

## Sora Access Agreement

OverDrive, Inc. and its affiliates (“**OverDrive**”) provides software applications, hosted websites, digital content, and technology services for third parties, including educational entities and institutions that subscribe to OverDrive’s Sora service (“**School Account**”). This Access Agreement (“**Agreement**”) applies to School Account’s use of the OverDrive-hosted websites, applications, software, technologies, and services related to Sora (collectively referred to as “**Sora Service**”).

By accessing and/or using the OverDrive Sora Service, School Account agrees to be legally bound by this Agreement, OverDrive’s [Terms and Conditions](#), general [Privacy Policy](#), [Privacy Policy for Children](#), and the OverDrive Marketplace Local Content Terms and Conditions (if applicable), which are expressly incorporated herein by reference and made a part of this Agreement. This Agreement and all incorporated agreements, terms, and policies take precedence over any and all School Account terms and conditions listed on purchase orders or other School Account documents sent to OverDrive.

### 1. Sora Service License

1.1 OverDrive grants School Account and authorized employees, staff, students, and other users that School Account authorizes to access, use, and connect to the Sora Service (collectively, “**End Users**”) a limited, revocable, non-exclusive, non-assignable, non-transferable license to access and make personal, non-commercial use of the Sora Service. School Account shall implement and maintain commercially reasonable measures to ensure that only authorized End Users are granted access credentials to the Sora Service. OverDrive, in its sole discretion, reserves the right to prohibit any conduct involving the Sora Service, including but not limited to School Account allowing access to Sora Service that it deems to be in violation of this Agreement. If OverDrive makes the determination that any conduct in violation of this Agreement has occurred, OverDrive may take all necessary remedial measures, up to and including requiring the School Account to use an alternative authentication method to access the Sora Service and/or termination of this Agreement.

1.2 OverDrive shall provide access to the Sora app and create a single Sora website for School Account’s and End Users’ use of the Sora Service. OverDrive, in its sole discretion, has the right at any time to (a) make modifications to the operation, performance, or functionality of the Sora Service to improve the quality of the Sora Service, (b) add or remove components, features, or supported services or Digital Content from the Sora Service, and/or (c) provide new versions, updates, or corrections for the Sora Service.

1.3 OverDrive grants to School Account access to an administrative account in OverDrive Marketplace where School Account may purchase Digital Content, manage its Digital Content collection, and generate purchase and usage reports. This grant for access to OverDrive Marketplace is non-transferable and the login credentials are confidential and shall not be disclosed to any third party.

### 2. Digital Content License

2.1 OverDrive grants School Account and End Users a non-assignable, non-transferable, limited license to use the digital content provided by OverDrive’s suppliers (“**Digital Content**”) for personal, non-commercial use.

2.2 End Users and School Account may access and/or download the Digital Content:

- (a) On school-issued devices or school-owned computers with exclusive and individual unique user accounts where the device is restored to its original configuration after each use;
- (b) On school-issued shared devices that are issued to students under a one-to-one device program where each device is assigned to or borrowed by a single student at a time;
- (c) On End User personal devices directly;

(d) On shared school, classroom, or media center computers which employ an application that restores the computer to its original configuration after use by an individual student (e.g., Deep Freeze, Windows SteadyState, or other similar application); and

(e) For any use consistent with the relevant fair use doctrine or similar law in your jurisdiction, which may include projecting Digital Content on a classroom whiteboard, Smart Board, or other similar technology, or listening and/or watching Digital Content in the classroom.

2.3 All rights, title, and interest in the Digital Content are reserved by its owners. School Account and/or End Users do not acquire any ownership rights in the Digital Content as a result of accessing or downloading the Digital Content. The catalog of Digital Content available from OverDrive is subject to change; Digital Content titles may be added or removed at any time.

2.4 OverDrive is a distributor of Digital Content supplied by third parties, including publishers, content aggregators, and others. Accordingly, any opinions, advice, statements, offers, services, or other information or content expressed by third parties are those of the respective author(s) and not OverDrive. OverDrive neither endorses nor is responsible for the accuracy or reliability of information in the Digital Content or Sora Service made by anyone other than authorized OverDrive employee spokespersons acting in their official capacities.

### **3. Support Services**

3.1 School Account agrees to perform primary support services to its End Users, including day-to-day help, support, technical aid, and other assistance for End User use of the Sora Service and for any issues arising from the use of the Sora Service (“**Primary Support**”). OverDrive shall provide School Account with documentation and training resources regarding Primary Support.

3.2 OverDrive shall provide Secondary Support to School Account. “**Secondary Support**” shall consist of technical support services by web, email and phone in the English language to School Account, including reasonable efforts to assist School Account in providing Primary Support. OverDrive shall provide such Secondary Support during its normal business hours of Monday - Friday 8:30 AM to 5:30 PM United States Eastern Time.

