

SMART Technologies ULC

Software End User Licence Agreement for

SMART Notebook™ Collaborative Learning Software 2013

and Related SMART Software

Last Revised: 23 September 2013

Please read all of this software end user licence agreement ("Licence") carefully before using the Software. This Licence contains provisions dealing with limitation of user rights and SMART liabilities that may apply to your use of the Software. By using the Software, you are agreeing to be bound by the Terms and Conditions of this Licence. If you do not agree to the terms of this Licence, do not use the Software.

This Licence is a legal agreement between the "End User" (either an individual or an entity) and SMART Technologies ULC and its affiliates and subsidiaries ("SMART") for Use of the Software. If End User is an entity (such as a Licensee Organisation) or you are accepting this Licence on behalf of other End Users, a) you acknowledge that you or the entity is responsible to make other End Users aware of and comply with the terms, conditions, limitations and requirements set out in this Licence, and b) you warrant that you have the authority to accept the terms of this Licence on such entity's or other End Users' behalf.

1. DEFINITIONS:

- 1.1 **"Actively Using"** or **"Actively Use"** means executing, accessing, employing, utilising, or displaying the Software, but not where the Software is merely loaded onto or stored within the device in question.
- 1.2 **"Classroom"** means the combination of a set number of Instructor Devices (such number of Instructor Devices as designated upon purchase of the Software product licence or associated Licensed Product) together with a reasonable number of Student Devices (as determined to be the likely number of students participating in such classroom based on the instructor to student ratio as established by SMART from time to time for the applicable Software product), unless agreed to otherwise by SMART and the Licensee Organisation.
- 1.3 **"Computing Device"** means that such device (whether a personal computer, other computing, display device, or other permitted device) be either owned or controlled by Licensee Organisation within the designated School, or personally owned by Licensee Organisation's employees, consultants, students or interested members, in each case associated with that School, provided that the Software is used for the primary purpose of activities related to the Licensee Organisation and limited to for the length of time that such individuals continue to act on behalf of, or are students of, Licensee Organisation. Computing Device may include Student Devices or Instructor Devices as applicable.
- 1.4 **"Documentation"** means SMART Technologies ULC's (SMART) proprietary manuals and instruction documents for the Software, whether in paper or electronic form.
- 1.5 **"End User"** (or alternatively referred to as "you") means the Licensee Organisation and, where applicable, any employees (including, without limitation, teachers and instructors), consultants, students and other interested members within the Site who Use the Software.
- 1.6 **"Excluded Items"** has the meaning described in section 2.2(o).

- 1.7 **“Instructor Devices”** means the specified number of Computing Devices that have been licensed for use primarily by teaching staff (meaning either the number of instructor use licences that have been purchased by the Licensee Organisation).
- 1.8 **“Interactive Display Device”** means a whiteboard, screen digitising device, slate, display screen, monitor or projector that has or projects onto a diagonal screen size of greater than 46cm (18”) and that allows the user to interact, manipulate, or modify data using means other than the standard keyboard or mouse, and includes, without limitation, touch-enabled or pen-enabled devices.
- 1.9 **“Licensed Product”** means each applicable SMART product that includes in its price, or is dispatched with, the applicable Software application, however, in the case of SMART Notebook software, the following Licensed Products grant the following associated licence:
- (a) SMART Board® interactive whiteboard grants a SMART Notebook Software Licence
 - (b) SMART Podium™ interactive pen display grants a SMART Notebook Software Licence
 - (c) SMART interactive display grants a SMART Notebook Software Licence
 - (d) SMART Response™ interactive response system grants a SMART Notebook Software Licence (for each Response hardware class pack acquired)
 - (e) SMART Document Camera™ document camera grants the associated number of SMART Notebook Software Licence
 - (f) SMART Slate™ wireless slate grants a SMART Notebook Software Licence
 - (g) SMART Table® interactive learning centre grants the associated number of SMART Notebook Software Licences as are stated in that end user licence agreement
 - (h) SMART LightRaise™ interactive projector grants a SMART Notebook Software Licence
 - (i) such other SMART product introduced by SMART from time-to-time and identified by SMART as a Licensed Product for such licence type.
- 1.10 **“Licensee Organisation”** means the entity (or individual if individually acquired) that acquired the Licensed Product and this associated Licence on its own behalf, for the designated Site, and, where applicable, on behalf of its End Users.
- 1.11 **“Maintenance”** means access to commercially released upgrades (meaning new versions and point releases of the Software which contain enhancements improving the functionality or capabilities of the Software), and bug fixes, service packs and updates (meaning Software for which SMART has provided fixes or minor revisions to correct errors or defects in the existing operation of the Software in accordance with the published specifications), for the specific licence of Software associated with or offered together with the Maintenance programme, in all cases limited to that which SMART makes generally available to its subscribed Maintenance customers at no additional charge. Maintenance specifically excludes services in connection with computer viruses or conflicts involving software that is not installed or introduced by SMART. Maintenance further excludes Excluded Items or other add-ons, plug-ins, customisations, new applications, modules or other software that is not generally and regularly made available to users of the Software for no additional fee, but rather is separately made available by SMART or third parties. For clarity, certain Software bug fixes, service packs and updates may be provided by SMART to End Users who do not have a Maintenance programme in place.
- 1.12 **“Room”** means each room within a Site that is used for class instruction, which includes for example, standard instructional classrooms, rooms that do not contain any Interactive Display Devices, and student

