



Boulder Learning Inc. Licensing Agreement for My Science Tutor- Children's Conversational Speech Corpus (Commercial For-Profit Entities)

This Speech & Language Copyright License Agreement (the "**Agreement**") by and between Boulder Learning, Inc., having a place of business at 269 Sam Grange Ct., Carbondale, CO 81623 (BLI), and _____

having a place of business at _____ ("Licensee") (collectively, the "**Parties**"), is hereby entered into as of Date _____ ("**Effective Date**").

WHEREAS, BLI creates, develops, and/or distributes speech and language content and data for use in its proprietary technology systems including, but not limited to, systems for speech generation and speech recognition (the "**Content**"); and Licensee desires to license the Content, in consideration of the terms and conditions set forth herein, the Parties agree as follows:

- License:** BLI hereby grants to Licensee a non-exclusive, non-sublicensable, non-transferable (except as otherwise provided for in this Agreement) license (the "**License**") to use the specific version of the Content and related documentation shown on Schedule A by no more than the number of its employees shown on Schedule A, at the location(s) shown on Schedule A, during the Term specified in Schedule A, and only for the purposes shown on Schedule A (The "**Purposes**"), subject to the terms and conditions of this Agreement; Licensee may make copies of the Content as reasonably necessary for licensed use within the scope of this clause. Licensee may sell and distribute speech and language technology systems developed, trained, or tested using the Content; provided, however, that no Content is contained in or bundled with such systems. BLI may, but is not obligated to, provide additional materials that it designates as "**Content**" from time to time during the term of this Agreement. The foregoing license is subject to timely payment of all fees when due.
- Limitations on Usage:** Licensee may not: (a) use the Content at any other location(s) than as specified in Schedule A; (b) directly or indirectly sell, rent, lease, donate, transmit, retransmit, broadcast, or otherwise distribute the Content or any part thereof or derived therefrom in any form or by any means to any third party save in connection with the Purposes; (c) make the Content available for any other use by loan, rental, service bureau, timesharing or similar arrangement; (d) incorporate the Content in any way in any other product or service distributed externally by Licensee in any format, in whole or in part, save in connection with the Purposes; (e) modify or create derivative works based on the Content; or (f) removing, modifying, altering or obscuring the copyright notices or any other proprietary notices contained in or on the Content. Derivative work means work based upon the Content where the Content has been recast, transformed, adapted or revised or creating or permitting third parties to create derivative works based on the Content.
- Ownership:** Licensee agrees that the Content is the sole and exclusive property of BLI and agrees not to infringe or violate BLI's copyrights and other proprietary rights therein. Ownership of all copyrights, trademarks and other proprietary rights in the Content is retained by BLI. Except as expressly provided herein, BLI does not convey and Licensee does not obtain any right in the Content. If Licensee makes any changes, suggestions or improvements to the Content, all such changes, suggestions or improvements shall be owned by BLI. The Content is protected by U.S. Copyright laws, international copyright laws, and other international treaties. All rights not granted hereunder are expressly reserved to BLI.
- Fees:** Licensee agrees to pay BLI the non-creditable, non-refundable fees set forth in Schedule A attached hereto. Licensee shall also be responsible for payment to BLI of any and all sales, use, and other taxes or charges levied by any governmental authority (excluding taxes based upon BLI's income) in connection with BLI's furnishing Content under this Agreement (Taxes). Unless otherwise specified in Schedule A, all payments to BLI are due in United States dollars. Licensee shall pay all amounts due by Licensee to BLI under

this Agreement in advance prior to delivery of the Content. If Licensee fails to pay any amounts when due, BLI shall have the right to charge interest at the rate of one percent (1.5%) per month, such interest to accrue on a monthly basis from the due date until actual payment.

