

## Q-global

### User License Agreement (the "Agreement")

**1. License Grant.** NCS Pearson, Inc. (hereinafter called "Pearson") grants to You, or anyone authorized by You or acting on Your behalf, the undersigned customer (hereinafter called "You or Your"), a personal, non-transferable, nonexclusive license to use the Q-global Scoring and Reporting System product ("Q-global") to enable administration, scoring, reporting and retention of examinee data during the term of this Agreement. Q-global displays Test instructions and items for onscreen Test administration or data entry, Test-related manuals, and related user documentation, Q-global coordinates Your access to specific Test(s) procured by You from Pearson and based on the data input and the report selected by You, generates Test-specific output reports, including but not limited to, profile and interpretive reports ("Reports") delivered through Q-global. Q-global also provides You with an opportunity to export Your examinee data to Your desktop or to retain the examinee data in files on Q-global.

**2. Term.** The term of this Agreement begins on the date this Agreement is electronically accepted by You or when You use Q-global and will continue, except as otherwise provided in this Agreement, unless or until terminated by either party.

**3. Orders and Payment.** All orders for Test(s) and administrations, scoring, and Reports through Q-global ("Administrations") during the term of this Agreement are subject to acceptance by Pearson, in its discretion, and will be fulfilled subject to Pearson's Qualification requirements and Pearson's Terms of Sale and Use and this Q-global License. You will separately purchase Test Administrations or Reports that will be delivered electronically to Your account and be available for Your use in accordance with Pearson's Terms and Conditions of Sale and Use. You agree to pay all applicable charges for Test Administrations or Reports at Pearson's then-prevailing rates at the time of order, together with any applicable taxes. Unless otherwise specified by Pearson, charges are due and payable within thirty (30) days of invoice.

**4. Use of the Test(s) and Q-global.** You agree to use the Test(s) and Q-global (a) in accordance with the Terms and Conditions referenced in Pearson's then current published catalog and in accordance with all state and local laws and regulations and (b) for the number of Administrations You have purchased from Pearson. You also agree to only use Q-global on computers that conform to Pearson's then-current published computer operating environment specifications. You agree that Pearson may install any Q-global Maintenance Release at no additional charge. You understand and agree that Pearson's Test(s) and Q-global are meant to be used as tools to supplement You in the overall assessment process, and are not intended or designed to be used alone or replace Your professional judgment. You shall not grant sublicenses, assign or transfer (including transfer by rental) Q-global or use Q-global to benefit any third party without the prior written consent of Pearson.

**5. Protection of Test(s) and Operating System.** The Tests(s) and the Q-global operating system are the proprietary property of Pearson and contain trade secrets, copyrighted works and, in certain cases, patented intellectual property, owned by Pearson and/or its licensors. The placement of a copyright notice on any portion of the Test(s) or Q-global does not mean that they have been published and will not derogate any claim by Pearson of trade secret protection. Title to the Test(s)

and Q-global and copies thereof, and all intellectual property rights protecting the Test(s) shall remain with Pearson and/or its licensors and Q-global shall remain the property of Pearson.

**6. Examinee Data.** You understand that You may be allowed to export Your examinee data at any time. If You choose to store examinee data on Q-global, Pearson will regularly backup the examinee data stored in the Q-global data base and will securely store these backups. However, You must make regular backups and agree that You release Pearson from any failure in the database system.

## **7. Restrictions on Use**

(a) You agree not to copy or duplicate, modify or alter physical or electronic characteristics of the Test(s) or the Q-global operating system or to dismantle or reverse engineer any part of the Test(s) or Q-global.

(b) Because Q-global and its outputs, including but not limited to Reports, are protected as trade secrets, except as expressly provided in this section 7, these TRADE SECRETS ARE NOT PERMITTED TO BE DISCLOSED in response to requests made or any other data disclosure law that exempts disclosure of information or documents protected as trade secrets. You agree that You will not otherwise, directly or indirectly disclose any trade secrets of Pearson without the prior written consent of Pearson.

(c) You may excerpt portions of the Reports, limited to the minimum text necessary to accurately describe Your significant core conclusions, for incorporation into Your written evaluation of the individual, in accordance with Your profession's citation standards, if any.

(d) You may not, under any circumstance, copy or reproduce the text of any Test question without Pearson's prior written permission.

**8. Test(s) Availability.** Pearson's rights to make available Test(s) and Administrations are subject to agreements between Pearson and the Test owners/licensors. There is no assurance that Pearson will be able to provide any particular Test now or in the future. If Pearson is unable to sell Administrations with respect to a particular Test, You may continue to use any previously purchased Administrations. You agree that Pearson will not be liable to You in any manner whatsoever for any future unavailability of Test(s) or Administrations.

