



**Monterey Institute for Technology and Education**

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**INVOICE# 201605-726**

**Invoice Date: 5/6/2016**

**Victoria College**

2200 E. Red River  
Victoria, TX 77901  
Phone (361) 573-3291

Attn: Babette Lowe

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**Standard Membership - \$ 3,000.00**

**Membership Description:** Standard membership includes a custom EdReady website, access to all NROC Assets including the right to host the NROC Downloadable Content locally within centrally managed applications, and the right to link to all NROC Assets through a customized HippoCampus website during the term of the agreement. See full terms of membership in the attached terms of use.

**Term:** 12-month membership beginning 6/1/2016, ending 5/31/2017.

**Service Area:** students, faculty, and staff of Victoria College

**Organization Size\*:** Up to 3,000 enrollments.

Payment of the membership invoice constitutes acceptance of the membership agreement and terms of use. Terms used in this document are defined in the "Definitions of Terms" attached. Once the membership has been activated, the membership fee is nonrefundable.

\* NROC Membership fee is based on total secondary (7-12) enrollment and/or FTE of the member organization, unless otherwise indicated in Service Area or Special Terms noted above.

**Payment Due on 5/31/2016**

**\$3,000.00**

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www.montereyinstitute.org

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## DEFINITION OF TERMS — THE NROC PROJECT - STANDARD MEMBERSHIP

The following descriptions define the terms used on NROC quotes, invoices, contracts and terms of use for Standard NROC Network Members.

### **NROC ASSETS:**

#### **NROC LIBRARY: The NROC Library contains two types of collections:**

The *NROC Permanent Collection* refers to all content that is copyrighted to the Monterey Institute for Technology and Education (MITE), content that has been contributed for NROC distribution under a permanent license, and content made available under an "open license" (i.e. Creative Commons, GNU General Public License). Access to this content shall be available to member for the membership term defined in their agreement.

The *NROC Contributed Collection* refers to all content made available under a Content Distribution Agreement with the copyright owner for a defined period of time. Access to this content shall be available to member for the period defined in the Content Distribution Agreement, which may vary by course. Access to this content cannot be guaranteed past the end date of the Content Distribution Agreement. More information can be found at <http://www.montereyinstitute.org/nrocnetwork/agreement.php>.

**NROC CONTENT AVAILABLE FOR MEMBER HOSTING (DOWNLOADABLE CONTENT):** Select NROC Assets are available for hosting as part of the NROC Membership. These Assets include:

- NROC Algebra 1 - An Open Course
- NROC Developmental Math - An Open Program (standard version)
- Non-Majors Biology
- NOAA Collection
- Statistics for the Social Sciences
- Religions of the World

**OTHER NROC CONTENT:** All other NROC Assets (including Developmental Math - Pre-Assessment and Developmental English) are hosted by NROC. Members have the right to link to this content either through an installation file provided by NROC or through direct links. These assets are not available for member hosting.

**EDREADY:** An NROC-hosted application to assess student knowledge and provide access to educational resources.

**HIPPOCAMPUS:** An NROC-hosted content repository containing resources from the NROC Library.

### **INSTITUTIONAL RIGHTS OF USE:**

Institutional use is defined as incorporation of NROC Asset links or NROC Downloadable Content into institutionally-managed software applications, or incorporation of the content into shared course or curricula serving multiple sections/teachers.

### **STANDARD MEMBERSHIP:**

Standard Members are provided with institutional rights of use to the NROC Assets and support resources, including but not limited to:

- the right to deliver the NROC Library via multiple modes (Internet, Intranet, DVD, MP3, MP4, etc.) via NROC Asset links and the right to host NROC Downloadable Content and other select resources locally on centrally-managed applications per the terms of the Member Agreement
- a branded, customized instance of the HippoCampus.org repository with correlations to state and national curriculum standards
- a branded, customized instance of the EdReady application
- staff and faculty access to the NROC Network for professional development resources and webinars, access to conference presentations and white papers, forums for networking, problem solving, resource sharing, and content development assistance
- access to Standard-level member support (web, email) for designated implementation team
- access to implementation resources at the NROC Network.

### **HOSTING OPTIONS FOR STANDARD MEMBERS:**

#### **NROC Hosting:**

Due to technical necessity, some NROC course assets are hosted on NROC servers. Members have the right to link to this content through an installation file provided by NROC or through direct links.

