

Program Description:

ANet will provide:

1. RESOURCES

- a. Planning – Protocols and templates to facilitate planning, including the ANet Schedule of Assessed Standards
- b. Curriculum – Standards and Objectives Guides aligned to State Standards and Common Core Standards
- c. Lesson Planning – Plans and examples to facilitate re-teaching

2. PLATFORM

- a. Access for every teacher and administrator to online platform MyAchievementnetwork.org containing results from assessments, tools and network information

3. ASSESSMENT MATERIALS

- a. Quiz Tool access – Online re-assessment tool for teachers
- b. 4 regularly scheduled interim assessments in Mathematics for grades 2, 3, 4, 5, 6, 7, 8
- c. 4 regularly scheduled interim assessments in English for grades 2, 3, 4, 5, 6, 7, 8
- d. 4 regularly scheduled interim assessments in Science for grades 3, 4, 5, 6, 7, 8

4. ANALYSIS, LOGISTICS & REPORTING

- a. Electronic delivery for all assessments materials and answer sheets
- b. Printing of assessments as determined by school (additional fees apply)
- c. Pick-up at school for assessment answer sheets (one pick-up per assessment administration)
- d. Scanning and scoring for multiple choice portions of assessment answer sheets
- e. Reports containing analysis of assessment results (the “Reports”), which include: Student summaries by whole school, class, grade and student level, item analysis by grade and Network comparisons available through <https://my.achievementnetwork.org>

5. TRAINING & COACHING

- a. Logistics training for key personnel at school site
- b. Orientation to ANet for administrators and teachers (if new school)
- c. Student goal setting support
- d. School-specific coaching/training sessions (as agreed to between coach and school) aligned to the following elements of the data cycles:
 - i. Annual and Pre-Cycle Planning
 - ii. Data Meeting
 - iii. Reflection Meeting
- e. School leader Mid-and-End-of-Year Meetings

6. NETWORK EVENTS

- a. Network-specific events that may include: School Leadership Team Network Meetings, Data Showcase, Learning Walks, Professional Learning Communities, workshops, and others.

Member Data:

Member will provide the following information:

1. For the year prior to the Program Start Date, and all years during the Program:*a. To be provided when available:*

- i. State assessment outcomes (1) by student, including student demographic information and scale scores, and (2) by grade, including number of students at each proficiency band and total number of students tested.
- ii. Student outcomes when available, including (1) mobility rate, (2) retention rate (students “held back”), and (3) graduation or progression rate.

b. To be provided by the end of the applicable calendar year, or when available:

- i. School-level demographics, including (1) total enrollment, (2) percentage of students in each race/ethnic category, (3) percentage ELL/FEP/LEP/NEP, (4) percentage special education/students with disabilities, (5) percentage FRL, and (6) Title I status.

2. For all years during the Program:*a. To be provided within six (6) weeks of the beginning of the applicable school year:*

- i. Student information, including (1) name, (2) gender, (3) race/ethnicity, (4) FRL, ELL/FEP/LEP/NEP, special education status, (5) grade level. This information should be updated monthly with NSA to reflect changes in the student body.
- ii. Teacher information for all ANet-involved teachers, including (1) name, (2) grade and subject taught, and (3) email address, updated as necessary to reflect changes in the staffing structure.

b. To be provided by the end of the applicable calendar year:

- i. School-level targets for state assessments.

BACKGROUND

ANet offers a program consisting of educational services and materials, including an online platform (the “Platform”), curriculum and teaching resources, assessment materials, assessment analysis, training and coaching and network events, as described on the Program Description Page (collectively, the “Program”). Member desires to use the Program in accordance with the terms and conditions set forth herein.

1. THE PROGRAM

1.1 Program: ANet agrees to implement the Program for Member during the Term. Member agrees to commit the resources and personnel necessary to fully participate in the Program.

1.2 Use Rights: Subject to the terms of this Agreement and effective as of the Program Start Date (as defined on the Cover Sheet), ANet hereby grants to Member the following use rights, during the Term (as defined below):

(a) *Access to the Platform*: a non-exclusive right to access and use the Platform, solely for Member’s internal education-related purposes at Customer’s facility in connection with the implementation of the Program.

(b) *Assessment Materials*: a non-exclusive license to use, reproduce and distribute solely to Permitted Users (as defined below) hard copies of the Assessment Materials (as defined on the Program Description Page) provided to Member during the Program, solely for Member’s internal purposes in connection with the implementation of the Program.