**9. Support.** You may contact Pearson's Technical Support for help in operation of Q-global, by telephone during Pearson's regular Technical Support business hours.

**10. Pearson's Protection and Use of Data.** To perform services for You, Pearson will receive information that is provided by You and examinees. Pursuant to this Agreement, any information that Pearson receives is subject to the Privacy Policy. Pearson may use or disclose data that Pearson receives from You or Your examinees collected from Administrations to provide Test(s) and Administrations pursuant to this Agreement. For Pearson's quality assurance, research and/or Test development purposes, Pearson may, from time to time extract de-identified data stored on Q-global. De-identification means that the extracted demographics and Test responses cannot be identified as Yours or Your examinees. Pearson will only use this de-identified data for lawful purposes, including but not limited to, quality assurance, research, and/or test development.

**11. Warranty.** Pearson warrants that neither the Test(s) in their standard form nor normal use of the Test(s) will infringe any valid United States patents or copyrights existing at the time the Test(s) are made available by Q-global, provided, however, that this warranty does not extend to any non-NCS Pearson test ("NCS Pearson Test(s)" that are published directly or under licenses by NCS Pearson, Inc.), to any infringement arising out of the use of such Test(s) in combination with systems, equipment or Q-global programs or platforms not supplied by Pearson or any use of the Test(s) outside the United States. If You promptly notify Pearson of any such infringement claim of which You have knowledge or notice, and accord Pearson the right, at its sole option and expense, to handle the defense of the infringement claim, Pearson will indemnify and hold You harmless from and against such infringement claim. If such an infringement claim arises, or if Pearson becomes aware of the possibility of such a claim, then Pearson may, in its discretion (a) furnish You with non-infringing replacement Test(s) within sixty (60) days; or (b) terminate this Agreement in whole or in part by repurchasing Your unconsumed Administrations. This is Your exclusive remedy for any breach of this warranty against infringement.

EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS SECTION, PEARSON MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE TEST(S). ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE DISCLAIMED.

**12. Termination.** Either party shall have the right to terminate this Agreement, including any licenses, if the other party breaches any of its obligations under this Agreement and fails to cure the same within thirty (30) days after receipt of written notice of default (except that there shall be no cure period for Your breach of Pearson's rights under Sections 4 or 5 of this Agreement). If this Agreement is terminated for any reason, Pearson will allow you access to Q-global for not more than thirty (30) days for the sole purpose of exporting Your data. Your obligations under this Section 12, as well as the provisions of Section 13 and 14 below, shall survive any termination of this Agreement.

**13. Indemnification.** EXCEPT AS PROVIDED IN SECTION 11 OF THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, YOU AGREE TO INDEMNIFY AND HOLD PEARSON HARMLESS AGAINST ALL CLAIMS, LIABILITIES, DEMANDS, DAMAGES, OR EXPENSES (INCLUDING ATTORNEYS' FEES AND EXPENSES) ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF THE TEST(S) COVERED BY THIS AGREEMENT AND/OR YOUR FAILURE TO PERFORM THE OTHER TERMS OF THIS AGREEMENT.

**14. Liability.** PEARSON'S LIABILITY FOR LOSS OR DAMAGE RELATING TO THIS AGREEMENT AND/OR THE TEST(S) OR YOUR USE OR INABILITY TO USE THE TEST(S), REGARDLESS OF THE FORM OF ACTION, SHALL BE LIMITED TO THE CHARGES PAID BY YOU FOR THE TEST(S) INVOLVED. THIS IS YOUR EXCLUSIVE REMEDY. IN NO EVENT SHALL PEARSON BE LIABLE TO YOU FOR ANY CLAIM MADE AGAINST YOU BY ANY OTHER PARTY OR FOR ANY CLAIM MADE BY YOU FOR LOST BUSINESS OR PROFITS, OR FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF PEARSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM, LOSS OR DAMAGES.

**15. General.** This Agreement constitutes the entire agreement of You and Pearson concerning this matter, and supersedes all discussions, proposals, bids, invitations, orders, and other communications, oral or written, on this subject. These Terms and Conditions may not be waived, amended, or modified in any way except through a written agreement signed by the President of

Pearson Clinical Assessment group, a business of NCS Pearson, Inc. If any one or more provisions of this Agreement are found to be illegal or unenforceable, the remaining provisions will be enforced to the maximum extent possible. To the extent any purchase order from You conflicts with or amends these Terms and Conditions in any way, these Terms and Conditions, as unmodified, will prevail.

I ACCEPT THE TERMS AND CONDITIONS

License version effective date June 20, 2012