NROC membership includes a branded instance of the HippoCampus.org content repository and the EdReady application. These websites are hosted on NROC servers and maintained by NROC. All constituents of the member's organization may access the custom instance of these websites (i.e. Member's teachers, students, and staff). Custom member versions of these websites allow for institutional use which is not allowed from the public versions of these websites. In addition, NROC Library content may be viewed directly at the custom HippoCampus site or linked to via URL from the Member's local learning management system (LMS) or learning object repository (LOR). *Please Note: Content available at the HippoCampus website may only be linked from HippoCampus and is not available for local hosting as part of the NROC membership agreement.*

#### **Member Hosting:**

Member hosting allows Members to host NROC Downloadable Content and select resources (multimedia lessons and accompanying course content including student and instructor guides, assessments, training modules, etc.) from centrally-managed application(s) such as a learning management system (LMS) or learning object repository (LOR) or other website(s). All centrally-managed applications must be managed by the Member's central staff.

#### **ACCESS AND ENROLLMENT:**

Membership fees are determined by the size of the organization served, based on secondary school enrollments or student FTEs for higher education institutions. Any enrollment restrictions shall be defined on the attached invoice.

# NROC NETWORK STANDARD MEMBERSHIP AGREEMENT

**Grant of Rights.** The Monterey Institute for Technology and Education (the Organization) hereby grants to Member the right to become a Standard Member of the “NROC Network” with benefits that include, but are not limited to:

- Access to a collaborative network of contributors, NROC users and other educators focused on improving online course quality.
- HippoCampus object repository site branded with Member’s logo, and hosted and maintained by Organization. Member shall have the right to link to this website through their LMS/LOR software during the term of this Agreement. (Content available at the HippoCampus website from collections other than the NROC Library may be available under different terms of use. Please see terms of use at the website.)
- Custom, branded EdReady instance for use by Member’s constituents.
- Unlimited access to the NROC Library with distribution rights to enrolled students and staff within Member’s institution via NROC Asset links and the right to host the NROC Downloadable Content and select resources locally. Limitations on installation and use rights of the NROC Library shall be as defined on Member invoice incorporated herein by reference.
- Priority status as reviewers and subject matter experts (SMEs) in NROC course development efforts.
- Standard member support including unlimited email and web access to the NROC Network support website.
- Access to secure implementation resources at the NROC Network for designated staff.
- Staff and faculty access to professional development and training opportunities available through the Network.

Access to the public NROC Network support website and NROC Community is open to all faculty and staff at the Member’s institution. Designated individuals are granted secure access to the Network for technical support and administrative purposes.

**Member Responsibilities.** While membership in the NROC Network does not require that a Member actively participate, all members are encouraged to participate and sustain the Network in the following ways which include, but are not limited to:

- Contributing new course content and technology innovations to NROC
- Sharing supplemental content, software tools, simulations and games with Network members through the NROC Network
- Designing, moderating and participating in online forums around specific issues on the NROC Community website
- Sharing and documenting development and teaching experiences with peers
- Acting as workgroup leaders on collaborative projects with other members
- Conducting online presentations in areas of expertise and member interest
- Contributing columns or articles to the Network and NROC Community
- Co-presenting related research at conferences with other Network members
- Using Network activities to support teaching and learning research projects
- Participating in social authoring projects for new course development

**Fees and Payments.** Member shall pay the Organization a fee as defined on attached invoice for the membership rights granted by this Agreement during the term of this Agreement. Payment of the NROC Network membership fee constitutes acceptance of the terms of this Agreement, including the Terms of Use for NROC Assets which terms are hereby incorporated herein by reference.

**Term and Termination.** The term of this Member Agreement shall commence on the date payment is received by Organization or as defined on the attached invoice and shall continue in effect for the term specified on the attached invoice. The Organization or Member may terminate this Agreement early in the event that the other party defaults in the performance of any of its obligations hereunder and fails to cure such default within thirty (30) days after written notice of such default. Member accepts the responsibility for insuring the NROC Assets, including all course multimedia files and course content, as well as all revised/adapted content, is removed from Member’s or Member’s Service Provider LMS and/or LOR environment or servers at the expiration or termination of this Agreement. Should Member decide not to renew their Agreement, all NROC Assets must be removed from Member’s server(s) within 10 days of the expiration of this Agreement, including links to NROC Assets within LMS and/or LOR software.

## **Course Information, Delivery Format, Installation and Technical Support, User and Server Requirements.**

Current information about the courses available in the NROC Library, delivery formats, course management system requirements, installation, technical and content support, end user requirements, and server requirements are available at our website ([www.montereyinstitute.org/nrocnetwork/agreement.php](http://www.montereyinstitute.org/nrocnetwork/agreement.php)).

It is the member’s responsibility to familiarize themselves with this information before entering into this agreement. (Copies available upon request.)

