



**TeachingStrategies\***  
for Early Childhood

**TEACHING STRATEGIES, LLC ONLINE SERVICES  
SUBSCRIPTION AGREEMENT**

**Teaching Strategies, LLC ("TS")**  
Authorized Agent: Andrea Valentine  
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Bethesda, MD 20814  
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Fax: 301-634-0825  
E-mail: [sales@teachingstrategies.com](mailto:sales@teachingstrategies.com)

and **New Hampton Comm. SD ("Subscriber")**  
Authorized Agent: Linda Kennedy  
206 W. Main St  
New Hampton, IA 50659  
Phone: 641-394-5858  
Authorized Agent E-mail: [l.kennedy@new-hampton.k12.ia.us](mailto:l.kennedy@new-hampton.k12.ia.us)  
**Order Type: Agency Program Renewal**

This Subscription Services Agreement (the "**Agreement**") sets forth the terms pursuant to which TS shall provide access to Teaching Strategies GOLD, an online reporting and assessment system comprised of proprietary content, activities, articles, tools, and other materials and proprietary and third party software applications, databases and services (collectively, the "Services"), through TS's Web site at <http://www.teachingstrategies.com> and such other sites as TS may designate (the "Web site").

1. **Services:** Subject to the terms and conditions set forth in this Agreement and pursuant to the Terms of Use and Privacy set forth on the Web site, Subscriber hereby subscribes to the Services for Subscriber's internal business purposes only.
2. **Portfolios:** Subscriber's subscription is limited to the number of student portfolios ("Portfolios") purchased by Subscriber. Subscriber may purchase initial and additional Portfolios by submitting a Portfolio Order Form, in the form attached hereto as Schedule A, at the rate set forth therein, by paying the subscription fee to TS in the manner set forth in Section 5 below. Subscriber is permitted to post and upload Portfolio Data (as defined in TS's Privacy Policy) to the Services and to produce consolidated reports using only the Portfolios purchased by Subscriber.
3. **Administration of Services:**
  - **Subscriber Administrator.** Subscriber may designate one or more of its employees to serve as its administrator(s) for the Services. The administrator is responsible for (i) assigning and administering passwords and usernames to Subscriber employees, contractors, and consultants (collectively, "Authorized Users") authorized by Subscriber to access and use the Services; (ii) setting and maintaining access and permission rights for Authorized Users; and (iii) where applicable, inputting data regarding Authorized Users.
  - **Registration.** Each Authorized User will be assigned a unique username and password to access and use the Services. Passwords and usernames may not be shared or utilized by anyone other than the Authorized User to whom such identification has been assigned. Prior to initially accessing the Services, each Authorized User will need to register with TS as set forth in the registration procedures posted on the Site.
  - **Password Protection.** Subscriber is solely responsible for the security of all usernames and passwords issued to Authorized Users. Subscriber agrees to comply with the procedures specified by TS from time to time with regard to obtaining and updating passwords. TS may cancel or suspend the use of a username and password in the event of its misuse by Subscriber or an Authorized User. The reissuance or reactivation of any canceled or suspended password or username will be at TS's sole discretion. Subscriber agrees to ensure that each Authorized User will use his or her best efforts to prevent any third party from obtaining his or her password. Subscriber will immediately notify TS of any actual or potential unauthorized access to a password or the Services.
  - **Instructions.** TS will make instructions regarding use of the Services available in electronic form on its Web site, including instructions for accessing the Services, procedures for printing or storing data, and user identification and security procedures.
  - **Retrieval of Data.** Upon termination of the Services, Subscriber may retrieve all Portfolio Data upon making payment in full of all monies owed to TS. TS will not be responsible for any Portfolio Data not retrieved within forty-five days following termination of the Services.
  - **Archives.** Subscriber may purchase data storage archives at the rates specified at [www.teachingstrategies.com](http://www.teachingstrategies.com).
4. **Length of Services:** Subscriber agrees to an initial 11.97 month contractual term of service ("Term"). The Term shall commence upon the later of TS's receipt of payment in full for the initial Term or upon an alternate date mutually agreed upon in writing by TS and Subscriber. The Term will be renewed for additional one-year terms upon payment by Subscriber of the then-applicable annual subscription fee prior to expiration of the Term. Access to the Services will terminate upon expiration of the Term unless renewed by Subscriber pursuant to this paragraph.
5. **Subscription Fee:** Access to the Services is subject to TS's receipt of the subscription fee in full in advance. Payment may be made by issuance of a purchase order (if approved in advance by TS) or by credit card or check. TS may suspend Subscriber's access to and use of the Services if Subscriber fails to pay amounts due within thirty (30) days of the date due. Suspension of the Services does not reduce the Subscriber's liability to pay for past fees or fees which will continue to accrue during the period that access is suspended. Past-due payments will bear interest at the rate of one and one-half percent (1 1/2%) per month or the maximum rate allowed by law, whichever is less.