laboratories, but which exclude rooms used primarily for administrative purposes, principal or similar offices, as well as home or other locations in which remote use by teachers of that Site occurs.

- 1.13 **"School"** means a single physical location under the jurisdiction or control of the Licensee Organisation, for example a school, campus, or constellation of buildings or structures within the same legal property description.
- 1.14 **"Site"** means the locations for which the licence is intended and in which the Rooms will be counted for the purpose of site licensing, and for clarity, may include a School, multiple Schools under one school authority, or multiple Schools within more than one authority, provided that all are listed in the Licensee Organisation's purchase order or other sales order request for the Licence, and which may also include remote use by teachers of that Site (allowing them to work from home or other remote location for class preparation purposes).
- 1.15 **"SMART Notebook Software Licence"** means a licence for Use of SMART Notebook software subject to the licence terms set out in section 2.2 (a) (i) below.
- 1.16 **"SMART Response interactive response system"** means the SMART Response software, web application and/or the response submission devices used by the students (for example, SMART Response hand-held clickers or remotes or software used by Student Devices to submit responses) as applicable.
- 1.17 **"Software"** means each, and collectively all, of the following proprietary SMART supplied software, drivers and firmware (including drivers and firmware embedded in the associated Licensed Product, if applicable) as applicable based on the Licences acquired: SMART Notebook™ software (excluding the Excluded Items), SMART Notebook™ Student Edition software, SMART Response™ interactive response software (any mode and the associated web application where applicable), SMART Notebook Maths Tools™ software, SMART Sync™ classroom management software, SMART Document Camera™ Mixed Reality Tools, SMART Notebook™ 3D Tools software, and SMART Classroom Suite™ interactive learning software, and the respective related firmware, drivers, tools and utilities, each consisting of computer program(s) in object code form (including any and all upgrades, releases, databases and enhancements, subject to Section 5 below) delivered to End User and any copies thereof pursuant to this Licence. Software shall also include any third-party software and the Documentation delivered to End User by SMART. Software may be contained or installed on Licensed Products, downloaded from SMART's website or SMART supplied CD or installed on a SMART supplied USB.
- 1.18 **"Student Devices"** means the specified number of Computing Devices that have been licensed or allocated within the School for use primarily by students (i.e. the number of student use licences that have been purchased by the Licensee Organisation or that have been allocated to the Licensee Organisation for that School based on the Classroom student to instructor ratio).
- 1.19 **"Use"** or **"Used"** means to directly or indirectly install, load, execute, access, employ, utilise, store, or display the Software.

