

COAST COMMUNITY COLLEGE DISTRICT

CONSORTIUM MASTER COURSE LICENSE AGREEMENT

This Agreement is between Coast Community College District, a Public Educational Agency, ("DISTRICT") and _____ ("CONSORTIUM"), individually referred to as "PARTY" and collectively referred to as "PARTIES," and is effective as of the date of signature of this Master Course License Agreement ("AGREEMENT") by DISTRICT.

CONSORTIUM is a consortium of the educational institutions listed on Schedule "A," and is empowered by those members institutions to act on their behalf in entering into this AGREEMENT. CONSORTIUM hereby agrees that each of its members shall be bound by the terms of this AGREEMENT as if it were a signator hereto. CONSORTIUM will inform its members of the terms, conditions, and restrictions of this AGREEMENT and assure their compliance. CONSORTIUM shall provide DISTRICT, within thirty days of July 1 each year during the term of this AGREEMENT, with a then-current list of its member institutions, which list will be considered to be Schedule "A," replacing and superseding any previous list.

1. **Master Course License:** This AGREEMENT shall serve as the Master License between the PARTIES for grant of rights by DISTRICT for the use of various courses by CONSORTIUM. Each course so licensed shall be covered by a Supplemental Agreement as described in paragraph 2.

2. **Supplemental Agreements:** Included in this AGREEMENT and considered a part hereof is a Supplemental Agreement which describes the term, the specific rights granted, the payment and payment schedule, and any special restrictions and conditions of the license of each course covered by this Agreement. A Supplemental Agreement shall not be construed to grant rights not specifically licensed in this AGREEMENT, but may restrict such rights and impose special conditions limiting the exercise of those rights.

3. **Term of License:** The term of this AGREEMENT shall be for the period of five years, commencing on the Effective Date of Agreement specified below. Each Supplemental Agreement shall have its own term, but shall terminate on or before the termination date of the AGREEMENT.

4. **Rights Granted:** Subject to the conditions and limitations set forth herein, DISTRICT hereby grants to CONSORTIUM and CONSORTIUM hereby accepts a nonexclusive and nontransferable limited license to use the courses as specified in this section in connection with offering the courses as courses for college credit. This license shall include the following specific rights, subject to the conditions indicated, and each Supplemental Agreement shall indicate which of these specific rights shall be granted under each specific Supplemental Agreement.

(a) **Broadcast Rights:** The right to broadcast, without limit as to number of performances during the Term hereof, the video programs on open broadcast noncommercial television. "Noncommercial television" shall mean public television or non-sponsored, public service broadcast on a commercial television station. CONSORTIUM has sole responsibility for arranging

for broadcast dates and times, and for payment of all costs incurred in broadcast performances.

(b) **Cablecast Rights:** The right to cablecast, without limit as to number of performances during the Term hereof, the video programs on cable channels available to the public without added fee (nonpay channels). No commercial messages shall be cablecast in conjunction with the programs. CONSORTIUM has sole responsibility for arranging for cablecast dates and times, and for payment of costs incurred in cablecast performances.

(c) **Classroom Course Rights:** The right to perform the video programs, without limit as to number of performances during the Term hereof, by direct view or closed circuit system within classrooms for viewing by students enrolled in the course.

(d) **Library Rights:** The right to distribute copies of the video programs by depositing them in libraries, learning centers and media centers under the control of CONSORTIUM and in public libraries in the area served by CONSORTIUM and by loan to students officially enrolled by CONSORTIUM to take the course for college credit.

(e) **Duplication Rights:** The right to duplicate the course video programs on video cassettes if required to exercise the broadcast, cablecast and library rights granted above.

(f) **Optional Classroom Supplemental Rights:** Where specifically set forth in the Supplemental Agreement(s), the right to use course video programs as supplement to classroom instruction in appropriate educational programs of CONSORTIUM and to duplicate one copy of each program for such use, which copy may be retained and used for the life of the tape. For supplemental use, the video programs may be used individually or in any sequence, and portions of programs may be presented.

