

**2007 GEORGIA LEARNING RESOURCES
RECOMMENDATION AGREEMENT**

K-12 Science

**Georgia Department of Education
1754 Twin Towers East
205 Jesse Hill Jr. Drive, SE
Atlanta, Georgia 30334-5040
(404) 656-2608 Fax (404) 656-5744**

This document is intended to serve as an Agreement between:

Publisher name: _____
Publisher address: _____

hereinafter known as the "Publisher," and the State Board of Education of the State of Georgia, hereinafter known as "State Board", only upon an affirmative act of approval by the State Board of specific materials submitted by the Publisher. The State Board's approval is indicated by the signature by the State Board's designee on this Agreement indicating such approval of the Publisher's Textbook/Instructional Materials (hereinafter also referred to as "Learning Resources").

The State Board is authorized by Georgia law as prescribed in Official Code of Georgia Annotated § 20-2-168(b), and § 20-2-1010 through § 20-2-1014, to recommend textbooks for use in Georgia schools.

The purpose of this agreement is to establish the conditions that must be met for the listing of Learning Resources/Learning Resource Materials on the state recommendation list and the price, terms and conditions for the furnishing of Learning Resource Materials to the local boards of education, the State Board, or any employees or agents. It does not create an obligation against the State Board in whole or in part. If a submitted Learning Resource Material does not meet all provisions outlined in this Agreement, the State Board in its discretion need not consider the Learning Resource Material for recommendation.

If the Publisher is an approved publisher, the electronic file created by the submission of the *Official 2007 Learning Resources Submission Form (Form 0221)* and the signed copy of this document by the Publisher and the State Board shall constitute the entire agreement between the State Board and the Publisher.

The period for this agreement is April 1, 2008 through June 30, 2014.

I. LEARNING RESOURCES ELIGIBLE FOR RECOMMENDATION

To be eligible for recommendation consideration, all of the Publisher's Learning Resources submitted in Attachment II (Form 0221) must meet the following conditions:

A. Definition of Learning Resource Material: The Learning Resources must meet the definition contained in State Board Rule 160-4-4-.10 (1)(f).

B. State-Funded Courses: The Learning Resources must be designed for a state-funded Grades K-12 Science course, in accordance with State Board Rule 160-4-2-.03. A list of these courses is included in Attachment I, attached hereto and incorporated herein.

C. Georgia Performance Standards/Quality Core Curriculum: The Learning Resources must be correlated to the Georgia Performance Standards or Georgia's Quality Core Curriculum (QCC).

D. Copyright Date: All Learning Resources must be current and have a copyright date of 2004 or later unless the subject matter has not become outdated. If the State Learning Resources Advisory Committee determines that the content is current and accurate, it may recommend at its sole discretion a Learning Resource Material that has a copyright date earlier than 2004. The Publisher represents and warrants that it owns or has rights to the copyright of all Learning Resources Materials listed in Attachment II (Form 0221).

E. Manufacturing Standards for Non-consumable Books: Any non-consumable pupil book submitted as a textbook or as part of a textbook must meet the specific criteria identified in *The Minimum Manufacturing Standards and Specifications for Textbooks* ("Standards") as developed by the National Association of State Textbook Administrators ("NASTA"), in consultation with the Association of American Publishers and the Book Manufacturers' Institute. The NASTA Standards shall be Georgia's official

minimum standards and specifications for non-consumable pupil books. The State Learning Resources Advisory Committee may consider for recommendation textbooks that do not meet the NASTA Standards if there are limited materials of quality submitted for a specific state-funded course. NASTA Standards may be obtained from: Book Manufacturers' Institute, 65 William Street, Suite 300, Wellesley, MA 02481, (781) 239-0103.