2. LICENCE GRANT:

- 2.1 **General.** This Licence is a legal agreement between End User (whether an individual or the Licensee Organisation) and SMART Technologies ULC for Use of the Software. In the event that a Licensee Organisation systems or technical administrator, or other representative, is accepting these terms on behalf of all intended Licensee Organisation's End Users, it is the responsibility of that Licensee Organisation to ensure that the terms of this Licence are understood and complied with by each End User. The Software is protected by copyright laws and international copyright treaties as well as other intellectual property laws and treaties. The rights granted in this Licence are limited to SMART's and its licensors' intellectual property rights in the Software and do not include any Other patents or intellectual property rights. The Software is licenced (or sub-licensed pursuant to SMART's re-distribution rights), not

sold and is subject to the terms and restrictions of this Licence. In the event that the Software is delivered by SMART to End User on a CD, DVD, USB or other form of physical media, Licensee Organisation, or (where applicable) End User, owns the media on which the Software is recorded, but SMART and/or SMART's licensor(s) retain ownership of the Software itself. The terms of this Licence will govern any software upgrades, updates or revisions provided by SMART (including through a Maintenance programme) that replace and/or supplement the original Software, unless such upgrade is accompanied by a separate licence in which case the terms of that licence will govern.

2.2 **Grant of Licence.** Any rights not granted by this Licence are reserved. For each Software application licensed and fully paid for by the Licensee Organisation, SMART grants and End User accepts a non-exclusive, non-transferable, non-sub-licensable licence to Use the Software subject to the following terms, conditions and limitations:

(a) For **SMART Notebook Software**:

Dependent on the type of licence, End User is granted:

(i) **For SMART Notebook Software Licence:** For each one (1) licence obtained, the End User is granted a SMART Notebook Software Licence for Use related to a designated Room, which licence grant entitles the End User to Use the Software on:

- A. up to four (4) Computing Devices, and
- B. any number and any type of Interactive Display Devices and any number and any type of non-Interactive Display Devices connected (including wirelessly) to the Computing Devices referred to in (A), provided that all such devices are located in the designated Room and further provided that all such devices are owned or controlled by Licensee Organisation.

End Users who are teachers may further use the Computing Device at home (or in other locations outside of the School,) provided that such use is for class preparation purposes, provided that the activation limit of four (4) computing Devices is not exceeded.

In all cases, Licensee Organisation must have purchased at least the same number of SMART Notebook Software Licences as the number of Interactive Display Devices on which the Licensee Organisation Uses such Software. Beyond the four (4) permitted activations, End User may not Actively Use the Software with any other Computing Devices (even if connected to the same Interactive Display Device) unless additional licence rights to the Software have been acquired. . End User may obtain this licence either through separate purchase, or through the purchase of the applicable Licensed Products. In either case, subsection (ii) applies.

(ii) **SMART Notebook Advantage Maintenance:** For each permitted activation of SMART Notebook Software Licence:

- A. one year of Maintenance is included as part of the Software package licence fee. With the exception of purchases through certain resellers, this one-year period is calculated commencing on the date of purchase of the Software. For certain resellers, the term of Maintenance is calculated differently and it is the responsibility of the reseller to advise Licensee Organisation of such different calculation, and
- B. ongoing Maintenance beyond the initial one-year term may be separately purchased and shall be subject to the terms of any applicable Maintenance agreement provided by SMART. In the event that an extension to the

Maintenance term is not obtained prior to the expiry of the Maintenance term then in effect, End User must bring Maintenance fees in arrears up to date to qualify for ongoing Maintenance or may purchase an upgrade for the applicable licence (with the associated Maintenance fee, if applicable).

(b) **For SMART Notebook Site Licences:**

- (i) **SMART Notebook Site Licence:** For each SMART Notebook Site Licence obtained, the Software may be installed on any Computing Device within the Site (which Computing Devices may also be connected, including wirelessly, to any number and type of Interactive Display Devices and any number and type of non-Interactive Display Devices, provided that all such devices are located within the Site and owned or controlled by Licensee Organisation). In order to qualify for this Licence, Licensee Organisation must obtain the licence based on the number of Rooms within the Site. One year of Maintenance for all installations of the Software within the Site is included with the purchase of this licence. In the event that the number of Rooms within the Site increases (as calculated on the anniversary of obtaining the SMART Notebook Site licence, Licensee Organisation must purchase the additional licences (based on the differential in licensing fees) for such number of Rooms in order to use the Software in such additional Rooms and to continue to qualify for the SMART Notebook Advantage Maintenance Site Licence.
- (ii) **SMART Notebook Advantage Site Licence (Maintenance Programme):** This Maintenance licence may be obtained by: 1) Licensee Organisations that have obtained a SMART Notebook Software Site licence, or 2) any Licensee Organisations that have licensed a SMART Notebook Software Licence for every Room within that Site. The SMART Notebook Advantage Site Licence provides ongoing Maintenance for all installations of SMART Notebook Software within the Site beyond the initial one year term included in the SMART Notebook Software Site licence or respective SMART Notebook software licences. This Maintenance licence shall be subject to the terms of any applicable Maintenance agreement provided by SMART. In the event that an extension to the Maintenance term is not obtained prior to the expiry of the Maintenance term then in effect, End User must bring Maintenance fees in arrears up to date to qualify for ongoing Maintenance or may purchase an upgrade for the applicable licence (with the associated Maintenance fee, if applicable).