- 5 **Term:** The term specified in Schedule A shall commence on the Effective Date and shall terminate in accordance with Section 10.
- 6 **Warranties:**
 - a) **Authority:** BLI represents that subject to the limitations otherwise described in this agreement, BLI is authorized and has the lawful right to grant the License set forth in this Agreement.
 - b) **Limitations to Warranties:** EXCEPT AS PROVIDED IN SECTION 6(a), BLI DOES NOT MAKE ANY OTHER WARRANTY, EITHER EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OR COMPLETENESS OF THE CONTENT, NON-INFRINGEMENT AND AS TO THE RESULT OF USE OF ANY CONTENT TO BE OBTAINED BY ANY USER, LICENSEE, OR OTHERWISE. Notwithstanding anything to the contrary, nothing in this Agreement shall be construed as a representation made or warranty given by Licensor that the practice by Licensee or the license granted hereunder shall not infringe the patent rights or copyright rights of any third party.
- 7 **Limitation of Liability:** LICENSEE ASSUMES THE ENTIRE RISK ASSOCIATED WITH LICENSEE'S USE OF THE CONTENT. BLI SHALL NOT BE LIABLE TO LICENSEE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING BUT NOT LIMITED TO LOST DATA, LOST PROFITS OR SAVINGS, LOSS OF BUSINESS OR OTHER ECONOMIC LOSS) ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OR KNEW OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF THE NATURE OF THE CAUSE OF ACTION OR THEORY ASSERTED. BLI'S ENTIRE LIABILITY AND LICENSEE'S EXCLUSIVE REMEDY UNDER THIS AGREEMENT, FOR ANY CLAIM, WHETHER IN CONTRACT (INCLUDING BREACH OF WARRANTY), OR IN TORT (INCLUDING NEGLIGENCE), SHALL NOT EXCEED THE AMOUNT OF FEES PAID UNDER THIS AGREEMENT FOR THE IMMEDIATELY PRECEDING TWELVE MONTH PERIOD.
- 8 **Non-Assertion:** During and after the term of this Agreement, Licensee and its affiliates shall not assert, nor will Licensee or its affiliates authorize, assist, or encourage any third party to assert against BLI or any of our affiliates, customers, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim relating to any of the Content.
- 9 **Confidentiality:** Each Party will regard and preserve as confidential all information related to the business of the other, its parent company and its subsidiaries and affiliated companies that may be obtained as a result of this Agreement (the "Confidential Information"). Neither Party will, without first obtaining the other's prior written consent, disclose to any person, firm or enterprise, or use for its benefit, any Confidential Information including information relating to the pricing, methods, processes, financial data, lists, apparatus, statistics, programs, research, developments, or other information of the disclosing Party, its parent company, its subsidiaries, affiliated companies or clients concerning past, present or future business activities. BLI and Licensee each acknowledge that each of its employees, consultants and agents to whom the Confidential Information is disclosed is a party to a written agreement requiring such person to maintain the confidentiality obligations of the principal. Confidential Information shall not include information that a) becomes generally available to the public other than as a result of disclosure; b) was available to the recipient on a non-confidential basis prior to the disclosure; c) becomes available to the recipient on a non-confidential basis from a source other than the disclosing Party who is not bound by a confidentiality agreement with the disclosing Party; (d) was known to the recipient or in its possession prior to the date of disclosure by the other Party; or (e) is independently developed by the recipient without reference to the Confidential Information provided by the other Party. If any Confidential Information is required to be disclosed by a subpoena or court order issued by a court of competent jurisdiction, the Party who receives such subpoena or court order shall provide prompt notice of such subpoena or order to the disclosing Party to permit the disclosing Party to seek legal redress.

10 **Termination:** The occurrence of any of the following shall constitute a default by Licensee under this Agreement: (i) Licensee's failure to pay any undisputed sum of money due hereunder within ten (10) days after written notice by BLI; or (ii) Licensee's failure to fully perform any of its other duties and obligations under this Agreement within thirty (30) days after written notice thereof is received by Licensee; or (iii) a material breach of this Agreement by Licensee that cannot be remedied or is not remedied within thirty (30) days after written notice thereof is received by Licensee; or (iv) if Licensee shall dissolve, liquidate, become insolvent, commit any act of bankruptcy, or become the subject of any proceeding under bankruptcy or other similar laws for the protection of creditors; or (v) any substantial part of Licensee's assets becomes subject to any levy, seizure, assignment or sale for the benefit of or by any creditor or government agency. Upon the occurrence of any of the foregoing defaults by Licensee, BLI shall, in addition to all other rights available under applicable law, have the right (then or at any time thereafter during the continuance of such default), at its sole option, to do all or any of the following upon giving written notice to Licensee: (1) immediately terminate this Agreement and all duties and obligations of BLI hereunder; and (2) declare all amounts due and thereafter to become due under this Agreement to be immediately due and payable in full.

The License granted under this Agreement for the Content shall terminate upon the expiration or termination of this Agreement as specified in Schedule A, or if no such term is specified one year after the Effective Date. Upon termination or expiration of this Agreement and/or Schedule A, Licensee shall immediately discontinue all use of the Content and return to BLI or destroy the original and all copies of the Content within ten (10) days after termination. Licensee shall not be entitled to any refund, damages or other compensation from BLI because of such expiration or termination.

