

Respondus 4.0 License Agreement for Educational Institutions

Last Updated: May 12, 2023

This Respondus 4.0 (the “Software Product” or “Respondus 4.0”) License Agreement for Educational Institutions (“Agreement”) is an agreement between the institution, college, university or other learning institution (the, “Institution” or “Licensee”), and Respondus, Inc. (“Licensor”), regarding the Institution’s license, access, and use of Respondus 4.0. Institution agrees to the terms of this Agreement, and any changes to those terms upon Institution’s and/or its user’s continued use of Respondus 4.0, which indicates acceptance of this Agreement.

Definitions

Licensor: Respondus, Inc., a corporation duly organized and existing under the laws of the state of Washington, USA, having its corporate headquarters in Redmond, Washington, being proprietor of assessment tools for the education market.

Licensee: A institution, college, university, or other learning institution that has obtained a license for the Respondus software product in accordance with the terms of this agreement.

Affiliates: Current employees, instructors, and teaching assistants of the Licensee.

Software Product: Respondus: A Windows-based software application named *Respondus* that enhances the assessment capabilities of course management systems.

Duplication and Distribution Rights

The Licensee is permitted to redistribute the Software Product to Affiliates for the duration of this license.

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The Licensee must not eliminate, bypass, or in any way alter the copyright screen (also known as the “splash” screen) that appears when the Software Product is first started on a computer.

Any use or redistribution of the Software Product in a manner not explicitly stated in this agreement, or not agreed to in writing by the Licensor, is strictly prohibited.

Termination

This agreement is effective until terminated. The Licensee may terminate this agreement at any time by notifying the Licensor of the termination and destroying all copies of the Software Product. If the Licensee terminates its license prior to the end of the academic year (generally July 31), the Licensor will not refund or prorate the Licensee for its licensing fees, nor will it reduce or waive any licensing fees still owed to the Licensor. Upon termination of the license, the former Licensee must make a good faith effort to eliminate further use of the Software Product by Affiliates of the institution.

The Licensor has the right to terminate this agreement if the Licensee violates one or more terms in this agreement. If the Licensor sends a notice of termination to the Licensee, the Licensee must immediately discontinue all use of the Software Product. In addition, the Licensee may be subject to legal action by the Licensor.

Disclaimer of Warranty

While the Licensor has tried to ensure that the Software Product is accurate and free from defect, it is provided “as is” without warranty of any kind. The Licensee and its Affiliates assume the entire risk as to the results and performance of the Software Product **THE LICENSOR DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL THE LICENSOR BE LIABLE FOR ANY DAMAGES WHATSOEVER ARISING OUT OF THE USE OF, OR INABILITY TO USE, THE SOFTWARE PRODUCT.**

Limitation of Liability

UNDER NO CIRCUMSTANCES SHALL LICENSOR BE LIABLE TO LICENSEE ON ACCOUNT OF ITS USE OR MISUSE OF AND RELIANCE ON SOFTWARE PRODUCT. SUCH LIMITATION OF LIABILITY SHALL APPLY TO PREVENT RECOVERY OF DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, AND PUNITIVE DAMAGES (EVEN IF RESPONDUS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). SUCH LIMITATION OF LIABILITY SHALL APPLY WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF AND RELIANCE ON SOFTWARE PRODUCT, FROM INABILITY TO USE, INTERRUPTION, SUSPENSION, OR TERMINATION OF THE SERVICES OR BY REASON OF ANY INFORMATION OR ADVICE RECEIVED THROUGH THE SOFTWARE PRODUCT. THE FOREGOING DISCLAIMERS, WAIVERS AND LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

Products and Services

Upon receipt of payment or purchase order, the Licensor will make available ticket-based support (<https://web.respondus.com/support/>) to an administrator and two support contacts designated by the Licensee. These individuals are known as “Authorized Support Persons.” Instructors may also use this support channel. It is up to the discretion of the Licensor to provide phone support in certain instances. The goal of the support staff is to provide a thoughtful response to each help ticket within 24 hours of submission, excluding weekends and U.S. holidays.

Term of Contract

This license agreement is based on “academic years,” starting August 1 or January 1, with the additional option to prorate the annual fee in the initial term. This agreement is automatically renewed, at

Licensor's then current pricing and under Licensor's then current terms and conditions, unless the Licensee indicates in writing its intent to discontinue its License. If the Licensee has not issued payment for its annual license fee by August 1 or January 1, whichever is applicable, the Licensor is permitted to withhold updates of the Software Product and to restrict access to services that are available to Licensees in good standing. The Software Product will cease to function after the license has expired.