(c) **For SMART Notebook Student Edition Software:**

Based on the specified number of licences obtained, End User may Use the Software:

- (i) on one Computing Device per licence provided always it is not the primary device attached or connected (including wirelessly) to an Interactive Display Device Actively Using the Software without the associated SMART Notebook Software Licence for such Software Use; and
- (ii) in the event that SMART Notebook Student Edition Software is installed on a SMART USB, End User may Use the Software on any Computing Device, provided always that the Computing Device is not attached or connected (including wirelessly) to an Interactive Display Device Actively Using the Software without the associated licence for such Software Use.

(d) **For SMART Response Software:**

Provided that Licensee Organisation owns a SMART Response interactive response system (including the related hand-held devices), End User may Use the Software (which includes the

PE, LE and XE modes of the Software, as well as mixed mode allowing combinations of these modes) on Computing Devices. Per each SMART Response hardware class pack (comprised of 24/32 clickers), End User may Use this Software on one Computing Device connected (including wirelessly) to Interactive Display Device(s). Additional Computing Devices may be licensed to Use the Software with Interactive Display Devices only through obtaining additional valid SMART Notebook **Software** Licences. Such Use shall be subject to all licence terms set out in Section 2.2 (a) (i) above. Data collected Using the Software shall be subject to the terms of Section 2.3(l) below.

(e) **For SMART Response CE Interactive Response Software:**

Based on the number of Instructor Devices licensed and the associated Student Devices allocated for that Classroom, the End Users may use the SMART Response software CE mode on a number of Student Devices permitted based on the Classroom allocation. End Users may also Use SMART Notebook Student Edition on such number of Student Devices licensed. To Actively Use the Software on any Instructor Device connected to an Interactive Display Device, End User must have or obtain a valid SMART Notebook **Software** Licence for Use on the Computing Device connected (including wirelessly) to such Interactive Display Device. Such Use shall be subject to all licence terms set out in Section 2.2 (a) (i) above. Use of the Software on Student Devices whilst connected to an Interactive Display Device shall be governed by the terms set out in Section 2.2(c) (i) above. Data collected Using the Software shall be subject to the terms of Section 2.3(l) below.

(f) **For SMART Response VE Interactive Response Software – Subscription-Based Licence:**

For the duration of the valid subscription period:

- (i) Based on the number of Instructor Devices licensed, the End User may use the SMART Response software VE mode on the applicable number of Instructor Devices, provided that in order to Use of the Software on any Interactive Display Device, End User must have or obtain a valid SMART Notebook Software Licence on such Instructor Device. Such Use shall be subject to all licence terms set out in Section 2.2 (a) (i) above, and
- (ii) End Users can access the SMART Response VE Interactive Response System web application on a reasonable number of Computing Devices as are associated with the Instructor Devices (referred to in section 2.2(f)(i) above) by way of an assessment ID provided by the Instructor Device and a student ID provided from the Licensee Organisation.
- (iii) In addition to the terms of this Licence for SMART Response Software, Use of SMART Response VE mode of the Software shall be subject to additional terms of use set out in the applicable SMART online terms of use page. End Users accessing the SMART Response VE Interactive Response System web application must have internet connectivity and a web browser to access the application. Upon expiry of the subscription period, End User shall cease to have access to the SMART Response VE Interactive Response System web application.
- (iv) For the duration of the valid subscription period, End User shall be entitled to access and Use the most current version of this web application. For the duration of the valid subscription period, the Instructor Devices licences for SMART Response VE software shall be entitled to Maintenance for the Software. Data collected Using the Software shall be subject to the terms of Section 2.3(l) below.