**General.** Any notice, request, instruction or other document to be given hereunder by any party to the other shall be in writing and delivered personally or sent by certified mail, postage prepaid by telecopy, or by courier service, to the address provided at the end of this agreement and to the address provided on the attached invoice or to such persons as may be designated in writing by the parties, by a notice given as aforesaid. This Agreement, including Exhibits, constitutes the entire understanding of the parties with respect to its subject matter and supersedes all prior agreements and understandings between the parties. This Agreement may be executed in counterparts, and when so executed each counterpart shall be deemed to be an original and said counterparts together shall constitute one and the same instrument. This Agreement shall be binding upon and inure to the benefit of the parties hereto. No party may assign or transfer any rights under this Agreement except in connection with a sale or merger transaction involving substantially all of a party’s assets. This Agreement shall be governed by, construed and enforced in accordance with the laws of the state of domicile of the Member as applied to contracts entered into solely between residents of, and to be performed entirely in, such state.

**Limitation of Liability and Remedies.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF THIS AGREEMENT OR ITS TERMINATION, WHETHER FOR BREACH OF WARRANTY OR ANY OBLIGATION ARISING THEREFROM OR OTHERWISE, WHETHER LIABILITY IS ASSERTED IN CONTRACT OR TORT (INCLUDING NEGLIGENCE AND STRICT PRODUCT LIABILITY), AND IRRESPECTIVE OF WHETHER THE PARTIES HAVE ADVISED OR BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. IN NO EVENT SHALL EITHER PARTY HAVE ANY RIGHT TO RECOVER OR OBTAIN ANY RIGHTS IN OR TO THE INTELLECTUAL PROPERTY OF THE OTHER.

## **Organization Contact Information:**

Monterey Institute for Technology and Education, P.O. Box 890, Marina, CA 93933, (831) 642-9459

## TERMS OF USE FOR NROC ASSETS

**NROC Library Grant of Rights.** The Monterey Institute for Technology and Education (the Organization) hereby grants to Member the nonexclusive right and license to make available the NROC Library materials and to distribute the NROC Library to Member's enrolled students subject to the following restrictions: (a) NROC Library Distribution. Member shall make the NROC Library available for access only by its students, faculty and staff through its own LMS/LOR environment or a LMS/LOR environment provided by third party, through closed circuit broadcast, or through other secure distribution channels. The NROC Library may not be accessed through, linked to or posted on third party websites without the prior written consent of the Organization. No other means of access to the NROC Library may be made available without the prior written consent of the Organization. (b) Third Party Access and Distribution. Providing access or distribution of the NROC Library to third parties for use or re-distribution is strictly prohibited without the prior written consent of Organization. (c) Content Revision. Member may utilize the NROC Library in their present form and/or revise or adapt the course content to meet Member requirements, provided that Member may make structural or organizational changes to a course but may not alter the course multimedia files. In the event that the Member desires to revise and/or adapt the course content multimedia files in any way, Member agrees to notify the Organization in writing of the desired revisions and obtain the Organization's prior written consent to such revisions, such consent not to be unreasonably withheld. Any revisions done by Member must be performed with Organization consent and shall be performed at Member's sole cost and expense. Member shall deliver to Organization on master CD/DVD media, a copy of all revisions to the NROC Library multimedia files developed by Member. Organization shall not be responsible for supporting content modified by Member. (d) Rights Reserved to Organization. Except as expressly authorized in this Agreement, this grant of rights to Member does not include the right to allow downloads, sell, transfer, license or distribute the NROC Library in any other format, context, manner or means or for any other purpose not specifically authorized in this Agreement without the Organization's prior written consent. All rights not expressly granted to Member in this Agreement are reserved to Organization.

**EdReady Grant of Rights:** The Monterey Institute for Technology and Education (the Organization) hereby grants to Member the non-exclusive right and license to make available the EdReady application to Member's enrolled students subject to the following restrictions: (a) Member agrees that they will access, store, and utilize all student data within the application according to institutional regulations and legal obligations. (b) Organization agrees to store these data on Member's behalf as long as the account remains active. (c) All data generated by the application shall be the property of the Organization but the Organization shall grant the Member the right to use the data for analytical purposes only. (d) Any alterations to the EdReady interface or underlying technologies (including technical integration with third-party applications) performed by Organization on Member's behalf within the scope of a Standard Membership Agreement cannot be guaranteed to either function or persist beyond the date of implementation and are subject to modification or removal at Organization's discretion at any time after consultation with Member.

**NROC Asset Changes.** Organization reserves the right to change, alter, revise, discontinue or add content to the NROC Assets at any time during the term of the Standard Membership.

