

FOLLETT SCHOOL SOLUTIONS, INC.
PRODUCT LICENSING TERMS

IMPORTANT

These Product Licensing Terms (these “Terms”) are incorporated by reference into the Follett Destiny® Solution™ Agreement (the “Solution Agreement” and, together with these Terms, this “Agreement”) between the Customer and Follett School Solutions, Inc. (“Follett”) governing the use of the Follett Destiny® solutions described in the Solution Agreement, and any revisions and updates to those solutions (collectively, the "Product"). To be clear, the term "Product," as used in these Terms, includes any software, data, reports and/or other instructional materials provided with the Product or generated by the Product. The terms “Customer” and “you” refer to the educational institution, cooperative, consortium or service center that has acquired a license to the Product from Follett, including any district, school or other entity to whom Customer rightfully provides access to the Product. By installing, accessing or using all or any portion of the Product, you agree to be bound by these Terms. If you do not agree to these Terms, do not install, access or use the Product and promptly return any Product to Follett.

1. Ownership of the Product and License to Use the Product.

1.1 *Ownership of the Product.* The Product is owned by Follett and/or its third-party licensors. Please see <http://www.follettsoftware.com/destiny/licenseagreement/OpenSource.pdf> for a complete list of the third-party open source contributors to the Product and their license terms regarding use of their open source code in the Product. The Product is protected by U.S. and international copyright law. Follett and its licensors retain all title to and ownership of the Product, with the exception of the following limited use license:

1.2 *General License.* Follett grants to you a limited license to use the Product during the term of the Solution Agreement, for the number of sites indicated in this Agreement, for non-commercial, educational purposes only. If you have obtained a single site license, you may install and use one copy of the Product on a central server located within and under the control of your site, or access the Product from Follett’s hosting facility, for the purpose of managing your site’s library, media, asset and textbook collection. If you have acquired a district license to use the Product, you may install a copy of the Product on a central server or servers located within and under the control of your district, or access the Product from Follett’s hosting facilities, for the purpose of managing the library, media, asset and textbook collections of the sites within your district and for whom you have paid a license fee to Follett. The Product modules (Library Manager, Resource Manager, Textbook Manager, Asset Manager and Media Manager, Analytics, Collections) may only be used for the purposes for which they were intended (e.g. Library Manager for library collections only). If you are consortium or service center serving multiple districts or schools, you are required to provide these Terms to any districts, schools or other entities to whom access to the Product is rightfully provided.

1.3 *Password.* You will have the ability to assign users of the Product and associated passwords. You are responsible for maintaining the security of your passwords and

agree not to post your passwords on any Web site accessible to the public. You agree to assume responsibility for the results of any misuse of your passwords and to report any misuse of the passwords immediately to Follett.

14 *Prohibited Use.* You may not copy the Product without Follett’s permission, except to make a backup copy. You may copy the Product’s accompanying documentation to be used for internal use only, as necessary to use the Product. You may use the Product to generate reports for internal use only. You are responsible for the security of all data extracted from the system: client defined fields, data in email, attachments, file copies, third party services such as Google docs, Microsoft Office 365 environment or other services, API usage by you or other designated Partners. You may not use the Product or allow any third party to use the Product for any commercial purpose or in any manner not set forth in this Agreement or the Solution Agreement. You may not loan, sublicense, rent, lease, transfer, or assign the Product or any portion thereof to any third party. You may not remove any copyright, trademark or other intellectual property rights notices from the Product, including from any reports or data generated by the Product. You may not reverse engineer, decompile, disassemble, or in any way modify the Product or any portion thereof without prior written consent of Follett. Any modifications you make to the Product will remain the property of Follett and/or its licensor(s). This Product may not be used except for the purposes specifically licensed. A breach of any term in this Section 1.4 will be considered a breach of a material term.

15 *New Versions.* When you install or access a new version of the Product accompanied by a new license, provided your license fee entitles you to the new version, your use of the new version constitutes your acceptance of the new license and the termination of your license to use any previous version of the Product.

16 *Follett Digital Platform.* The Product supports the usage of Follett eBooks, Follett audiobooks and other digital content (“eBooks”) purchased separately from Follett. Follett provides for a secure eBook platform (“Follett Platform”) accessible from the Product to support access to these eBooks. By installing, accessing or using all or any portion of the Follett Platform, you agree to be bound by the terms found at <https://folletlearning.com/digitalterms>

2 *Termination for Breach.* If you breach any material terms of this Agreement or fail to pay license fees as they become due, Follett may immediately terminate your license to use the Product, including by disabling any on-line access, in addition to taking any other legal remedies available to it. Upon termination of your license, Follett will disable your access to the Product, you must either return any copies of the Product to Follett or destroy the copies and certify in writing that you have done so.

