

ORANGE COUNTY DEPARTMENT OF EDUCATION PROJECT GLAD®  
LICENSING AGREEMENT

This Licensing Agreement for Orange County Department of Education (“OCDE”) **Project GLAD® Tier IV Consultants** (“Agreement”) is entered into by and between the Orange County Superintendent of Schools (“Superintendent”), on behalf of OCDE’s Project GLAD® National Training Center, and \_\_\_\_\_.

RECITALS

A. WHEREAS, Superintendent has the authority to license the OCDE Project GLAD® training materials; and

B. WHEREAS, Licensee is an OCDE Project GLAD® Tier IV Consultant certified by the OCDE Project GLAD® National Training Center; and

C. WHEREAS, Licensee desires to license from Superintendent the OCDE Project GLAD® training materials in order to provide the OCDE NTC Project GLAD® Tier I training program to teachers.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties hereby agree as follows:

**1. Definitions.** For the purposes of this Agreement, the following definitions shall apply:

“**Content**” shall mean all OCDE Project GLAD® materials in any language, including but not limited to, OCDE Project GLAD® Learning Guide, strategies, power points, training binders, trainer CDs, trainer videos, support materials, supplemental guides for use in conjunction with OCDE Project GLAD®, other OCDE Project GLAD® text, logos, trademarks, trade names, service marks, designs, characters, scripts or other materials generated in any form or media now in existence or to be developed in the future. Content also shall include any materials derived by the Licensee and/or customized by the Licensee from any materials created or provided by Superintendent.

“**License**” shall mean the Licensee’s non-exclusive right to use the Content as specified herein.

“**Licensor or Superintendent**” shall mean, collectively, Superintendent, its affiliates, officials, employees, and other entities controlled by Superintendent, including but not limited to the OCDE Project GLAD® National Training Center.

“**Licensor Marks**” shall mean the trademarks, trade names, service marks, characters or logos owned, controlled, or licensed by Superintendent and OCDE.

**2. Compensation and Payment Terms.** Licensee shall pay Superintendent twenty-five dollars (\$25.00) for each Tier I Participant as defined below. Licensee shall pay this amount to Superintendent within thirty (30) days of completion of the 2-Day Research and Theory Workshop and shall, at the same time, provide Superintendent with attendance records of participants and participant contact information, including name, phone number, mailing address and email address.

**3. Term.** This Agreement is for a term commencing \_\_\_\_\_ and ending \_\_\_\_\_ (the “Term”), unless terminated sooner as provided herein.

**4. Content License.** This Section governs the Licensee’s use of the Content.

**a. Grant of License.** Subject to the terms of this Agreement, Superintendent hereby grants to Licensee, during the Term, a non-exclusive, limited right and license to access and use the Content in OCDE Project GLAD® training programs as set forth herein. The License extends only to the OCDE Project GLAD® 2-Day Research and Theory Workshops (“Workshops”) and 4-5 Day Classroom Demonstration Lessons (“Demonstration”), collectively referred to as the OCDE Project GLAD® Tier I training program, which shall be offered to participants (“Tier I Participants”) for a minimum fee of Zero Dollars (\$ 0.0) or One Thousand Twenty-Five Dollars (\$1,025.00) and which shall meet the following requirements:

- i. OCDE Project GLAD® 2-Day Research and Theory Workshops.** These Workshops shall be led by two certified, active OCDE Project GLAD® Tier IV Consultants. They shall have a maximum of 46 participants and shall occur on 2 consecutive days with a minimum of 6 instructional hours per day. Licensee shall use the OCDE Project GLAD® National Training Center 2-Day Research and Theory Workshop Learning Guide and support materials as designed, including power points, training binders, trainer CD, training and other materials provided by the OCDE Project GLAD® National Training Center. OCDE Project GLAD® Tier I Participants or their employer are required to purchase the OCDE Project GLAD® Learning Guide and any training materials directly from Superintendent, unless Licensee purchases the OCDE Project GLAD® Learning Guide and training materials directly from Superintendent.
- ii. 4-5 Day Classroom Demonstration Lessons.** These lessons shall be led by two certified, active OCDE Project GLAD® Tier IV Consultants. They shall be scheduled over 4 or 5 consecutive days for a minimum of 14 hours of instructional time total. These lessons shall have a maximum of 23 participants. Licensee shall model all OCDE Project GLAD® strategies listed on the 4-Day Non-Negotiable List over the course of this 4-5 day program.
- iii. OCDE Project GLAD® Source Identifier.** Licensee shall ensure that all Content, including any marketing materials, and any information related to OCDE Project GLAD® on Licensee’s website,

as set forth in subsection (c) below, include the OCDE source identifier identifying all Content, marketing materials and any other information as OCDE Project GLAD®. This includes use of the OCDE source identifier in regard to any conferences, OCDE Project GLAD® customized follow-up or coaching in accordance with subsection (b) below, as well as any information related to OCDE Project GLAD® on Licensee's website in accordance with subsection (c) below.

**b. Reservation of Rights** All rights with respect to the Content (and any reproductions or derivative works thereof), whether now existing or which may hereafter come into existence, which are not expressly granted to Licensee herein, including, but not limited to, print publication, electronic publication in all media and in all formats, and video, movie and audio rights, are reserved for Superintendent. Without limitation to the foregoing, Superintendent specifically reserves all rights, whether now existing or which hereafter may come into existence, to make any derivative works thereof, in whole or in part, with any other materials; transmit or download the Content or derivative works thereof, in whole or in part, with any other materials; alter or modify in any way the Content or any derivative works thereof or publicly perform or display in any way the Content or any derivative works thereof. Licensee must provide prior written notice to Superintendent for any use of the Content beyond that described in subsection (a) above (OCDE Project GLAD® Tier I training), including but not limited to, conferences, seminars, workshops and OCDE Project GLAD® customized follow-up or coaching.

**c. Websites.** Licensee is authorized to advertise OCDE Project GLAD® Tier I trainings and provide information related to the OCDE Project GLAD® Tier I trainings only on Licensee's website subject to the requirements of the Agreement. In the event Licensee maintains a website advertising OCDE Project GLAD® Tier I trainings and/or containing information related to the OCDE Project GLAD® Tier I trainings, Licensee shall include on its website a link to the OCDE Project GLAD® Training Center ("NTC"), currently <http://www.ocde.us/NTCProjectGLAD/Pages/default.aspx>. Licensee shall ensure that all Content and references to Project GLAD® and/or GLAD® on Licensee's website include the OCDE source identifier identifying all Content and references to Project GLAD® and/or GLAD® as OCDE Project GLAD®.

**d. Modifications.** Licensee may not modify the Content without the advance, written permission of Superintendent.

**e. Proprietary Rights/Ownership.** Licensee acknowledges and agrees that the Content and all right, title and interest therein, is and shall remain the exclusive property of Superintendent and, except as expressly permitted in this Agreement, Licensee shall have no rights to use, reproduce, display, perform, modify or transfer the Content and any derivative works thereof. Licensee shall not use the Content for any use other than described herein without the prior written approval of Superintendent.

**f. Trademark Usage.** Licensee shall not use any Content or Licensors Marks, logos or other identifiers in any manner other than as is expressly provided for in this Agreement, without Superintendent's prior written approval. Licensee shall submit to

Superintendent for prior written approval all proposed uses of Licensor Marks, and shall not use Licensor Marks without such approval. Superintendent reserves the right to review any approved use of Licensor Marks and to require changes in such further use, and Licensee agrees to immediately comply with any requirements. Licensee acknowledges and agrees that (i) it shall not use Licensor Marks in a manner likely to diminish Licensor Marks' commercial value; (ii) it shall not permit any third party to use Licensor Marks unless authorized to do so in writing by Superintendent; (iii) it shall not use or permit the use of any mark, name, or image likely to cause confusion with Licensor Marks; (iv) all goodwill associated with Licensee's use of Licensor Marks shall inure to Superintendent; (v) Licensor Marks are and shall remain the sole property of Superintendent; and (vi) nothing in this Agreement shall confer in Licensee any right of ownership in Licensor Marks, and Licensee shall not make any representation to that effect, or use Licensor Marks in a manner that suggests that such rights are conferred.