6. **Termination:** TS may terminate this Agreement and access to the Services (i) upon written notice to Subscriber if Subscriber materially breaches a provision of this Agreement and fails to cure such breach within thirty (30) days after receipt of notice or (ii) immediately if Subscriber files for or has filed against it a bankruptcy petition, ceases to conduct business in the normal course, makes an assignment for the benefit of its creditors, becomes insolvent or is liquidated or otherwise dissolved. Subscriber may terminate this Agreement by providing TS notice in writing of its intent to terminate (a) during the sixty (60) days following the commencement of the initial Term, or (b) at any time if the program through which Subscriber has subscribed to the Service ceases to be funded by a government source. On receipt of such notice from Subscriber, TS shall refund the fees paid by Subscriber, pro-rated to the date of termination. Upon the expiration or earlier termination of this Agreement, Subscriber will promptly discontinue any further use of the Services. Except as provided above, Subscriber will not be entitled to any refund of fees paid in the event of termination.
7. **Prohibited Activities:** Except as expressly authorized in this Agreement, Subscriber will not: (i) rent, lease, sublicense, distribute, transfer, copy, reproduce, display, modify, or timeshare the Services or any portion thereof; (ii) use such as a component of or a base for products or services prepared for commercial sale, sublicense, lease, access, or distribution outside of the Authorized Users; (iii) prepare any derivative work based on the Services; (iv) decompile, decode or otherwise reverse engineer any TS technology; or (v) allow any third party or unlicensed user or computer system to access or use the Services. Subscriber agrees to take all reasonable steps to protect the Services from unauthorized access, copying, or use.
8. **Intellectual Property Rights:** Subscriber agrees that the Services and its components are protected by copyright, patent, trademark, trade secret, and other intellectual property rights and registrations. Subscriber agrees not to remove, obliterate, obscure, or alter any copyright or other proprietary rights notice that appears on any document, web page, or other component of the Services or any related manuals or documentation. Subscriber acknowledges that through its subscription payments to TS it is granted access to the Services and that Subscriber is not granted any rights or license in or to the Services or any component thereof.
9. **Indemnification:** Subscriber agrees to indemnify, defend and hold TS harmless from and against any and all liability, damage, loss or expense (including reasonable attorneys' fees) arising out of any claim, demand or proceeding based on allegations arising as a result of (i) any inaccuracies or errors within the materials, Portfolio Data and other information provided by Subscriber; (ii) breach of this Agreement, including any of the representations or warranties contained herein, by Subscriber; or (iii) Subscriber's use of the Services in any unlawful, improper or inappropriate manner or for any unlawful, improper or inappropriate purpose.
10. **Warranties:** Subscriber represents, warrants and covenants that (i) it has the right and authority to enter into this Agreement and to use and disclose the Portfolio Data and other information or materials provided hereunder; (ii) it will obey all applicable laws, rules and regulations in the use of the Services and the Portfolio Data; (iii) the Portfolio Data will not infringe any copyright, trademark, privacy right, right of publicity or other proprietary right of any third party; and (iv) the Portfolio Data will not contain any material that is unlawful, hateful, obscene, libelous, threatening or defamatory. Subscriber acknowledges that TS has no obligation to monitor the Portfolio Data, but, in the event that TS becomes aware that any Portfolio Data does or may violate the warranties and representations set forth herein, TS will have the right to remove such item pending resolution.

TS represents, warrants and covenants that (i) its use of all data provided by Subscriber to TS during the Term of this Agreement, including, without limitation, Portfolio Data, will comply with the terms of TS's Privacy Policy; (ii) the Services shall operate in substantial accordance with the specifications set forth in the documentation related to the Services; and (iii) it will use reasonable efforts to resolve operational problems related to the Services. Except as set forth herein, TS makes no other warranties, either express or implied, and all other warranties, either express or implied are hereby disclaimed, including but not limited to the warranty of fitness for a particular purpose and warranty of merchantability, and will not be responsible for any damages that may be suffered by Subscriber, including loss of data resulting from delays, non-deliveries or service interruptions by any cause or due to errors or omissions of Subscriber. TS expressly limits its damages to Subscriber for any non-accessibility time or other down time to the pro-rata daily charge during the system unavailability and specifically denies any responsibility for any damages, direct or indirect, arising as a consequence of such unavailability.