II. RECOMMENDATION PROCESS TERMS

To submit Learning Resource Materials for recommendation consideration, the Publisher must agree to the following:

A. Deadlines for 2007 State Recommendation: The Publisher must meet the following deadlines:

July 13, 2007: The publisher **must** submit the data requested in the *Official 2007 Learning Resources Submission Form (Form 0221)*. **Publishers must contact the state textbook coordinator in order for changes to be made and posted to the Official 2007 Learning Resources Submission Form (Form 0221).**

July 13, 2007: The publisher must submit five signed and dated copies of the *2007 Georgia Learning Resources Recommendation Agreement*.

October 19, 2007: The Department will notify publishers of the State Board approval of the recommended list of learning resources for K-12 Science.

Failure to meet any deadline may result in the exclusion of the Publisher from the current recommendation process or in a non-responsive recommendation from the State Learning Resources Advisory Committee to the State Board.

B. Forms to be Submitted: The Publisher must submit, in accordance with Section II.A above, the *Official 2007 Learning Resources Submission Form (Form 0221)* as follows:

1. *Official 2007 Learning Resources Submission Form (Form 0221)* The Publisher must use this form to identify the specific information about the learning resources to be submitted for recommendation. See Attachment II, attached hereto and incorporated herein by reference, for detailed instructions.

C. Interaction with State Learning Resources Advisory Committee: Publisher and Publisher's representatives shall not contact members of the State Learning Resources Advisory Committee for the purpose of promoting Learning Resources submitted for recommendation from the date that the Publisher notifies the Department of its intention to participate in a regular or an interim recommendation cycle until the State Board has acted on the committee's recommendations. No member of the State Learning Resources Advisory Committee shall receive any gift, reward, present or emolument from any author, publisher, producer or distributor of Learning Resources except for examination copies. Furthermore, no person, publishing house, or corporation may offer, directly or indirectly, to any member or appointee of the State Board (including the State Advisory Committee) any gift, compensation, or remuneration in accordance with O.C.G.A. § 20-2-10. The State Superintendent of Schools shall have the authority to dismiss any committee member who violates these provisions and to remove from consideration the materials of the Publisher. These provisions will be strictly enforced.

III. TERMS OF RECOMMENDATION

The Publisher must agree to the following terms if the State Board approves the Learning Resources:

A. Guarantee of Durability:

1. Non-consumable Print Learning Resources: Publishers must guarantee that any non-consumable student print learning resources submitted for recommendation will endure six years of normal use and must agree to replace immediately at no cost to the purchasing school system, including shipping charges, any such components of a learning resource that do not stand up to such use.
2. Electronic-based Learning Resources: Publishers must agree to replace immediately at no cost to the purchasing school system, including shipping charges, any electronic-based component of a learning resource that is physically defective or develops physical defects not caused by the user at any time during the period of recommendation.
3. Paperback books, spiral bound and other non-traditional bound materials:
Publisher will provide replacement copies of these materials according to the following schedule:
 - First year of purchase: Material not withstanding normal usage will be replaced at no charge with no shipping charges to the school district purchasing the materials.

- Second year of purchase: Material not withstanding normal usage will be replaced at 50% of the contract price with only 50% of the shipping charges to be paid by the school district purchasing the materials.
- Third year of purchase: Material not withstanding normal usage will be replaced at 75% of the contract price with only 75% of the shipping charges to be paid by the school district purchasing the materials.

B. Guarantee of Price: Publishers must provide the Learning Resources recommended at the prices stipulated on the *Official 2007 Learning Resources Submission Form (Form 0221)* for the period of the agreement to any local school system in Georgia. Shipping costs shall be as provided in paragraphs H and L of this Agreement.

The price for any Learning Resources Material listed on Form 0221 must not exceed the price offered by the Publisher to **any** other school or school authority for substantially the same Learning Resources Material during the same recommendation period. (O.C.G.A. § 20-2-1014). Noncompliance may result in the termination of the agreement and the elimination of the Publisher from Learning Resources recommendation cycles and restitution to local school systems of all overpayments.