(c) *Resources*: a non-exclusive license to use and reproduce in hard copy form the Resources (as defined on the Program Description Page) provided to Member during the implementation of the Program, solely for Member’s internal, informational purposes related to Member’s educational mission.

(d) *Other Downloadable Content*: with respect to such additional content and materials that are owned by or licensed to ANet and made available for download by Member through proper use of the Platform (collectively, “Additional Content”, and together with the Assessment Materials and Resources, “ANet Content”), a non-exclusive license to download a copy of any portion of such Additional Content, and use such Additional Content

solely for Member’s internal purposes in connection with the implementation of the Program.

1.3 Permitted Users. “Permitted Users” shall mean the employees, board members and volunteers of Member with a professional need to know or need to access the Platform and ANet Content in connection with the implementation of the Program. ANet will either issue to Member or authorize a Member administrator to create and issue to each Permitted User, a user identification number and/or password for access to and use of the Platform. Member and its Permitted Users are responsible for maintaining the confidentiality of all user identification numbers and/or passwords and for ensuring that each user identification number and/or password is used only by the Permitted User to which it was issued. Member shall be solely responsible for the Permitted Users’ compliance with this Agreement, and for any and all activities that occur under Member’s account. Member will restrict Permitted Users from sharing passwords. Member will immediately notify ANet of any unauthorized use of Member’s account or any user identification number and/or password, or any other breach of security known to Member. Member will ensure that it has obtained any necessary and appropriate consents from students to establish student accounts for access to the Platform. ANet will have no liability for any loss or damage arising from Member’s failure to comply with the terms set forth in this Section.

1.4 Restrictions. The rights and licenses set forth in Section 1.2 are granted subject to the following restrictions:

(a) The Platform and ANet Content shall be used or accessed only by Permitted Users;

(b) Results of the Assessment Materials may not be used for the purposes of evaluating or determining the employment status of personnel of Member;

(c) Member shall not, directly or indirectly, and Member shall not encourage or assist, or knowingly permit any User to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the object code or source code of the Program; (ii) modify, translate, or create derivative works based on any element of the Program; (iii) license, sublicense, sell, resell, rent, lease, distribute, sell, resell, assign, distribute or transfer its rights to use the Program, or otherwise commercially exploit or make available to any third party any portion of the Program; (iv) use the Program for timesharing purposes, to process data on behalf of third parties, or otherwise for the benefit of any person or entity other than for the benefit

of Member and Permitted Users at Member’s facility; (v) remove any proprietary notices from any materials furnished or made available to Member; (vi) publish any evaluation of the Platform without ANet’s prior written consent; (vii) use the Platform for any purpose other than its intended purpose; (xiii) use or access the Platform from or for the benefit of any facility or location other than the Member’s primary facility; (ix) circumvent or otherwise interfere with any user authentication or security of the Platform, or disrupt the integrity or performance of the Platform; (x) attempt to gain unauthorized access to the Platform or its related systems or networks or any ANet Content; or (xi) use the Platform to store or transmit infringing, libelous, or otherwise unlawful or tortuous content or material, or to store or transmit content or material in violation of any rights of any third party.

1.5 Ownership; Reservation of Rights. Subject only to the rights expressly granted to Member under this Agreement, as between ANet and Member, all rights, title and interest in and to the Platform and the ANet Content, and any other ANet materials furnished or made available hereunder, and all modifications and enhancements thereof, including all copyright rights, patent rights and other intellectual property rights in each of the foregoing, will remain with and belong exclusively to ANet or ANet’s licensors and providers, as applicable.

1.6 Feedback. The Parties acknowledge that Member or Permitted Users may, from time to time, provide to ANet ideas, feedback and suggestions about the Platform (collectively, “**Feedback**”). ANet and its licensors and providers shall be free to use such Feedback as they see fit without obligation of any kind to Member.

2. MEMBER MATERIALS; MEMBER DATA

2.1 Member Materials and Member Data. “**Member Materials**” means any and all information or materials provided to ANet by Member in connection with the implementation of the Program, including, without limitation, the Member Data (as defined on the Member Data Page).

2.2 Provision of Member Materials. Member agrees to provide ANet with all Member Materials necessary or desirable for ANet to implement the Program, including without limitation the Member Data. Such Member Materials shall be provided promptly when requested or otherwise agreed by the Parties, provided that the Member Data shall be provided in accordance with the timing set forth on the Member Data Page. Member acknowledges that timely provision of such Member Materials is essential to the success of the Program. Member represents to ANet that it has all

necessary rights to provide such Member Materials (including the Member Data) to ANet.