11. **Limitation of Damages:** No party shall be entitled to receive from or be obligated to pay to the other any part of any award, claim, fine or judgment which is deemed, declared or is characterized in its nature to be exemplary, punitive or consequential damages. Subscriber acknowledges that the Services are provided "as is" and "as delivered" and cannot be construed as being able to be customized or modified in any way.
12. **Assignment:** Subscriber may not assign or delegate any rights or obligations under this Agreement and any purported assignment and delegation shall be ineffective. TS may freely assign or delegate all rights and obligations under this Agreement, fully or partially. TS may also substitute, by way of unilateral novation, effective upon notice to Subscriber, TS for any third party that assumes TS's rights and obligations under this Agreement.
13. **Marketing:** TS may elect to list Subscriber as a user of the Services in TS's marketing and press materials.
14. **Taxes:** Subscriber is responsible for the payment of all applicable taxes and duties, including, without limitation, sales, use, excise, value-added, and franchise taxes, associated with its use of the Services and any transactions that result there from, except for taxes based on TS's income.



**15. General Terms:**

- *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Maryland, without regard to the choice of law principles thereof, and TS and Subscriber hereby consent to the exclusive jurisdiction of the federal and state courts of Montgomery County, Maryland.
- *Severability.* If any provision of the Agreement is found to be invalid or unenforceable, such provision shall be interpreted as to give maximum effect to its intended purpose and this shall not affect the validity or enforceability of any other provision of this Agreement.
- *Notices.* TS may notify Subscriber via postings on [www.teachingstrategies.com](http://www.teachingstrategies.com), and via email or any other communications means pursuant to the contact information Subscriber provides to TS. Subscriber may also notify TS via email at [sales@teachingstrategies.com](mailto:sales@teachingstrategies.com) or via mail or courier at Teaching Strategies, LLC 7101 Wisconsin Avenue, Suite 700, Bethesda, MD 20814 USA. Any notices that Subscriber provides without compliance with this section on Notices shall have no legal effect.
- *Entire Agreement.* This Agreement, along with the Terms of Use and Privacy Policy incorporated by reference herein, constitutes the entire, complete and exclusive agreement between TS and Subscriber regarding the Services and supersedes all prior agreements and understandings, whether written or oral, or whether established by custom, practice, policy or precedent, with respect to the subject matter of this Agreement. The terms and conditions of this Agreement will prevail over any conflicting provisions in the Terms of Use or Privacy Policy. References in the Terms of Use and Privacy Policy to "you" or "your" shall mean Subscriber. Subscriber agrees to accept these terms on behalf of all users in the organization.

By executing this Agreement, TS and Subscriber agree, by and through their duly authorized agents, to be bound by the terms and conditions set forth in this Agreement

<b>Teaching Strategies, LLC</b>	<b>New Hampton Comm. SD</b>
By (signature):	By (signature): <i>Linda Kennedy</i>
Name (print): Andrea Valentine	Name (print): <i>Linda Kennedy</i>
Title: Chief Operations Officer	Title: <i>Elementary Principal</i>
Date: / /	Date: <i>6 / 7 / 12</i>



**SCHEDULE A:  
Order Form**

Reference is made to the Subscription Services Agreement between TS and New Hampton Comm. SD ("Subscriber") dated as of June 6, 2012 (the "Agreement"). Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

	QTY	PRICE	EXT
<b>Teaching Strategies GOLD<sup>™</sup> online</b>			
Child Portfolios	104	\$10.45	\$1,086.80
Archived Portfolios Included	26	\$0.00	\$0.00
Additional Archived Portfolios	78	\$0.00	\$0.00
OSEP Reports Enabled	104	\$0.00	\$0.00
TeamCentral Enabled	104	\$0.00	\$0.00
<b>Online Professional Development</b>			
GOLD Basic	Unlimited	\$0.00	\$0.00
<b>Inter-Rater Reliability Certification</b>			
Inter-Rater Reliability Certification	Unlimited	\$0.00	\$0.00
		<b>Total</b>	<b>\$1,086.80</b>

By signing below, Subscriber hereby agrees to pay the subscription fee, as set forth above, for the following subscription period: 08/01/2012 to 07/31/2013.

Agreed to and accepted by:

**SUBSCRIBER**

*New Hampton Elementary / The Learning Center*

By (signature):

*Linda Kennedy*

Name:

*Linda Kennedy*

Title:

*Elementary Principal*

Date:

*6/7/12*