Ownership of Software

The Software Product is copyrighted by the Licensor and remains the property of the Licensor. This license is not a sale of the original software or any copy. The Licensee owns the physical media on which the Software Product is installed, but the Licensor retains title and ownership of the software and all other materials included as part of the Software Product.

License Fees

There are two fees: a one-time *registration* fee and an *annual* fee. Both fees are payable by the Licensee during the first year. In subsequent years, only the annual fee is due.

The *one-time registration fee* for all institutions is \$200. This is a one-time payment that initiates an institution's license for the Software Product. If the Licensee terminates its license, or fails to renew it by the annual renewal date, payment of the full registration fee is required to reestablish the license.

For Higher Education, the *annual fee* is based on the student Full-Time Equivalency (FTE) at the institution. For K-12 institutions, the *annual fee* is based on the seat license for their learning management system. List fees for Software Product are set forth at <https://web.respondus.com/he/respondus/pricing/>.

Approximately three months prior to the August 1 license renewal date, the Licensor will provide the Licensee an invoice for the next year's license fee. Payment of the annual license fee is due by the renewal date.

Price Adjustment

The Licensor has the right to increase or decrease the annual license fee from year to year. If the Licensor intends to adjust the annual license fee, it must give notice to the Licensee no less than 60 days before the annual renewal date.

Prorating of Fees and Credits

The *registration* fee is not subject to prorating. During the first year of a license, the Licensor may, on its own discretion, prorate the annual license fee to adjust for a partial year of licensing.

General

The failure by a party to exercise or enforce any right hereunder shall not operate as a waiver of such party's right to exercise or enforce such right or any other right in the future. Modifications to this Agreement shall not be binding upon Respondus, absent its written consent. No purchase order or other document that purports to modify or supplement this Agreement shall add to or vary the terms of this Agreement. If a court should find that one or more rights or provisions set forth in this Agreement are invalid, the parties agree that the remainder of the rights or provisions shall be enforceable and that, to the extent permitted by law, the court shall give effect to the parties' intentions, as reflected in any such rights or provisions that have been declared invalid or unenforceable. If Institution does not agree to the terms and conditions of this Agreement, Institution is prohibited from accessing or using the Software Product. Any term that would naturally survive termination of this Agreement shall so survive, including, for example, the limitations of liability. Any notice required to be given under this Agreement

shall be deemed effective on the date sent if provided by electronic mail and acknowledged by the other party within 5 days of receipt, or if provided by registered or certified mail addressed to an administrator of the Institution or to Respondus, within three (3) days after deposit with the US Postal Service or international carrier.

Accessibility.

Licensors are committed to promoting and improving accessibility as specified under Americans with Disabilities Act ("ADA"), 42 U.S.C. 12101 et seq. and Section 504 and 508 of the Rehabilitation Act 29 U.S.C. 701 et seq. Licensors comply with federal accessibility laws and regulations to the extent described at <https://web.respondus.com/accessibility-respondus/>.

Privacy

Privacy Policy available at <https://www.respondus.com/privacy>

Initiating a License

To obtain a campus-wide license for Software Product, fill out the *Ordering and Contact Information* form below and return it with a purchase order or payment.

Respondus 4.0 Campus-wide License Ordering & Contact Information

To obtain a Campus-wide license for Respondus 4.0, return this entire agreement and the completed form below to Respondus. Please allow 2-3 days for processing.

Institution: _____ **Campus/Branch:** _____

LMS (select all being used):

- | | | |
|--|-----------|-------|
| <input type="checkbox"/> Blackboard Learn (9.x) Enterprise | Login URL | _____ |
| <input type="checkbox"/> Brightspace 10.x | Login URL | _____ |
| <input type="checkbox"/> Canvas | Login URL | _____ |
| <input type="checkbox"/> Moodle (2.x – 3.x) | Login URL | _____ |
| <input type="checkbox"/> Other | Login URL | _____ |

Higher Ed: Provide the student FTE based on IPEDS data: _____

K-12: Provide the number of seats licensed for your LMS: _____

Administrator Contact

This is the person who receives all information related to the Respondus software, including product updates, licensing, and billing information.

Name	_____	Address	_____
Position	_____	City/State/Zip	_____
Department	_____	Telephone	_____
E-mail	_____		

Authorized Support Persons

These are the two individuals permitted to receive technical support from Respondus.

Name	_____	Address	_____
Position	_____	City/State/Zip	_____
Department	_____	Telephone	_____
E-mail	_____		

Name	_____	Address	_____
Position	_____	City/State/Zip	_____
Department	_____	Telephone	_____
E-mail	_____		

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Email: sales@respondus.com