2.3 Access to Member Data Through State and Other Agencies. Member agrees to allow relevant agencies, including but not limited to the state education agency or local education agency to directly release registration, demographic and performance data for Member to ANet. This release covers data from 2007 to the present school year.

2.4 License to Member Materials. Subject to the terms and conditions of this Agreement, Member hereby grants to ANet a worldwide, non-exclusive, irrevocable, assignable, royalty-free, perpetual license to use, reproduce, distribute, display and create derivative works of Member Materials in connection with the implementation of the Program.

2.5 Reports. Member acknowledges and agrees that Member Data, and the Member’s performance on the assessments at the grade, school and organizational level, may be disclosed, published, distributed and otherwise used by ANet in Reports (as defined on the Program Description Page). Such Reports shall comply at all times with the Confidentiality provision of this Agreement, as well as with the Family Education Records Privacy Act of 1974 (“**FERPA**”).

2.6 Aggregate Data. ANet and its subcontractors shall have the right to disclose, distribute and use any Member Data and any other information input into the Platform by Member or Permitted Users (“**Input Data**”), as part of an aggregate set of data that does not identify any such data as being related to any specific Member student (“**Aggregated Data**”). Member acknowledges that ANet and its subcontractors may (a) compile Aggregated Data based on Member Data and Input Data, and (b) sell or otherwise distribute such Aggregated Data to third parties.

2.7 Use of Member Data. Except as otherwise set forth in this Agreement, ANet shall not disclose or distribute to third parties Member Data other than (a) as part of Aggregated Data, (b) to its subcontractors who require such information in connection with the implementation of the Program, or (c) to third parties for research and evaluation purposes. For clarity, the results of any research described in the foregoing clause (c) may be disclosed, published, distributed and otherwise used by ANet without restriction, provided that Member Data is not revealed in such disclosure, publication, distribution or use other than as part of Aggregated Data. Member hereby grants to ANet and its subcontractors a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify and distribute the Member Data and Input Data in connection with the uses described in the foregoing clauses (a)-(c).

2.8 Student Records. With respect to any access by ANet to any "Education Records" (as such term is defined in the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232 et seq. ("FERPA")) held by Member under or in connection with this Agreement, ANet shall be acting as a legal agent and shall be deemed to be a "school official" (as such term is defined under FERPA) of Member. As between the Parties, any Education Records protected by FERPA submitted to ANet by Member in connection with this Agreement shall be deemed the Confidential Information of Member subject to Section 5. ANet agrees not to disclose any FERPA protected Education Record to any third party except as permitted by FERPA or as authorized or permitted by Member. ANet will implement or cause to be implemented technical and administrative security measures to protect the confidentiality, integrity and security of the Education Records.

3. FEES; PAYMENT TERMS

3.1 Fees; Payment Terms. All payments for fees as set forth on the Cover Sheet shall be made by Member or, if applicable and as set forth on the Cover Sheet, by a sponsoring entity on behalf of Member, to ANet in accordance with the payment schedule set forth on the Cover Sheet. Failure to pay the deposit by the above date may result in a revised payment schedule. Payments are non-refundable and cannot be pro-rated. ANet reserves the right to withhold services related to the Program if any payment is more than thirty (30) days past due.

3.2 Printing. Member is responsible for all printing and printing costs associated with duplicating the Assessment Materials prior to the administration of each assessment, as set forth on the cover sheet.

4. TERM, TERMINATION

4.1 License Term. Unless earlier terminated as described below, the term of the Agreement shall commence on the Effective Date and continue for the period set forth on the Cover Sheet (the "Term").

4.2 Termination. Each Party may terminate this Agreement upon written notice in the event the other Party commits any material breach of this Agreement and fails to cure such breach within thirty (30) days after written notice of such breach.

4.3 Obligations on Termination. Upon the expiration or termination of this Agreement, Member shall (a) cease using the Platform and all ANet Content, and (b) promptly return to ANet or, at ANet's option, destroy, all copies of any ANet Content in Member's possession or control.

4.4 Survival. The following Sections shall survive any expiration or termination of this Agreement: Sections 1.3, 1.4, 1.5, 2.4, 2.5, 2.6, 2.7, 2.8, 3, 4.3, 4.4, 5, 6, 7, 8, 9, 10, 11 and 12.