3 *Third Party Web Sites.* The Product may provide you and your patrons with links to third party web sites, including Third-Party Applications referenced in Section 5 below. You acknowledge that Follett does not endorse or maintain control over and will not be liable for the content, privacy, advertising or other materials contained on such third- p a r t y sites. Your use and your patrons’ use of the content, goods or services on any third-party site or Third-Party Application will be governed by the terms and policies on that site or Third-Party Application, if any. You will be responsible for understanding and complying with third party sites’ terms of use and instructing your patrons and employees on the same.

4 *Third Party Subscription Databases.* The Product may enable you and your patrons to search third-party subscription databases. Access to many of these databases is strictly regulated under the terms of the license agreements between you and the third-party database owners. You

acknowledge that it is your obligation to ensure against the unauthorized access of such third party-owned subscription databases. If the Product provides access to password protected content, you agree to password protect such access at your library's server level to ensure that only your patrons can use the Product, and to protect against the unauthorized use of third party-owned content, such as subscription databases.

5. *Student Privacy.* You may be able to allow your patrons to set up their own individual login accounts. If you do so, you agree that you are solely responsible for complying with all applicable state, federal and global privacy laws regarding student privacy, including the federal Family Education and Privacy Act (FERPA). Follett warrants that it will not use any information you provide from students' accounts for any purpose other than providing the Product, and that it will not disclose such information to any third party unless required by law or as directed by you with respect to certain third-party applications ("Third-Party Applications") such as Biblionasium, OverDrive MackinVIA and Axis 360, which can be integrated into our Product to allow you and your users to access such Third-Party Application. By activating, or directing Follett to activate, such Third-Party Application integration in the Product, you have the appropriate consent and authorize Follett to disclose the following student information for the sole purpose of facilitating such integration:

- Location name (site name)
- Student name
- Homeroom teacher name and email address
- Grade
- User name/login of student

The Product also supports optional single sign-on technology with Google and Microsoft platforms (where a user can use a Google or Microsoft account to login to Destiny) and access to Google or Microsoft cloud storage (Google Drive or Microsoft One Drive accounts). You may choose to configure this single sign-on technology in your sole discretion, in which case your end user can choose to access their Google or Microsoft account from Destiny. You are responsible for any confidential data which a user moves to these platforms. This functionality requires the use of Google and/or Microsoft API (Application Programming Interface) Services, respectively. Refer to "Google Sign In" [Privacy/Terms](#) and "Microsoft Single Sign-in" [Privacy](#). Requests for Google/Microsoft account information will identify the Product as seeking access to user data (the user's cloud storage location). Follett will utilize this account information for the sole purpose of logging in the user to Destiny, or to create links to user-selected documents for Collections. This information is being requested for no other purpose and Follett will not use the user data for any other purpose. The user's account ID is stored on the workstation with a cookie to support subsequent use (until the user logs out from their cloud storage location).

6. *Children's Online Privacy Protection Act ("COPPA").* As required under COPPA, Follett must make the following disclaimer: FOLLETT DOES NOT KNOWINGLY COLLECT ANY PERSONALLY IDENTIFYING INFORMATION FROM CHILDREN UNDER THE AGE OF 13 THROUGH THE PRODUCT EXCEPT IN COMPLIANCE WITH COPPA. Follett cannot make that claim on behalf of third-party sites found through the Product. You therefore agree to inform and educate patrons under the age of 13 that they should not provide any personally identifying information on any third-party sites without the involvement and verifiable consent of their parents. As a condition to using this Product, you consent to the collection of student information as agent of

the parents and/or legal guardians of your students. You may take any other action with respect to such information (including deletion), in each case to the extent permitted or stipulated under COPPA.

7. *Your Content.* The Product may allow you to upload content. You represent and warrant that you own or have obtained all rights, licenses and permissions necessary to use, copy, display, publish or otherwise share any content or materials you make visible outside your school via the Product (“Your Content”); and Your Content will not (a) be offensive or objectionable; (b) contain errors; (c) violate intellectual property rights or privacy, publicity or other rights of third parties; (d) violate any laws, rules or regulations; or (e) be harmful to the computers or networks of Follett or any third-party viewing or downloading Your Content.

8. *No Endorsement.* Follett has the right, but not the obligation, to review Your Content and Third-Party Content. It is your responsibility to ensure that Your Content complies with the terms of this Agreement. Follett neither endorses nor approves of Your Content or any Third-Party Content and will not be liable for Your Content or any Third-Party Content.

9. *Right to Remove Your Content.* Follett may, at its sole discretion, remove any of Your Content which, in Follett’s reasonable opinion, would violate the terms of this Agreement or is otherwise objectionable with written notification.

