



**State of Ohio and Content Provider
Ohio on iTunes U Agreement**

This Content Provider Agreement ("Agreement"), is entered into by and between the eTech Ohio Commission ("eTech Ohio"), working on behalf of the State of Ohio, a government body established by the Ohio General Assembly pursuant to Ohio Revised Code §3353.02 with its principal address as 35 E. Chestnut Street, 8th Floor, Columbus, OH 43215, and

Name of Content Provider: _____

With its principal address as:

Street Address: _____

City, State and Zip Code: _____, _____

WHEREAS, the eTech Ohio Commission ("eTech Ohio") desires to advance education and accelerate the learning of Ohioans through technology; and

WHEREAS, eTech Ohio, designated partner(s) on behalf of the State of Ohio, and the Content Provider would like to provide educational materials and other relevant content solely for nonprofit educational and professional development uses on Apple's iTunes Store designated as the "Ohio on iTunes U" site;

NOW, THEREFORE, in consideration of the mutual promises and conditions stated herein, the parties to this Agreement agree as follows:

1.0 Definitions:

- 1.0 "Apple Tools" mean any guidelines, templates, APIs (application programming interfaces), software, documentation or other tools provided by Apple to assist or enable eTech Ohio to implement its own Content Provider-branded site for iTunes U.
- 1.1 "Content" means the audio, visual, textual, graphical, or other materials provided by Content Provider for use on the Ohio on iTunes U Site and/or the iTunes Store.
- 1.2 "Information" means all non-public information, customer and product information, procedures, systems, or data provided by Content Provider in connection with this Agreement.
- 1.3 "iTunes Store" means an online digital Content download service owned and/or controlled by Apple or an affiliate of Apple, which is currently branded as the "iTunes Store."
- 1.4 "Ohio on iTunes U Site" means the specific area of the iTunes U within the iTunes Store dedicated to the State of Ohio through eTech Ohio and its Content Providers, and containing the pages, sub-pages and Content required to deliver the user interface within iTunes and to provide access to the Content, including all web pages and sub pages.
- 1.5 "Marks" mean Content Provider trademarks, service marks, logos, brands and/or trade names.
- 1.6 "Public Content" means Content that is made available to the general public at no charge.
- 1.7 "eTech Ohio Website" means the web page(s) on eTech Ohio website that provides access to the Ohio on iTunes U Site.

2.0 Services To Be Provided By Content Provider:

- 2.1 Content Provider shall grant a license or sublicense, by way of this Agreement, to eTech Ohio, its designated partner(s) and the State of Ohio, to use and distribute Content on the Ohio on iTunes U Site.
- 2.2 Content Provider shall deliver educational content in the format required by Apple.

Formatting specification can be found at:

http://deimos.apple.com/rsrc/doc/iTunesUAdministratorsGuide/AboutiTunesU/chapter_2_section_4.html#//apple_ref/doc/uid/AdminGuide-CH2-SW4

- 2.3 All new content provided by a Content Provider that pertains to K12 classroom use or teacher professional development for classroom use, must be correlated to academic standards adopted by the Ohio Department of Education prior to displaying the content on Ohio on iTunes U. Information regarding specific academic standards can be found at www.ode.state.oh.us.

3.0 Services To Be Provided By eTech Ohio:

eTech Ohio shall provide "Ohio on iTunes U," a section of the iTunes Store, to enable Content Provider to make educational materials and other content available via Apple's iTunes software to members of the general public solely for non-profit educational and professional development uses.

4.0 Compensation:

As this project is a collaborative one between eTech Ohio and the Content Provider in support of the Ohio on iTunes U Project, no monetary compensation will be provided to Content Provider.

5.0 Content Licensing/Rights:

- 5.1 Content Provider hereby grants to the State of Ohio, through eTech Ohio, a non-exclusive, non-transferable, revocable, royalty-free right and license to use, reproduce, modify the format and display of Content (not the substance of any Content), distribute, transmit, perform and display Content on the Ohio on iTunes U Site and Public Content on the iTunes Store throughout the world, in whole or in part, by any means now known or hereafter developed (such as, but not limited to, websites and electronic downloads), for the purposes consistent with this Agreement.
- 5.2 In order to ensure the high-quality delivery of Content to end-users, Content Provider agrees that through Ohio on iTunes U, eTech Ohio may store Content on eTech Ohio and Apple's servers and Content Provider consents to such storage.
- 5.3 eTech Ohio shall not charge for the download of any Content made available on the Ohio on iTunes U Site or the iTunes Store pursuant to this Agreement. Rights will remain in effect, in perpetuity, or until revocation of rights by Content Provider is made, in writing, to eTech Ohio. eTech Ohio will then withdraw Content Provider's Content from Ohio on iTunes U as soon as is reasonably possible.
- 5.4 The Content Provider warrants that the services provided pursuant to this Agreement will not infringe upon any United States or foreign letters, patents, trademarks, copyrights or other proprietary rights. eTech Ohio reserves the right to participate in any such action brought against eTech Ohio at Content Provider's expense.