5. CONFIDENTIALITY

5.1 Confidential Information.

(a) *Definition*: "Confidential Information" means any and all information or data, regardless of whether it is in tangible form, disclosed by either Party (the "Disclosing Party") to the other Party (the "Receiving Party"), that the Disclosing Party has either marked as confidential or proprietary, or has identified in writing as confidential or proprietary within thirty (30) days of disclosure to the Receiving Party; provided, however, that in any event ANet's Confidential Information shall include (i) all information relating to the Program, including without limitation the ANet Content, and (ii) the terms of this Agreement, including without limitation pricing information.

(b) *Exclusions*: Information and data will not be deemed "Confidential Information" if such information: (i) is known to the Receiving Party prior to receipt from the Disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (ii) becomes known (independently of disclosure by the Disclosing Party) to the Receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the Receiving Party; or (iv) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.

(c) *Obligations*: The Parties shall use reasonable measures to protect the secrecy of, avoid disclosure and unauthorized use or reproduction of the other Party's Confidential Information. Without restricting or otherwise limiting the exercise by a Party of the rights and licenses expressly granted to it under this Agreement, Confidential Information may be disclosed to only (1) such employees and consultants of the Parties as may have a need to know such information in connection with the exercise of its rights and performance of its obligations under this Agreement, and (2) legal or financial advisors of the Parties, provided that such employees and consultants are bound by written agreements, and advisors are bound by ethical duties, , in each case respecting such Confidential

Information in accordance with the terms of this Section 5.1.

6. REPRESENTATIONS, WARRANTIES AND EXCLUSIONS

6.1 Representations and Warranties. ANet represents and warrants to Member that ANet shall implement the Program in a professional and workmanlike manner. Each Party represents and warrants to the other Party that such Party has the required rights, power and authority to enter into this Agreement and to grant all rights, authority and licenses granted hereunder.

6.2 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE PROGRAM (INCLUDING WITHOUT LIMITATION THE PLATFORM AND ANET CONTENT) IS PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND AND ANET DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. MEMBER ACKNOWLEDGES THAT ANET DOES NOT WARRANT THAT THE PROGRAM (INCLUDING WITHOUT LIMITATION THE PLATFORM) WILL BE PROVIDED IN AN UNINTERRUPTED OR ERROR FREE FASHION AT ALL TIMES, OR THAT THE PROGRAM WILL MEET MEMBER'S REQUIREMENTS.

7. INDEMNIFICATION

7.1 Indemnification by ANet. ANet shall defend at its expense any claim, suit or proceeding (each, a "Claim") brought against Member by any third party to the extent such Claim is based upon a claim that Member's proper use of the Platform or any ANet Content in accordance with the terms of this Agreement infringes such third party's rights under any United States patent or copyright, and ANet shall pay all costs and damages finally awarded against Member by a court of competent jurisdiction as a result of any such Claim. If Member's proper use of the Platform or any ANet Content in accordance with the terms of this Agreement constitutes or in ANet's opinion might be held to constitute infringement as set forth above, ANet may, at its option, (a) modify the Platform or ANet Content, as applicable, so as to avoid infringement or misappropriation; (b) procure the right for Licensee to continue to use the Platform or ANet Content, as applicable; or (c) terminate the Agreement and provide to Member a refund of the prorated fees. The foregoing indemnity shall not apply to any Claim based upon or arising from any use of the Platform or ANet Content outside the scope of this Agreement or in a manner for which it was not designed.

7.2 Indemnification by Member. Member shall defend at its expense any Claim brought against ANet by a third party to the extent such Claim is arising out of ANet's proper use of the Member Data in accordance with the terms of this Agreement,

and Member shall pay all costs and damages finally awarded against ANet by a court of competent jurisdiction as a result of any such Claim.

7.3 Additional Terms. The foregoing obligations in this Section 7 are subject to the Party that is seeking indemnification (a) promptly notifying the other Party in writing of such Claim; (b) promptly giving the other Party the right to control and direct the investigation, preparation, defense and settlement of such Claim; and (c) giving assistance and full cooperation for the defense of same.

8. LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, SHALL ANET BE LIABLE TO MEMBER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY CHARACTER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, LOST PROFITS, LOST SALES OR BUSINESS, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOST DATA, OR FOR ANY AND ALL OTHER DAMAGES OR LOSSES, EVEN IF ANET HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. ANET SHALL NOT BE LIABLE FOR ANY DAMAGES, COSTS, OR LIABILITIES IN EXCESS OF THE FEES PAID OR PROPERLY PAYABLE BY MEMBER UNDER THIS AGREEMENT FOR THE TWELVE (12) MONTHS PRECEDING THE TIME OF ANY CLAIM.