**g. Scope of Use/License.** The Content is licensed for Licensee's use with schools and school districts, which are outside of Orange County, California and for which there is no pending or current contract with Superintendent or another certified OCDE Project GLAD® Tier IV Consultant. Licensee shall contact the National Training Center in writing prior to entering into a contract to provide training using the Content to ensure there is no conflicting contract.

**5. Documentation.** Upon request by Licensor, Licensee shall provide Superintendent, within 30 days of such request, with 2-Day Research and Theory Workshops evaluations and 4-5 Day Classroom Demonstration evaluations from each participant.

**6. Promotion.** Licensee shall not use the OCDE Project GLAD® online communities including but not limited to Yahoo groups, Twitter or other social media outlets to promote or advertise Licensee's services.

**7. Termination.** At any time during the term of the Agreement, either party has the option to terminate the Agreement on ten (10) calendar days' written notice without cause. In the event of such termination, Licensee shall still be responsible for any fees due under Section 2 based on completed training programs. Within ten (10) days of the effective date of the notice of termination, Licensee shall return to Superintendent all Content in its possession.

**8. Indemnification.** Licensee agrees to indemnify and hold harmless Superintendent, the Orange County Department of Education, the Orange County Board of Education, their members, employees, agents, officers and officials, from and against any and all liabilities, taxes, tax penalties, interest, losses, penalties, damages and expenses of every kind, nature and character, including costs and attorney fees, arising out of, or relating to, any and all claims, liens, damages, obligations, actions, suits, judgments, settlements, or causes of action of every kind, nature and character, in any way resulting from any acts or omissions of Licensee, its employees or agents in connection with or in any way related to the subject matter of this Agreement. This includes, but is not limited to, the unauthorized use of any trade secrets, patent, trademark, or copyright infringement. Licensee shall, at its own expense, appear, defend, and pay all attorney fees and all other cost and expenses arising hereunder. In addition, if any judgment shall be rendered against Superintendent in any such action, Licensee shall, at its own expense, satisfy and discharge such obligation of Superintendent. Superintendent shall have the right to participate in the defense of any suit, without relieving Licensee of any of its obligations

hereunder. Superintendent retains final approval of any and all settlements or legal strategies, which involve the interest of Superintendent.

**9. No Third-Party Rights.** Nothing in this Agreement is intended to make any person or entity who is not a signatory to the Agreement a third-party beneficiary of any right created by this Agreement or by operation of law.

**10. Limitation of Warranties and Liabilities.** OTHER THAN AS SET FORTH IN THIS AGREEMENT, SUPERINTENDENT PROVIDES NO WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT IN ANY WAY LIMITING THE GENERALITY OF THE FOREGOING, SUPERINTENDENT MAKES NO WARRANTY OR REPRESENTATION THAT THE CONTENT IS ERROR FREE. NOT WITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, SUPERINTENDENT'S LIABILITY UNDER THIS AGREEMENT, WHETHER UNDER CONTRACT LAW, TORT, WARRANTY OR OTHERWISE SHALL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED THE AMOUNT PAID TO SUPERINTENDENT PURSUANT TO THIS AGREEMENT. Superintendent shall not be held liable to third parties for any claims arising out of or relating to the unauthorized use of any trade secrets, patents, trademark or copyright infringement by Licensee, Licensee's employee(s) or other user of the Content.