6.0 Ohio on iTunes U Website:

- 6.1 On behalf of the State of Ohio, eTech Ohio will be responsible for the design of the Ohio on iTunes U Site.
- 6.2 eTech Ohio or its designated partner(s) may make any changes necessary to Content Provider's Content to comply with Apple's guidelines.

7.0 Online Marketing:

On behalf of the State of Ohio, eTech Ohio and Apple shall have the royalty free right to use, reproduce, distribute and display the Public Content throughout the world, by any means now known or hereafter developed, for promotional and marketing purposes, including, but not limited to, creating reformatted graphical banners that link to the State of Ohio, eTech Ohio and/or Content Provider's Public Content.

8.0 Uploading of Content to/ Providing Access to Content Through the iTunes U Site:

- 8.1 eTech Ohio shall be responsible for uploading Content to the Ohio on iTunes U Site, or if eTech Ohio requests that Apple host the Content, eTech Ohio shall be responsible for making Content available (e.g., via RSS feeds and links) through the iTunes U site.
- 8.2 eTech Ohio and/or Apple shall have the right to remove access to Content hosted by eTech Ohio, or remove Content hosted by Apple, at any time, in their sole discretion (e.g. for reasons including, but not limited to, copyright infringement claims, Content files causing distribution of viruses, etc.) without notice or liability.

9.0 Content Provider Marks:

During the term of this Agreement, Content Provider grants to eTech Ohio and/or Apple the right to use the Marks, solely in connection with the exercise of Apple's rights and subject to any guidelines that Content Provider may furnish to eTech Ohio.

10.0 Representations and Warranties:

- 10.1 Each party that has executed this Agreement through its undersigned authorized representative, and each representative so executing, hereby warrants and represents to the other party that the undersigned representative has full authority to execute this Agreement on behalf of the party for whom said authorized representative purports to act.
- 10.2 Content Provider, any subcontractor or person acting on behalf of Content Provider, in the execution of duties and obligations hereunder, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.

11.0 Liability:

Content Provider shall be liable for any personal injury or damage to real property or tangible personal property, caused by its fault or negligence.

12.0 Term:

- 12.1 This Agreement shall be effective upon latter date of execution and will remain in effect through June 30, 2011.
- 12.2 It is understood that Content Provider, its employees, agents, servants, and subcontractors, are not employees of eTech Ohio and therefore, shall not be eligible for any state employee benefits, including but not limited to Worker's Compensation coverage or for any other purpose.

13.0 Termination:

Notwithstanding any language herein to the contrary, this Agreement may be terminated by either party, with or without cause, upon sixty (60) days prior written notice.

14.0 Governing Law:

This Agreement shall be governed, interpreted, and controlled according to the laws of the State of Ohio, without regard to conflict of laws principles.

15.0 Assignment:

This Agreement is personal and binding, and shall inure to the benefit of the parties. No party shall delegate or assign, in whole or in part, any right or obligation under this Agreement without the prior written consent of the other party.

16.0 Entire Agreement and Severability:

This Agreement contains the entire agreement and understanding between the parties with respect to the subject matter herein. This Agreement shall not be modified, amended, nor any part waived, without a fully executed agreement, signed by both parties. If a court of competent jurisdiction determines any portion of this Agreement to be invalid, such portion only shall be severed and the remaining portions of this Agreement shall remain in effect.

17.0 Notice:

Any and all notices or submissions required or permitted by the terms of this Agreement shall be made by regular mail, facsimile transmission, or hand delivery. Notice shall be deemed made upon receipt by the party to whom notice is directed. Notices, submissions, or other correspondence concerning this Agreement shall be made to the parties at the addresses listed below:

Content Provider Name: _____

Contact Name: _____

Address: _____

City: _____ State: ____ Zip: _____

Telephone and Facsimile: _____

eTech Ohio: Kathleen Harkin, Executive Director
 eTech Ohio
 35 E. Chestnut Street, 8th Floor
 Columbus, OH 43215-2561
 Facsimile: (614) 728-1899

IN WITNESS WHEREOF, the parties hereto have caused this Letter of Agreement to be executed by their duly authorized officers on the day and year set aside their respective signatures.

NAME OF CONTENT PROVIDER: _____

By: _____
 Authorized Representative of Agent Date

 Printed Name and Title

ETECH OHIO COMMISSION

By: _____
 Kathleen T. Harkin, Executive Director Date

Please send originally-signed agreement with content to:

**eTech Ohio Commission
 Ohio on iTunes U Project Team
 35 E. Chestnut Street, 8th Floor
 Columbus, OH 43215-2561**