If at any point during the agreement period the Publisher wishes to lower the price on recommended Learning Resources Materials, the Publisher must notify the Department of the revised prices by updating Form 0221. If the price is lowered during the first year of the recommendation (i.e., April 1, 2008 - March 31, 2009), the Publisher must agree to pay to any school system which has ordered and paid for Learning Resources during this period on which the price has been lowered the difference between the old and new prices.

Upon extension of the adoption cycle by the Department, the Department, in its sole discretion, may extend this agreement at the same prices, terms and conditions for a period of up to 365 days.

C. Provision of Teacher Editions: Publishers must agree to furnish each local system, free of charge, **one** teacher's edition for each teacher using classroom quantities of the recommended Learning Resources. *Teacher edition* is defined as "The material that provides the **primary** instruction for the teacher in the use of the Learning Resources." The teacher's edition **must** be listed as Category II in Form 0221 (*Official 2007 Learning Resources Submission Form*) with replacement cost information.

D. Provision of Ancillary/Supplementary Materials and/or Special Pricing: Publishers must identify all materials intended to be provided on a "free with order" basis on Form 0221 and must offer the publications listed on Form 0221 to each school district at the same rate as is listed on Form 0221. Publishers must provide at no cost to any school systems recommending a Learning Resources and purchasing classroom sets of the Learning Resources, the free ancillary/supplementary materials identified as Category III in Form 0221. Materials not listed as Category III cannot be given without cost to any school or school system in the state. The Publisher is responsible for updating Form 0221 as changes occur.

E. Electronic Format Version Required: In accordance with O.C.G.A. § 20-2-1015, publishers must provide an electronic format version of such Learning Resources. The electronic versions must be available on March 1, 2008, and throughout the entire term of the Agreement. All information about the electronic versions must be submitted in the *Official 2007 Learning Resources Submission Form (Form 0221)* by September 12, 2007. Instructions for submission are attached hereto and incorporated herein as Attachment III.

F. Provision of Files for Production of Materials for Students Who are Print Disabled: In accordance with the requirements of the Individuals with Disabilities Education Improvement Act of 2004 Section 612 (a) (23), Section 613 (a) (6), Section 674 (e) (3) and Title III Section 306 (amendment to the copyright act in 17 USC 121) publishers are required to prepare National Instructional Materials Accessibility Standard (NIMAS) compliant files for all printed Learning Resources and related printed core materials for K-12 classroom use in all content areas. These NIMAS files shall be used without penalty or royalty by authorized users to produce accessible, specialized formats (i.e. braille, audio, digital, large-print or other versions) of materials for students who are blind or who have other print disabilities.

By agreeing to provide the required NIMAS materials in this contract the publisher agrees to prepare and submit, on or before March 1, 2008 a NIMAS file set of the Learning Resources or related core material to the National Instructional Materials Access Center (NIMAC) that complies with the terms and procedures set forth by the NIMAC. No evaluation or advanced copies will be accepted by the NIMAC. Should the vendor be a distributor of the Learning Resources and not the publisher, the distributor agrees to immediately notify the publisher of its obligation to submit the NIMAS file set of the purchased products to NIMAC. Publishers who do not prepare and submit NIMAS files to the NIMAC in accordance with the recommendation process timeline may be removed from the State-Recommended List of Learning Resource Materials resulting in the termination of the agreement.

All acceptable Learning Resources revisions as defined in section J (1) of this agreement will be incorporated into the NIMAS file for the book and immediately submitted to the NIMAC.

G. Provision of Files for Production of Materials for Teachers with Disabilities: Upon request of the Department of Education, or its designee, the Georgia Instructional Materials Center (GIMC), publishers shall provide the GIMC with digital files of teacher

editions of adopted Learning Resource Materials in a mutually agreed upon format.