**11. Assignment.** Licensee will not, without Superintendent's prior written consent, assign, delegate, sublicense, pledge, or otherwise transfer this License, or any of its rights or obligations under this License, to any other party.

**12. Independent Contractor.** It is agreed that Licensee is an independent contractor and not an agent or employee of Superintendent. Neither Licensee nor Superintendent shall have the power or authority to pledge or to bind or obligate the other in any manner for any purpose to any third party.

**13. Non-Discrimination.** It shall be an unlawful employment practice for Licensee to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, or the terms, conditions, or privileges of employment, because of such individual's race, color, ancestry, religion, sex, sexual orientation, age, handicap, marital status, parental status, military discharge status, national origin, or other characteristic protected by federal law or the laws of the State of California; or to limit, segregate, or classify employees or applicants for employment from equal employment opportunities or otherwise adversely affect an individual's status as an employee because of any of the foregoing. Licensee shall comply with the Civil Rights Act of 1964 as amended, 42 U.S.C.A. Section 2000, *et seq.*, the Age Discrimination in Employment Act, 29 U.S.C.A. §621, *et seq.*, Section 504 of the Rehabilitation Act, 20 U.S.C.A. §701, *et seq.*, as amended, and the Americans With Disabilities Act, 42 U.S.C.A. §12101, *et seq.*

**14. Notice.** All notices required under this Agreement shall be in writing and sent to the addresses and persons set forth below, or to such other addresses as may be designated by a party in writing. All notices shall be deemed received when (i) delivered personally; (ii) sent by confirmed telex or facsimile (followed by the actual document); or (iii) one (1) day after deposit

with a commercial express courier specifying next day delivery, with written verification of receipt.

IF TO SUPERINTENDENT:

Christine Olmstead, Ed.D.  
Associate Superintendent Instructional Services  
Orange County Department of Education  
200 Kalmus Drive  
Costa Mesa, CA 92626  
Phone: 714-966-4346  
Fax: 714-662-3148

IF TO LICENSEE:

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title  
\_\_\_\_\_  
School District or Agency  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
Phone  
\_\_\_\_\_  
Fax  
\_\_\_\_\_  
Email

**15. Right of Entry.** Superintendent and any of its officers, employees, or agents shall be permitted to enter upon the site in connection with the use of its Content hereunder, subject to the terms and conditions contained herein. Superintendent shall provide advance notice to Licensee of any such intended entry.

**16. Survival/Severability.** All express representations or indemnifications made or given in the Agreement shall survive the expiration or termination of the Agreement for any reason. If any provision or part of the Agreement is held to be unenforceable, the Agreement shall be considered divisible and such provision shall be deemed inoperative to the extent it is deemed unenforceable, and in all other respects the Agreement shall remain in full force and effect; provided, however, that if any such provision may be made enforceable by limitation thereof, then such provision shall be deemed to be so limited and shall be enforceable to the maximum extent permitted by applicable law.

**17. Taxes.** Licensee shall be responsible for any taxes levied or imposed upon the

income or business privileges of Licensee.

**18. Waiver.** No delay or omission, or series of delays or omissions, by either party to exercise any right hereunder shall be construed as any type of waiver of any such right, and each party reserves the right to exercise any such right from time to time as often as may be deemed expedient.

**19. Entire Agreement; Amendments.** The Agreement constitutes the entire agreement of the parties with respect to the matters contained therein. No modification of or amendment to the Agreement shall be effective unless such modification or amendment is in writing and signed by both parties.

**20. Governing Law.** The terms and conditions of this Agreement shall be governed by the laws of the State of California with venue in Orange County, California.

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

LICENSEE

SUPERINTENDENT

By: \_\_\_\_\_

By: \_\_\_\_\_

Christine Olmstead, Ed.D.  
Associate Superintendent Instruction  
Services, OCDE

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

School District/Agency: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_