

PILOT AGREEMENT ELEMENTS CURRICULUM

This Agreement ("Agreement") is effective this ____ day of _____ ("Effective Date") by and between Firelight Books, 11650 CR 4215, Tyler, TX 75706 (hereinafter referred to as "Company"), and

(School Name)

(Program)

(Address)

(Phone Number)

(Second Phone Number)

(FAX Number)

(First Contact Person/Title)

(Email Address)

(Second Contact Person/Title)

(Email Address)

(hereinafter " Recipient")

Check subject for pilot (Limit 1 subject per site.):

- Elements of Basic Algebra A**
- Elements of Basic Biology**
- Elements of Basic Integrated Physics and Chemistry**

Whereas Company has developed, owns and is marketing certain textbooks and resource materials pertaining thereto (collectively, the "Elements Curriculum") for educational services, namely, student instruction.

Whereas, Recipient wishes to use the Elements Curriculum in connection with its educational teaching services.

Now, therefore, for and in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Definitions:

"School Site" shall mean one class in a school district or facility, which is owned and/or operated by Recipient and is clearly identifiable by name and which is under the direction of a superintendent, headmaster, or manager.

"Employee" means any person who has teaching or administrative duties at the School Site, is paid for those services, and spends more than fifty percent (50%) of the working day at the school site.

"Associate" shall mean any person associated with the School Site who is not an Employee. Associates include students, parent volunteers, and School Site district officials.

"Elements Curriculum" shall mean the specific curriculum (textbook and teacher resource materials) as identified in on page 1.

2. Recipient agrees to use, reproduce, distribute and display the Elements Curriculum only at a School Site.
3. Recipient expressly agrees that it will not: reverse engineer, decompile, or disassemble the Elements Curriculum; place the Elements Curriculum on a network, Web site, or electronic bulletin board; distribute the Elements Curriculum to any person who is not employed at the School Site; or use the Elements Curriculum for any commercial activity, including private tutoring, which is not related to the Employer's official duties at the School Site.
4. It is acknowledged that Company owns the Elements Curriculum. Recipient acknowledges that the copyright and title to the Elements Curriculum and all trademarks or service marks relating thereto remain with Company. Recipient shall have no right, title or interest in the Elements Curriculum except as expressly set forth in this Agreement.
5. Recipient may not remove, obscure or modify any copyright, trademark or other protective notices contained in the Elements Curriculum. At no time will the Elements Curriculum or any portion thereof be used as "Stock Art" without the prior written permission of Company.
6. Recipient agrees not to assign, sublicense, transfer, pledge, lease, rent, or share any rights under this Agreement. Recipient further agrees that it will not reverse assemble, reverse compile, reverse engineer or adapt, re-package or otherwise translate the Elements Curriculum. Recipient may not create any derivative works based on the Elements Curriculum.
7. The term of this Agreement ("Term") shall commence upon the Effective Date hereof and shall continue for one (1) school year (Fall and Spring) thereafter, unless earlier terminated by either party as hereinafter provided. Any renewal of the Agreement, including the terms and conditions thereof, shall be subject to the prior written approval of both parties. Recipient agrees that upon termination or expiration of this Agreement for any reason, Recipient shall cease all use of the Elements Curriculum and Trademark and return to Company all copies of the Elements Curriculum. Renewal is available. Call for more information: 800-975-0054.
8. Company may revoke Recipient's license hereunder in the event that Licensee: violates one or more of the provisions of this Agreement; requests a refund of the license fee; the license fee payment is deemed invalid; and/or the Recipient declares bankruptcy.
9. Company shall not be liable for any indirect, special, incidental, punitive or consequential damages, including but not limited to loss of data, business interruption, or loss of profits, arising out of the use of or the inability to use the Elements Curriculum.

10. Company makes no representation or warranty, and expressly disclaims any liability with respect to the information in the Elements Curriculum, including but not limited to errors or omissions contained therein, libel, infringement of rights of publicity, privacy, trademark rights, moral rights, or the disclosure of confidential information.
11. Except for the express warranties stated herein, the Elements Curriculum is provided on an "as is" basis, and Company disclaims any and all other warranties, conditions, or representations (express, implied, oral or written) relating to the Elements Curriculum or any part thereof, including, without limitation, any and all implied warranties of quality, performance, merchantability or fitness for a particular purpose.
12. Company shall have sole and exclusive ownership of all right, title and interest in and to the Elements Curriculum and all modifications and enhancements thereof (including ownership of all trade secrets, patents, and copyrights pertaining thereto) subject only to the rights and privileges expressly granted to Recipient pursuant to this Agreement. This Agreement does not provide Recipient with title and/or ownership of the Elements Curriculum, but only a right of limited use. Recipient agrees to keep content free and clear of all claims, liens, and encumbrances.
13. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas without regard to its choice of laws provision. The parties hereby agree that the exclusive jurisdiction for all actions or claims hereunder or relating hereto shall be the state and federal courts of Tyler, TX. The parties hereby irrevocably submit themselves to the jurisdiction of such courts for such purposes and waive any objections to such jurisdiction on the basis of forum non conveniens, or otherwise.
14. If either party brings any action to this Agreement against the other party regarding the subject matter hereof, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorney fees and expenses of litigation.
15. The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

The Recipient receives at no cost:

TEACHER RESOURCE BINDER (hard copy):

Teacher Keys
 Goals and Objectives
 Pretest and Posttest/Answer Keys
 Unit Tests - Standard Form/Answer Keys
 Unit Tests - Form B/Answer Keys
 Worksheets, Activities, and Projects/Answer Keys

10 STUDENT BOOKS (hard copy)

10 STUDENT PRACTICE BOOKS (hard copy)

Training and support for one school year

The Recipient agrees to

- coordinate with the Company representative for initial training

- administer the pretest, unit tests, and posttests, and release them to the Company
- use the Elements Curriculum for one school year
- provide testimonials and a release for reference
- coordinate with the Company representative for support visits every 6 weeks
- complete a final survey
- return unused books and the TEACHER RESOURCE BINDER at the end of the year unless there is a subsequent order

The Company representative responsibilities include

- approving pilot sites
- sending the signed, completed agreement to the Company business office
- taking the pilot materials to the site and training the teacher/s (the kit will ship to you)
- collecting the pretests and sending them to the Company business office
- providing on-site support visits every 6 weeks for one school year
- collecting the results of the unit tests and sending them to the Company business office
- collecting the posttests and final survey and sending them to the Company business office
- collecting unused books and the TEACHER RESOURCE BINDER at the end of the year unless there is a subsequent order

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate as of the respective dates set forth below to become effective as of the Effective Date set forth on the first page above.

(School Name)

(Date)

(Authorized Representative)

(Title)

(Authorized Representative for Firelight Books)

(Date)