**Privacy.** Organization believes that Member privacy rights are important. The complete NROC Privacy Policy can be found at <http://www.montereyinstitute.org/license/license.html#privacy> and is incorporated herein by reference.

**NROC Asset Disclaimer.** Member agrees that use of the NROC Assets is at Member's sole risk. Except for the express warranties set forth in the Warranty section of the Agreement, the NROC Assets are provided "AS IS" and "WITH ALL FAULTS" and without implied or express warranties or representations of any kind such as but not limited to uninterrupted use, accuracy, usefulness, fitness for the intended purpose, free of errors, or free of viruses or harmful components.

**Intellectual Property.** All ownership, copyrights, trademarks and other rights in the NROC Assets ("Intellectual Property") shall belong to the Organization or its licensors and title to the Intellectual Property shall remain with the Organization or its licensors. All updates, revisions and derivatives to the NROC Library developed by the parties shall belong to the Organization or its licensors. Member may incorporate the NROC Library into Member branded courses but shall include attribution prominently displayed in the form of:

"Portions of the content made available through  
TheNROCProject.org."

Member shall not in any way alter or remove copyright information from any NROC Asset. Member shall maintain such notices in its sales and marketing materials and communications that incorporate any portion of the NROC Assets or any reference to the NROC Assets. If Member's use of the Intellectual Property is improper, Member will take all reasonable steps necessary to resolve such improper use within ten (10) days of receiving written notice from the Organization. The Organization may reasonably monitor the quality of Member's products and services utilizing the Intellectual Property under this Agreement.

Each party shall defend and indemnify the other, its directors, officers, employees, agents and representatives from any liability and expense (including reasonable attorneys' fees) imposed upon the indemnified party as a result of any claim arising out of the acts or omissions of, or breach of any representation or warranty hereunder by, the indemnitor under this Agreement and including all costs, expenses and damages incurred or suffered by the indemnified party in connection therewith; provided that the party seeking indemnification shall promptly notify the other of any such claim, and permit such other party to control the defense or resolution thereof, and the party seeking indemnification shall fully cooperate with the other in connection therewith. In the event that the NROC Asset or any portion thereof is held in such a suit or proceeding to infringe a third-party copyright or other proprietary right, Organization shall, at its sole option and expense (1) procure the right to continue using the NROC Asset or portion thereof or (2) replace the same with non-infringing content.

All copyrighted content developed by the Member or the Member's employees, that is not a derivative of the NROC Assets, will be retained by the Member and will not be included in the Organization's courses without express written consent of the Member.

**Dispute Resolution Procedure.** The parties agree that any dispute under this Agreement shall be resolved by final and binding arbitration in the state of domicile of the Member, subject to the arbitration Rules of the American Arbitration Association. The arbitration shall be before a single arbitrator if the parties can agree on a single arbitrator, and if they cannot agree, then the arbitration shall be before a panel of three arbitrators mutually selected by the parties or, if no agreement is reached, then under the Arbitration Rules of the American Arbitration Association, except that the Arbitrators shall be selected by alternately striking names from the panel of five arbitrators designated by the American Arbitration Association. The arbitrator shall have the authority to grant any relief authorized by law. The arbitrator shall not have the authority to modify, change or refuse to enforce the terms of this Agreement. The prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and expenses incurred in connection with the dispute and arbitration. The arbitration hearing shall be transcribed. Arbitration shall be the exclusive final remedy for any dispute between the parties.

**Warranty.** The Organization warrants that it owns and/or has all the necessary rights to license the NROC Assets to Member in accordance with this Agreement; that it will not assume any contractual obligation that conflicts with its obligations granted in this Agreement; and that there are no claims pending or, to the best of the Organization's knowledge, threatened that relate to the NROC Assets. Except for the foregoing, Member agrees that the NROC Assets are delivered "AS IS" without any express or implied warranties, including warranties of merchantability or fitness for a particular purpose. Member acknowledges that Organization does not own or control all content available at our websites and therefore cannot warrant or guarantee that any product, service, or materials offered on our websites will be suitable for Member or Member's enrolled students. Members access and use our websites entirely at their own risk. Member acknowledges and agrees that under no circumstances will Organization be responsible or liable in any way for any claims, losses, damages, or injuries of any kind incurred by Member as a result of Member's use of or reliance upon any product, service or materials offered on our websites. The maximum liability of the Organization arising out of or in connection with any license, use or other employment of any of the NROC Assets delivered to Member under this Agreement, whether such liability arises from any claim based on breach or repudiation of contract, warranty, tort or otherwise, shall in no case exceed the actual price paid to the Organization by Member for the NROC Asset whose license, use, or other employment gives rise to the liability.