### **4. Term, Termination, and Payment**

4.1 Term and Termination. Unless otherwise agreed in a Sora order form, the term for School Account's access to the Sora Service shall be for a period of twelve (12) consecutive months starting on the date of Sora Service launch. OverDrive, in its sole discretion, may launch the Sora Service sixty (60) days after receipt of the School Account's order form if the Sora Service has not launched before that time. Subject to the terms herein, the Sora Service and the terms of this Agreement shall automatically renew for successive terms of twelve (12) consecutive months unless either party provides written notice of intention not to renew at least thirty (30) days prior to the expiration of the then current twelve (12) month term.

4.2 Minimum Annual Spend. School Account acknowledges and agrees that it must spend a minimum of five hundred dollars (USD \$500) on Digital Content purchases from OverDrive during each 12-month period of this Agreement (“**Annual Digital Content Minimum Spend Requirement**”). Any amount spent on Digital Content purchases in excess of \$500 during any 12-month period cannot be carried forward and applied against School Account's Annual Digital Content Minimum Spend Requirement in a subsequent 12-month period. If School Account does not meet its Annual Digital Content Minimum Spend Requirement in any 12-month period, OverDrive, in its sole discretion, may suspend or terminate this Agreement upon written notice to School Account.

4.3 Effect of Termination. School Account obtains certain rights and access to use the Digital Content and Sora Service for the term of its agreement with OverDrive. At the end of such term, all the licenses granted to School Account shall be terminated immediately, including School Account's access to the Sora Service and any and all Digital Content.

4.4 Payments. All payments are due to OverDrive within thirty (30) days of receipt of invoice. In the event of a breach of any of its obligations, including but not limited to non-payment or late payment for services, School Account shall remedy the breach within thirty (30) days upon receipt of written notice from OverDrive. If School Account fails to remedy such a breach within the period of thirty (30) days, OverDrive, in its sole discretion, may terminate the Agreement with School Account upon written notice to School Account and/or suspend School Account's access to the

Sora Service.

4.5 Non-Appropriation. This Agreement is a commitment of the current revenues of the School Account and its governing body. If School Account's governing body or similarly related entity fails to appropriate sufficient funds in any fiscal year for payments due under this Agreement, then a non-appropriation event shall be deemed to have occurred. If a non-appropriation event occurs, (a) School Account shall give OverDrive immediate notice of such non-appropriation event and provide written evidence of such failure by School Account's applicable governing body, and (b) on or before sixty (60) days from OverDrive's receipt of notice of non-appropriation, the parties shall cooperate to determine an appropriate course of action as it relates to the Sora Service provided under this Agreement. In the event that after such sixty (60) day period, no determination is reached on payment and continued provision of service is not possible, then the Agreement and the Sora Service provided hereunder shall terminate on the first day of the fiscal year in which funds are not appropriated.

## **5. Advantage Accounts (only applicable if School Account is a school district)**

5.1 Advantage is a program that enables individual schools who are members of a school district's shared Sora Digital Content collection to add a custom collection exclusively for the school's students. If School Account is a school district, OverDrive may create separate Advantage Accounts for each individual school.

5.2 Individual Advantage Accounts may purchase Digital Content and make it available to their students within their district's Sora Service. Advantage Accounts will be invoiced directly for the Digital Content they purchase for their Advantage collections.

5.3 Individual Advantage schools must have the ability to authenticate students separate from the school district. Fees or costs related to MARC records, SIP or similar protocol for student authentication are not included and shall be at Advantage Account school's own expense.

## **6. General Provisions**

6.1 OverDrive may assign this Agreement. In the event OverDrive enters into an agreement to sell substantially all the assets of OverDrive, this Agreement shall be binding upon the purchaser. This Agreement may not be assigned by School Account, nor any duty hereunder be delegated by School Account, without the prior written consent of OverDrive, which shall not be unreasonably withheld. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective heirs, legal representatives, successors and permitted assigns.

6.2 Neither OverDrive nor its licensors shall be liable or deemed to be in default for any delays or failure in performance resulting directly or indirectly from any cause or circumstance beyond its reasonable control, including but not limited acts of God, war, riot, embargoes, acts of civil or military authority, rain, fire, flood, accidents, earthquake(s), strikes or labor shortages, transportation facilities shortages or failures of equipment, or failures of the Internet.

6.3 The Sora Service and/or Digital Content may require the use of third-party applications or services (e.g., third party authentication protocol) that are subject to their own, separate license agreements and/or terms and conditions not under OverDrive's control. OverDrive expressly disclaims any and all risks and liabilities associated with the use of any such third-party offerings.

6.4 School Account is responsible for obtaining prior parental consent for its student End Users' use of the Sora Service.

6.5 This Agreement, and all incorporated documents herein, constitutes the entire agreement and understanding of the parties. OverDrive may make changes to this Agreement. Please check this page periodically for updates. School Account acknowledges that School Account's continued use of the Sora Service means that School Account agrees to be bound by such changes.

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