H. Warehousing of Recommended Learning Resource Materials and Teacher Editions: Publishers must warehouse all recommended items listed as Categories I and II in Form 0221 at a location in the state of Georgia, unless otherwise approved by the Department, for the term of this agreement and must notify the Department of their Georgia distributor on an annual basis by December 1 or immediately if a change in distributor occurs. Publishers that do not warehouse materials in Georgia must ship Learning Resource Materials free of shipping charges.

I. Delivery of Recommended Learning Resource Materials and Teacher Editions to Ordering School Systems: Publishers must maintain a sufficient inventory of recommended items listed as Categories I or II in Form 0221 in the state of Georgia to guarantee timely delivery during the agreement period. *Timely delivery* shall mean the receipt of the Learning Resources at the local school system delivery address within 15 business days of the receipt of the purchase order by the Publisher or the receipt of the Learning Resources at the local school system delivery address within 30 business days of the receipt of the purchase order by the Publisher for initial orders from school systems of newly recommended Learning Resources. The Publisher must communicate "delayed shipment" status with school systems ordering materials.

A written order will be executed by the local system superintendent for quantities of recommended items listed as Categories I and II in Form 0221 as needed and such items shall be shipped in a timely manner as described above by the method identified on the order form. Each local board of education shall have responsibility for payment of invoices for Learning Resource Materials purchased under these agreement terms.

J. Submission of Revisions: Publishers must request approval in writing to substitute a revised Learning Resource Material for a Learning Resource Material currently under recommendation. This condition applies to *any change* to the original edition including typographical corrections in the copy. The request must include the revised information, an itemized list of the changes in the revised edition, and one complete set of examination copies of the revised Learning Resource Material and teacher edition and the currently recommended Learning Resource Material and teacher edition. The conditions for substituting a revision of a previously recommended Learning Resource Material are as follows:

1. **The revised edition must be classroom compatible with the original edition.** The revised edition must be submitted within 45 days after the original edition is recommended by the State Board. *Classroom compatible* means that the revised edition can be used in the same classroom with the earlier edition without detriment to either the student using the revised edition or the teacher having students using both editions. The Department in its sole discretion shall determine if a Learning Resource Material is classroom compatible. Learning Resources that do not meet the requirements for classroom compatibility ***will not*** be considered suitable for substitution. If the revised edition is not classroom compatible, or is not submitted within the 45-day time period, the Department, in its sole discretion, may accept the edition as a substitute, subject to any conditions.
2. **The revised Learning Resource Material must be substituted at the same price as the currently recommended edition for the remainder of the recommendation period.**

K. Laws and Regulations: The Publisher agrees to adhere to all requirements of Georgia law and State Board rules pertaining to Learning Resources.

L. Shipping: Except as provided in Paragraph H, prices quoted are FOB destination, freight prepaid and charged back. Any freight charges will be added to the invoice as a separate item. Freight charges may not exceed the actual freight charges to vendor and shall never exceed 5% of total cost. The purchasing school system is not responsible for materials lost in shipping. There will be no "handling" charges.

AGREEMENT

By this signature I acknowledge that I have been notified of and agree to the terms and conditions contained in this *2007 Georgia Learning Resources Recommendation Agreement* and the three attachments. I understand that violation of these provisions by the Publisher or any of its agents or employees may result in the exclusion of the Publisher and/or its materials from consideration for inclusion in the *2007 Georgia Learning Resource Materials Guide*, the elimination of the Publisher from participation in Georgia state textbook recommendations and the termination of this agreement.

PUBLISHER

(Signature)

Date

Name: _____

Title: _____

Publisher: _____

ACCEPTED BY THE STATE BOARD OF EDUCATION ON _____

The following signature indicates acceptance on behalf of the State Board of Education of the specific materials as marked "Recommended" on Attachment II (Form 0221):

STATE BOARD OF EDUCATION OF THE STATE OF GEORGIA

(Signature)

Date

Scott Austensen
Deputy Superintendent for Finance and Business Operations
Federal EIN: 58-6002042
Georgia Department of Education

Contract No. 93_____