(g) **Promotional Rights:** The right to broadcast segments of a program or programs solely for the purpose of promoting the course.

5. **Restrictions on License Granted:**

(a) The video programs must be broadcast, cablecast, performed, and/or duplicated in their entirety, including all credits and copyright notices, and with good technical quality to maintain the integrity of the programs, except for promotional purposes as set forth in 4(g) above.

(b) The video programs may not be edited or modified in any way, except that a notice naming the institution(s) offering the course may be added to the beginning and end of each program.

(c) Copies of course video programs made under paragraph 4(e) of this AGREEMENT may be circulated for viewing only by students enrolled in the course.

(d) All master tapes provided under this Agreement and copies duplicated therefrom at the option of DISTRICT shall either be erased or vaulted upon the expiration of the Supplemental Agreement under which they were provided.

(e) The right to duplicate the course video program to make available to students enrolled in course offering as set forth in paragraph 4(e) is limited to organizations duplicating the courses in-house or using a vendor authorized by DISTRICT. The present exclusively approved distributor of DISTRICT courses is ACT Media Productions, Inc., 1365 North Winchester Street, Olathe, Kansas 66061, telephone 800/745-5480. Additional vendors MUST have written approval from Coast Learning Systems. Any duplication by organizations through outside, unapproved sources shall be a default in the performance of this AGREEMENT.

6. **Ownership:** CONSORTIUM's execution of this AGREEMENT does not entitle CONSORTIUM to any ownership rights to the video programs. CONSORTIUM shall in no manner infringe, disparage or challenge DISTRICT's rights in the video programs. CONSORTIUM shall promptly notify DISTRICT of any infringement of DISTRICT's rights in the video programs and at the request of DISTRICT take reasonable steps to assist DISTRICT in protecting its rights in the video programs. CONSORTIUM agrees to display DISTRICT's opening and closing credits and copyright statements each time any portion of the video programs is performed or exhibited.

7. **Provisions of Materials:**

(a) If CONSORTIUM is a first-time user of a course, DISTRICT shall provide, at no extra charge, one copy of the Faculty Manual for that course, and shall supply master tapes of all video programs of the course, in the size and format required by CONSORTIUM, at the Materials Charge indicated in the current price list of Coast courses, which charge shall be paid by CONSORTIUM as set forth in the Supplemental Agreement for that course.

(b) If CONSORTIUM has retained master tapes from a previous licensed use of a course, those tapes, as well as all copies previously authorized, may be used under the terms and conditions of this AGREEMENT.

(c) If, during the Term of any Supplemental Agreement, DISTRICT revises, withdraws, or replaces any of the individual video programs included herein, DISTRICT shall make available to CONSORTIUM master tapes of the revised or replacement programs, at the then current Materials Charge, and one copy of the revised faculty manual at no charge.

8. **Payment:** In compensation for the rights granted by DISTRICT, CONSORTIUM shall pay to DISTRICT the License Fees, Per Student Royalty, and any other Materials Charges or fees as specified in the Supplemental Agreement, in accordance with the Payment Schedule set forth in the Supplemental Agreement.

9. **Reports:** CONSORTIUM agrees to keep accurate records of the exercise of the rights granted under this AGREEMENT, and the Supplemental Agreements, and if requested by DISTRICT provide within 30 days of DISTRICT's request, the following:

(a) Enrollment: A report showing the total number of students enrolled in the course during the Term in which the course was offered.

(b) **Duplication:** A report showing the number of copies duplicated of each of the video programs under paragraph 4(e) of this AGREEMENT, the name and address of all entities making duplicates if not done at the consortium members' campus, and an inventory of the video copies being held by Consortium as of the reporting date.

(c) **Erasure:** An affidavit of erasure assuring DISTRICT that every copy of the video programs subject to any Supplemental Agreement and under CONSORTIUM's possession of control, directly or indirectly, except those being vaulted, has been completely erased by CONSORTIUM.