(g) For **SMART Response VE Local Interactive Response Software:**

- (i) End User may use the SMART Response software VE Local mode under the same licensing model set out in 2.2 (f) (i) and (ii) above.
- (ii) In addition to the terms of this Licence for SMART Response Software, Use of SMART Response VE Local mode of the Software shall be subject to additional terms of use displayed in the login page of the SMART Response VE Local webpage. It shall be the sole responsibility of the Licensee Organisation to advise the Users of any Licensee Organisation terms of use or expectations around acceptable use.
- (iii) Data collected Using the Software shall be subject to the terms of Section 2.3(l) below. Licensee Organisation acknowledges that SMART shall not receive or be responsible to maintain records of any such Data.
- (iv) One year of Maintenance is included as part of the Software licence fee. The year is calculated commencing on the date of purchase of the Software. Ongoing Maintenance beyond the initial one-year term may be separately purchased and shall be subject to the terms of any applicable Maintenance agreement provided by SMART. In the event that an extension to the Maintenance term is not obtained prior to the expiry of the Maintenance term then in effect, End User must bring Maintenance fees in arrears up to date to qualify for ongoing Maintenance or may purchase an upgrade for the applicable licence (with the associated Maintenance fee, if applicable).
- (v) Licensee Organisation shall be responsible for hosting the server, and related uptime, maintenance and accessibility for the SMART Response VE Local mode server, domain name, and related site.
- (vi) End Users accessing the SMART Response VE Local mode Interactive Response System web application must have intranet connectivity and a web browser to access the application.

(h) For **SMART Notebook Maths Tools Software:**

Based on the specified number of Computing Devices licensed, each licence allows the End User to Use the Software on a single Computing Device. End User must accept the terms of this Licence for each install of the Software on any separate Computing Device. In order for the Software to function properly, End User must have a compatible version of SMART Notebook software for Use on such Computing Device, which Use shall be subject to all licence terms set out in Section 2.2 (a) above.

(i) For **SMART Sync Classroom Management Software:**

Based on the number of Instructor Devices and the associated Student Devices licensed for the applicable Classroom, End Users may Use:

- (1) the teacher install version of the Software on such number of Computing Devices intended for instructors consistent with the number of Instructor Devices licensed, and
- (2) the student install version of the Software on such number of Computing Devices intended for students consistent with the number of Student Devices licensed for that Classroom.

(j) **For SMART Document Camera Mixed Reality Tools:**

For each SMART Document Camera obtained by the Licensee Organisation, End User may install and Use the Software such Computing Devices as are required whilst the Software is in Use on the associated Licensed Product. In order for the Software to function properly, End User must have a valid licence of a compatible version of SMART Notebook software for Use on each such Computing Device, which Use shall be subject to all licence terms set out in Section 2.2 (a) above. For each Licensed Product, one SMART Notebook Software Licence is provided for use on such Computing Device. Such Use shall be subject to all licence terms set out in Section 2.2 (a) (i) above. Each installation of SMART Document Camera Mixed Reality Tools includes SMART Notebook 3D Tools software.

(k) **For SMART Notebook 3D Tools Software:**

For this Software licensed independent of SMART Document Camera Mixed Reality Tools, based on the specified number of Computing Devices licensed, each licence allows the End User to Use the Software on a single Computing Device. In order for the Software to function properly, End User must have a compatible version of SMART Notebook software (version 10.8 or higher) for Use on such Computing Device, which Use shall be subject to all licence terms set out in Section 2.2 (a) above.

(l) **For SMART Classroom Suite Interactive Learning Software:**

Based on the number of Instructor Devices licensed and the associated Student Devices allocated per Classroom, the following licences are granted:

(i) **SMART Notebook Software - SMART Classroom Suite Installation:**

End Users are granted one (1) SMART Notebook Software Licence per Instructor Device licensed. Such Use shall be subject to all licence terms set out in Section 2.2 (a) (i).

(ii) **SMART Notebook Student Edition Software – SMART Classroom Suite Installation:**

Based on the number of associated Student Devices per Classroom, End Users may Use the Software on such number of Student Devices, and in the manner as set out above in Section 2.2(c).