11 **Force Majeure:** In the event that either Party is unable to perform any of its obligations under this Agreement and/or Schedule A or to enjoy any of its benefits because of natural disaster, actions or decrees of governmental bodies or communication line failure not the fault of the affected Party, the Party affected shall immediately give notice to the other Party and shall do everything possible to resume performance. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the force majeure event, the affected Party may terminate this Agreement and/or relevant Schedule by giving written notice to the other Party.

12 **Assignment:** Licensee may not assign this Agreement or its rights or obligations hereunder without the prior written consent of BLI, which consent shall not be unreasonably withheld or delayed.

13 **Customer List:** BLI may, but is not obligated to, include Licensee's name and/or logo in its customer list posted on its website or in its promotional and marketing materials.

14 **Governing Law:** This Agreement will be governed in accordance with the laws of the State of Colorado without reference to the conflict of law provisions. In the event of a dispute arising under this Agreement, the parties expressly agree to the jurisdiction of the state or federal courts sitting in or closest to Boulder County, Colorado and both parties expressly waive any objections to the jurisdiction or venue of such courts.

15 **Severability:** In the event that any term of this Agreement is invalid for any reason, it shall be considered deleted herefrom, and this Agreement shall continue in full force and effect without affecting any other provision under this Agreement.

16 **Notices:** Any notice or other communication hereunder shall be in writing and be given, or sent by hand, by certified mail or overnight delivery and addressed to the respective Parties as follows:

If to BLI:

Boulder Learning, Inc.
269 Sam Grange Ct.,
Carbondale, CO 81623
Attn: Ronald Cole (rcole@boulderlearning.com)

If to Licensee:

Company: _____
Address: _____

Attn: _____

Notices shall be deemed to have been received: (i) if hand delivered or by confirmed electronic transmission, on the day delivered (or refusal of delivery); (ii) if sent by certified mail, on the third business day after being

sent; or (iii) if sent by overnight delivery, on the following business day. Such addresses may be changed by notice as herein provided.

- 17 **Integration and Modification:** Both Parties agree that this Agreement is the complete and exclusive statement of agreement between the Parties and supersedes all proposals or prior agreements whether oral and/or written. No modifications of this Agreement shall be valid or binding on either Party unless acknowledged in writing and signed by a duly authorized officer of each Party. Both Parties specifically agree that any language or provisions contained on any of Licensee's web sites or electronic ordering documents, or contained in any "shrink-wrap" or "click-wrap" agreement, or delivered as an attachment to or a part of the products and services provided hereunder, or attached to any billing or accounting document shall be of no force and effect if such provisions conflict with the terms and conditions of this Agreement.
- 18 **Waiver:** No waiver of any right or remedy in respect to any occurrence or event on one occasion shall be deemed a waiver of such right or remedy in respect of such an occurrence or event on any other occasion.
- 19 **Conflicts:** In the event of a conflict between the terms and conditions of different parts of this Agreement, the following order of priority (or precedence) shall apply: first, any fully executed Schedule to this Agreement; second, any agreed upon modifications or amendments to this Agreement; and third, this Agreement.
- 20 **Survival:** Sections 3 (Ownership), 7 (Limitation of Liability), 8 (Non-Assertion), 9 (Confidentiality), 10 (Termination), 12 (Assignment), 13 (Customer List), 14 (Governing Law), 15 (Severability), 16 (Notice), 17 (Integration and Modification), 18 (Waiver) and 19 (Conflicts) and 20 (Survival) shall survive any termination or expiration of this Agreement.

IN WITNESS WHEREOF, each of Licensee and BLI have caused this Agreement to be executed and delivered by its duly authorized representative.

BOULDER LEARNING, INC.

LICENSEE

Signature: _____
 Name: _____
 Title: _____
 Date: _____

Signature: _____
 Name: _____
 Title: _____
 Date: _____

SCHEDULE A
TO CONTENT AND DATA LICENSE AGREEMENT

Effective: Month _____, Year _____

Content and Data:	BLI Corpora MyST v.0.3.0 Speech data collected through My Science Tutor (MyST) system Download via Link (No physical media included in the release)
Maximum Number of Employees:	Unlimited
Location for use of the Content:	Unrestricted
Purpose:	linguistic education, research, and development activities, training, or testing of speech and language technology systems
Fees:	\$10,000
Term:	Perpetual

BOULDER LEARNING INC.

LICENSEE

Signature: _____
Name: _____
Title: _____
Date: _____

Signature: _____
Name: _____
Title: _____
Date: _____