9. NON-SOLICITATION

During the Term and for one year thereafter, each Party agrees not to solicit, entice or persuade any employee or consultant of the other Party to leave the services of such other Party, provided that the foregoing shall not prevent any Party from employing or engaging such an employee who is responding to a general recruiting solicitation. Without limiting the foregoing, in the event that either Party plans on engaging or employing any person that such Party knows is or was an employee or consultant of the other Party during the Term, such Party must provide prior written notice to the other Party.

10. PUBLICITY

ANet shall be entitled to (a) identify Member as a customer of ANet, (b) use Member's name in any advertising, promotional or sales literature, or in any other form of publicity, and (c) publicize, by news release or other public announcements, the existence of an arrangement between the Parties.

11. ARBITRATION

Any controversy or claim arising out of or relating to this Agreement, or breach thereof, shall be settled by binding arbitration in accordance with the rules of the American Arbitration Association and judgment upon the award rendered by the arbitrators may be entered in any court which would have had jurisdiction but for this provision. The arbitration will take place in Boston, Massachusetts.

12. GENERAL

12.1 Relationship. Nothing in this Agreement shall be construed to place the Parties in an agency, employment, franchise, joint venture, or partnership relationship. Neither Party will have the authority to obligate or bind the other in any manner.

12.2 Governing Law, Jurisdiction. All disputes, claims or controversies arising out of this Agreement, or the negotiation, validity or performance of this Agreement, or the transactions contemplated hereby shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to its rules of conflict of laws. Subject to and without limiting Section 11 of this Agreement, each of the Parties hereto hereby irrevocably and unconditionally consents to submit to the sole and exclusive jurisdiction of the courts of the Commonwealth of Massachusetts and of the United States of America located in the Commonwealth of Massachusetts (the "Massachusetts Courts") for any litigation among the Parties hereto arising out of or relating to this Agreement.

12.3 No Assignment. Neither Party may assign this Agreement, in whole or in part, or, in the case of Member, sublicense any of the rights granted herein, in each case without the prior written consent of the other Party, provided, however, that either Party (the "Assigning Party") may assign this Agreement without the written consent of other Party (the "Non-Assigning Party") to an entity succeeding to all or substantially all the assets and business of the Assigning Party by merger or purchase, provided that such entity expressly assumes all of the terms and conditions of this Agreement. Any attempted assignment, delegation or transfer by an Assigning Party in violation hereof shall be null and void. Subject to the foregoing, this Agreement shall be binding on the Parties and their successors and assigns. For clarity, ANet may subcontract any of its obligations hereunder to a third party.

12.4 Severability. In the event that any provision of this Agreement is found to be unenforceable, such provision will

be reformed only to the extent necessary to make it enforceable, and such provision as so reformed (and all other provisions) will continue in effect, to the extent consistent with the intent of the Parties as of the Effective Date.

12.5 Force Majeure. ANet shall not be deemed in breach hereunder for any cessation, interruption or delay in the performance of its obligations due to causes beyond its reasonable control, including, without limitation, earthquake, flood, or other natural disaster, act of God, labor controversy, civil disturbance, terrorism, war (whether or not officially declared) or the inability to obtain sufficient supplies, transportation, or other essential commodity or service required in the conduct of its business, or any change in or the adoption of any law, regulation, judgment or decree.

12.6 Amendment; Waiver. This Agreement may not be amended or modified, in whole or part, except by a writing signed by duly authorized representative of both Parties. No provision or part of this Agreement or remedy hereunder may be waived except by a writing signed by a duly authorized representative of the Party making the waiver. Failure or delay by either Party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision.

12.7 Notices. All notices under or related to this Agreement will be in writing and will reference this Agreement. Notices will be deemed given when: (i) delivered personally; (ii) sent by confirmed telecopy or other electronic means; (iii) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) day after deposit with a commercial overnight carrier, with written verification of receipt. All communications will be sent to the addresses set forth on the Cover Sheet or such other addresses designated pursuant to this Section 12.7.

12.8 Entire Agreement. This Agreement constitutes the entire agreement between the Parties. It supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter, and prevails over any conflicting terms or conditions contained on printed forms submitted with purchase orders, sales acknowledgments or quotations.

12.9 Cumulative Remedies. Each Party retains all rights not expressly granted hereunder and any and all remedies herein expressly conferred upon a Party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such Party, and the exercise by a Party of any one remedy will not preclude the exercise of any other remedy available under this Agreement or otherwise.