(iii) **SMART Response CE Interactive Response Software - SMART Classroom Suite Installation:**

Based on the number of Instructor Devices licensed, End Users may Use the Software (in CE mode) on such number of Instructor Devices. SMART Notebook Student Edition Software is licensed (pursuant to Section 2.2(c) above) to the associated number of Student Devices.

(iv) **SMART Sync Software - SMART Classroom Suite Installation:**

Based on the number of Instructor Devices and the associated Student Devices licensed for the applicable Classroom, End Users may Use:

- i) the teacher install version of the Software on such number of Computing Devices intended for instructors consistent with the number of Instructor Devices licensed, and

- ii) the student install version of the Software on such number of Computing Devices intended for students consistent with the number of Student Devices licensed for that Classroom.
- (m) **Trial Versions.** In connection with the foregoing licence grants, End User may Use a copy of the trial version of the applicable Software (1) for the amount of time specified in the copy of such Software, or on the download website for such Software, and if no such date is specified, the earlier of: (a) thirty (30) days from the date of End User's acceptance of this Licence or (b) End User's Use of the Software; and (2) according to the licence grants above in Section 2.2 (a) through (l) inclusive during such trial period, including the limitations regarding Use on Licensed Products only. To the extent the End User does not have the associated Licensed Product(s), the trial version grant of the Software is limited to such portions of the Software that do not require the associated Licensed Product to make such Software fully functional. Trial versions are provided solely to enable End Users to try the Software in order to inform their own purchasing decisions. Under no circumstance without SMART's express written consent shall an End User be entitled to Use the Software to publicly promote third party products or service, including the Use of the Software at demonstrations, trade shows or similar public forums. BY USE OF THE TRIAL VERSION OF THE SOFTWARE END USER ACKNOWLEDGES AND AGREES THAT AFTER THE AMOUNT OF TIME SPECIFIED IN THE SOFTWARE OR IN THE MATERIALS ACCOMPANYING THE SOFTWARE, THE TRIAL LICENCE SHALL TERMINATE AND THE SOFTWARE MAY AUTOMATICALLY DISABLE USER FROM CONTINUED ACCESS AND/OR USE OF SUCH TRIAL SOFTWARE AND ANY DATA OR CONTENT END USER MAY HAVE ENTERED INTO SUCH SOFTWARE UNLESS END USER THEN PURCHASES A LICENCE TO THE APPROPRIATE FULL VERSION OF SUCH SOFTWARE. All other terms of this Licence apply to the Trial Use of the Software, including, without limitation, the restrictions set out in Section 2.3 below. At the end of the trial period, End User's Use of the Software shall be terminated. If End User elects to convert from the trial version of the Software to the full licensed version of the Software using the unlock licence purchase process within the Software (if applicable) or through some other licence purchase process, End User's use of the new unlocked version of the Software shall be in accordance with the corresponding terms and conditions of this Licence.
- (n) **SMART Drivers and Firmware.** End User is granted a licence to Use the drivers and firmware portion of the Software only on SMART supplied hardware, even if a broader licence right has been granted for other components of the Software in other subsections of this Section 2.2.
- (o) **SMART Gallery Collection and Add-ons.** End User's use of the SMART supplied images, pictures, multimedia, SMART Notebook files or pages, backgrounds or themes, or SMART or third-party supplied Notebook widgets (defined below), forming all or part of the SMART Gallery (each referred to as an "Item"), and use of the SMART or third-party supplied add-on items (defined below) are all subject to the following conditions:
 - (i) End User may access, copy, distribute, publish, printed, and otherwise use unmodified Items or add-on items subject to the condition that such use be either a) for personal use, or b) for internal circulation within the Licensee Organisation or otherwise (such as reposting to the SMART Exchange Website) provided such use is for educational purposes only;
 - (ii) End User does not remove, modify or obscure any trade-mark, copyright or other proprietary notices contained in or appearing on such Items or add-on items;
 - (iii) End User shall not modify, adapt, reverse engineer, or otherwise alter Items that are Notebook widgets, images or the SMART Lesson Activity toolkit template (including flash) code. Items that are SMART Notebook files, backgrounds, pages, themes, interactive files, or multimedia may be modified, subject to the other terms of this Licence, including

that End User retain and conspicuously reproduce source information and/or attribution to the original creator referred to in the Item;

