periods. Licensee shall not: (i) grant sublicenses hereunder or otherwise assign, transfer, sell, resell, distribute, share, rent or exploit or make available to any third party the Service or the Content in any way; (ii) modify or create derivative works based upon the Service or the Content; (iii) make or print copies of the Service and related Content except those student or teacher items where the express permission to copy and use for educational purposes is provided directly in the Service or Content or in the documentation from the Company accompanying the purchase; (iv) create Internet “links” to, or “frame” or “mirror” any Content on any other server or wireless or Internet-based device; (v) translate, reverse engineer or assemble, decompile or disassemble the Service; (vi) build a competitive product or service or a product using similar ideas, features, functions, or graphics of the Service or the Content; or (vii) copy any ideas, features, functions or graphics of the Service or the Content.

4. **Term.** The term (“Term”) of this License is twelve (12) months and shall begin on July 1 and end on June 30 of the following year. Unless the License is terminated by a Licensee prior to June 30 of any year, the License shall renew automatically for another twelve (12) month Term.

5. **Title and Ownership.** Company retains all rights, title and interest in and to the Teacher License, the Service, the Software, and its underlying technology and all Content, and all copies or modifications thereof, including all Intellectual Property rights therein and this Agreement and the license granted herein do not transfer any right, title, or interest in the foregoing to

Licensee except for the license to use the Service as provided in this Agreement on the terms contained herein. Licensee is on notice that the Service, Software, and Content are protected by copyright law. Copyright notices and other proprietary rights notices contained in the Website and/or applications embodying the Service and the Content shall not be deleted or modified.

6. **Licensee's Responsibilities/Acknowledgement.** Licensee is responsible for all activity occurring through its and its Users use of the Service, including safeguarding Teacher Licenses, usernames and passwords as well as access to computer systems involved. To the extent applicable, Licensee shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with use of the Service, including those related to data privacy and transmission of personal data. Licensee shall report to Company immediately and use reasonable efforts to stop immediately any unauthorized copying and distribution of the Software or Content. Licensee is solely responsible and liable for its Users and their activities in accessing the Service, protecting the Teacher Licenses, establishing and protecting passwords, and will bear all risk of loss from unauthorized use of the Service or failure to protect personal confidential information.

7. **DISCLAIMER OF WARRANTIES.** EXCEPT AS EXPRESSLY STATED HEREIN, THE SERVICE, THE SOFTWARE AND THE CONTENT ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND. COMPANY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE SERVICE, THE SOFTWARE, THE THIRD PARTY SOFTWARE, THE DOCUMENTATION, OR ANY OTHER HARDWARE OR SOFTWARE SYSTEMS REQUIRED FOR THE OPERATION OF THE SERVICE, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. LICENSEE ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES WITH RESPECT TO THE SERVICE WHEN ENTERING INTO THIS AGREEMENT, AND THAT COMPANY SHALL NOT BE HELD RESPONSIBLE FOR ANY HARM TO THE LICENSEE'S COMPUTER OR DATA DUE TO THE USE OR ACCESS OF THE SERVICE.

8. **LIABILITY LIMITATION.** IN NO EVENT WILL COMPANY BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING ANY LOST DATA AND LOST PROFITS, ARISING FROM OR RELATING TO THIS AGREEMENT. COMPANY'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND THE SERVICE, THE SOFTWARE, (INCLUDING THE THIRD PARTY SOFTWARE) AND CONTENT WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF LICENSE FEES PAID TO COMPANY HEREUNDER. LICENSEE ACKNOWLEDGES THAT THE LICENSE FEES REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT COMPANY WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY.

9. **Governing Law and Compliance.** This Agreement shall be subject to, interpreted and construed in accordance with the laws of the State of Ohio without regard to its conflicts of law principles. Any controversy or claim arising out of or relating to this Agreement or any breach thereof shall be brought only in the Court of Common Pleas of Franklin County, Ohio, or in the

United States District Court for the Southern District of Ohio. Each party hereby submits to the personal jurisdiction of such court for such purpose and waives any objection to venue in such court. Licensee will comply with all applicable laws, including any applicable export and import control laws and regulations, in its use of the Licensed Software. Licensee will defend, indemnify and hold Company harmless from and against any violation of such laws or regulations by Licensee or any of its agents, officers, directors, or employees.

10. Entire Agreement and Severability. This Agreement and the documentation from the Company accompanying the purchase, constitute the final, complete and exclusive statement of the terms of the Agreement between the parties regarding the licensing of the Software to Licensee and use of the Service and Content and supersede all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This Agreement may be amended only by a written document signed by both parties. The terms on any purchase order or similar document submitted by Licensee to Company will have no effect. To the extent the terms of any Company expressions, communications, policies, website terms and conditions or privacy policies, or subsequent agreements or understandings conflict with the terms of this Agreement, the terms of this Agreement shall control. If any provision of this Agreement is held to be void, invalid, unenforceable or illegal, the other provisions shall continue in full force and effect.