10. **Termination:** If CONSORTIUM defaults in the performance of any of the terms of conditions of this License Agreement, it shall have 30 days after service of notice of such default in which to cure the default. In the event CONSORTIUM fails to cure the default within such period of time, DISTRICT may at its option terminate this AGREEMENT upon written notice to CONSORTIUM of such termination. In the event of such termination, CONSORTIUM shall immediately erase or destroy all master tapes, and all copies thereof provided or duplicated under this AGREEMENT and all Supplemental Agreements hereto, and shall certify such erasure to DISTRICT.

11. **Supplement Agreement Incorporated Herein:** All Supplement Agreements executed by the parties are incorporated herein by this reference.

12. **Entire Agreement and Modification:** This AGREEMENT and its Supplemental Agreements contain the entire agreement and understanding of the Parties. No representations, covenants, warranties, understandings, agreements, or conditions, express or implied, not expressly contained herein have been made by either Party. No waiver or modification of this AGREEMENT shall be valid unless in writing signed by the Parties.

13. **Special Conditions:** Special conditions, if any, shall be set forth in each Supplemental Agreement. Where such special conditions conflict with the terms set forth in this AGREEMENT, the terms of this AGREEMENT shall control.

14. **Authority to Sign:** CONSORTIUM represents and warrants that he or she has the right, legal capacity, and authority to enter into this AGREEMENT, that CONSORTIUM has the right, power, legal capacity, and authority to perform its obligations under this AGREEMENT, and that no further approval or consent is necessary for CONSORTIUM to enter into and perform such obligations.

15. **Release, Hold Harmless, and Indemnity:** CONSORTIUM hereby accepts each of the various courses licensed by DISTRICT in their present form and condition ("as-is") and hereby releases and discharges DISTRICT and each of its trustees, agents, and employees from any and all liability arising out of or in connection with CONSORTIUM's use of any of the courses licensed by it. CONSORTIUM, to the fullest extent permitted by law, shall defend, indemnify, and hold DISTRICT and its respective trustees, agents, and employees free and harmless from and against all claims, liabilities, loss, and expense, including reasonable attorneys' fees and court costs which may arise because of the negligence, misconduct, or other fault of CONSORTIUM or in any way

resulting from CONSORTIUM's performance of its obligations under this AGREEMENT or CONSORTIUM's use of the courses.

16. **Notice:** Any notice or communication required or permitted to be given hereunder shall be in writing and served personally, delivered by courier or sent by United States certified mail, postage prepaid with return receipt requested, addressed to the other Party as follows:

To DISTRICT: Coast Community College District
1370 Adams Avenue
Costa Mesa, CA 92626
Attn: Vice Chancellor Administrative Services

With a copy to: Coast Learning Systems
Coastline Community College
11460 Warner Avenue
Fountain Valley, CA 92708-2597
Attn: Director of Telecourse Marketing

To CONSORTIUM: _____

With a copy to:

and to such other persons or places as either of the parties may hereafter designate in writing. All such notices personally served delivered by courier shall be effective when received. All notices sent by certified mail shall be effective forty-eight hours after deposit in the mail.

17. **Meet and Confer Requirement:** In the event of any dispute, claim, question, or disagreement arising out of or relating to this Agreement prior to initiating legal action, and as a condition precedent to being entitled to file such legal action, the parties hereto shall use their best good faith efforts to settle such disputes, claims, questions, or disagreement. To this effect they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

18. **Effective Date of Agreement:** This AGREEMENT, and each Supplemental Agreement, shall be effective upon the date of its execution by the DISTRICT.

IN WITNESS WHEREOF, the Parties have executed this AGREEMENT on the day and year specified below.

COAST COMMUNITY COLLEGE DISTRICT

CONSORTIUM MEMBER

President, Board of Trustees

Name _____

Date: _____

Date: _____