- (iv) End User shall not modify, adapt, reverse engineer, or otherwise alter add-on items;
- (v) End User is permitted to use Item that is in a .widget, a .galleryitem or a .gallerycollection file format, or an add-on item that is in a .addon format, only with Software. Use for any other purpose is not permitted. End User may not use the Item or add-on item on third-party software, or include it in any product for sale or for a fee. End User may not import directly into any third-party software any .widget, .galleryitem or .gallerycollection Item, or any add-on item. This restriction may not be circumvented by altering the .widget, .galleryitem or .gallerycollection Items file format, or the .addon file format, or otherwise altering these Items or add-on items;
- (vi) Items may be incorporated into a .notebook file (meaning part of a lesson or more than just the .widget, .galleryitem or .gallerycollection Item); the .notebook file may be exported into another file format; and that other file format may be used on third-party software, provided that it is not included in a third-party product for sale or for a fee;
- (vii) End User are not permitted to use the Items or add-on items in whole or in part for resale or any commercial purpose, whether or not incorporated into another product or offering, and whether the original SMART Gallery Item, an add-on item, or a derivative of any such items or Items (End User may however commercialise items created using the Lesson Activity Toolkit); and
- (viii) End Users are not permitted to download the Items or add-on items in mass or bulk amounts, regardless of whether the intent is to use such content for commercial purposes; and are not to be (whether in original form or modified) offered, distributed, transmitted, or displayed, on or in a site, product, offering or service, including those competitive to SMART's offerings or otherwise.

In this subsection, "Notebook widgets" means interactive content created by SMART or third parties, which interact with the SMART Notebook object model through API's, and "add-on items" means items in .addon file format created by SMART or third parties that enable the provider of the .addon file to modify the SMART Notebook graphical user interface and/or add functionality, such as the "Activity Builder" add-on item. Third-party supplied Notebook widgets and add-on items are "Excluded Items". Licences to Items, add-on items and Excluded Items acquired through the SMART Exchange Website or related web stores shall be governed by the terms of those sites and not this Licence.

2.3 Other Licence Terms. The licence grant in section 2.2 is subject to the following additional licence terms:

- (a) **Copies.** End User may make one copy of the Software in machine-readable form for backup purposes only, provided that the backup copy includes all trade-marks, copyright or other proprietary notices contained on the original media. End User may copy the Documentation for internal purposes only. End User may not distribute copies of the Software or any component thereof, or make copies of the Software beyond what is described in this subsection or the applicable licence terms set out in Section 2.2;
- (b) **Preservation of Rights.** All rights not expressly granted are reserved by SMART;
- (c) **Use on Third-Party Interactive Display Devices.** Individuals may use SMART Notebook Express (located at: express.smarttech.com) or SMART Notebook for Web Beta (located at www.smartnotebook.com or other domains), each subject to the Terms of Use on their respective

sites, with any device, including a third-party Interactive Display Device. In the event that the End User wishes to Use the SMART Notebook, SMART Response, or SMART Notebook Student Edition Software with any third-party Interactive Display Device, End User must obtain a SMART Notebook Software Licence in accordance with the terms above.

- (d) **End User Modifications and Enhancements.** End User may not modify, enhance, adapt, vary the Software, or create derivative works based on the Software, or merge or separate the Software or any component thereof without SMART's prior written consent;
- (e) **Prohibition Against Reverse Engineering.** End User may not reverse engineer, reverse compile, translate, decompile, disassemble, modify, create derivative works or otherwise attempt to derive source code from (or the underlying ideas, algorithms, structure or organisation of) the Software or any component thereof, for any purpose, including for the purpose of discovering any aspect of the technology inherent therein. End User may undertake such activities provided that such activities are limited to the minimum extent required for the purpose of achieving interoperability of other independently developed computer programs and only to the minimum extent that such activity is expressly and strictly permitted by applicable law notwithstanding the foregoing limitation;
- (f) **Transfer.** Other than as expressly permitted in this Licence, End User may not rent, lease, lend or sublicense, distribute or supply the Software or any component thereof to any other party. This restriction extends to the product licence key that the End User receives or has been granted access to by SMART for Software installation or activation. This restriction also applies to posting of any portion of the Software on public websites;
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