10. *Limited Warranty.* Follett warrants that for a period of 1 year from its initial delivery to your site or your access, in the case of online subscriptions, the Product will perform in substantial compliance with its specifications and be free of material defects and will not infringe upon the intellectual property rights of any third party. As your sole and exclusive remedy for this warranty, Follett will either repair the Product or refund your prorated license fee. This limited warranty does not cover any material defect or infringement resulting from any accident, abuse, or misapplication of the Product caused by you, your employees, end users, agents or contractors, or any modification you, your employees, end users, agents or contractors make to the Product, whether or not such modification is authorized by Follett.

11. *Third Party Services.* We allow third-party companies, including AddThis and Google, to collect certain anonymous information when you use the Product. Follett utilizes this anonymous information to measure usage of the Product to support our product development efforts. These companies typically use a cookie or a third-party web beacon to collect this information.

12. **DISCLAIMER OF WARRANTY. FOLLETT DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** Follett and its licensors are not responsible for and make no representations or warranties with regard to third party network operating systems, computer hardware, software or peripherals that you use in conjunction with the Product, OR THAT ANY NETWORK-ACCESSIBLE FEATURES OF THE PRODUCT WILL BE CONTINUALLY ACCESSIBLE OR ACCESSIBLE AT ANY TIME. THE THIRD-PARTY SOURCE CODE USED IN THE PRODUCT AND ITS LICENSING TERMS ARE AVAILABLE AT <http://www.follettsoftware.com/destiny/licenseagreement/OpenSource.pdf>, AND IS PROVIDED BY THIRD PARTY LICENSORS “AS IS,” WHO DISCLAIM ANY EXPRESSED OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

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13. *Additional Indemnification.*

13.1 *By Follett.* Follett agrees to indemnify, defend and hold you harmless from and against any claims, including reasonable legal fees and expenses, based upon the Product infringing any United States copyright, patent or other intellectual property right under U.S. law; provided that you promptly notify Follett in writing of any such claim and allow Follett to control the proceedings. You agree to cooperate fully with Follett during such proceedings. Follett will defend and settle at its sole expense all proceedings arising out of the foregoing claims. In the event that you are enjoined from using the Product, Follett will, at its option, replace, in whole or in part, the Product with a substantially compatible and functionally equivalent computer program, modify the Product to eliminate the infringement, provide you with a refund in an amount not to exceed the amounts paid to Follett for the Product, depreciated on a straight-line basis over a five (5) year term, or obtain for you the right to continue using the Product. Follett has no obligations under this Section to the extent a claim is based upon any of the following:

(i) the Product or any portion thereof has been modified, altered or changed in any manner by you or any party acting on your behalf (other than by Follett or its authorized representatives or a third party contractor of Follett), if such infringement would have been avoided in the absence of the use of such altered Product; (ii) a design created by someone other than Follett or its third party contractors; (iii) the combination, operation or use of the Product with software or hardware which was not provided by Follett or its third party contractors or approved by Follett, if such infringement would have been avoided in the absence of such combination, operation or use; (iv) use of the Product in a manner for which it was not designed; or (v) your failure to install or have installed an upgrade containing designs to avoid third party infringement claims, provided that Follett has notified you of the upgrade and its ability to cure infringement and has provided that upgrade to you at no additional charge. This Section states Follett's entire liability for any alleged infringement by the Product or any part thereof.

13.2 *By You.* You agree to indemnify, defend and hold harmless Follett, its affiliates, and its and their shareholders, officers, directors, employees, agents, attorneys and assigns, against any losses, liabilities, costs and expenses (including reasonable attorneys' fees) arising out of or incurred in connection with any third-party claims, demands, actions, or arbitrations involving (a) involving breach by you of any material term of the Solution Agreement, these Terms, or any Terms of Use made available via the Product or (b) Your Content. You will maintain liability insurance sufficient to fulfill your obligations under this Section 11.2 and will submit proof of such insurance to Follett upon request.

14. *Arbitration.* You agree to submit any dispute, controversy or claim you may have arising out of or relating to this Agreement solely to binding arbitration to be conducted pursuant to the Commercial Rules of

the American Arbitration then in effect.

15. *Right to Audit Compliance.* Follett will have the right to conduct or direct an independent accounting firm to conduct, during normal business hours and no more than once during any calendar year, an audit of your relevant records to verify your compliance with the terms of this Agreement. This provision does not limit Follett's right to monitor its server logs for accesses made by you, or using any access code issued to you, to any on-line features, or to investigate any conduct Follett believes either may be a breach of the licensing terms or otherwise threatening to the integrity of its products or services.

16. *Entire Agreement.* The Solution Agreement (including any SOW or other documents attached to the Solution Agreement), these Terms and any Terms of Use made available via the Product constitutes the entire agreement of the parties with respect to the use of the Product. If there is any conflict between a provision in these Terms and a provision in the Solution Agreement, the provision in these Terms will prevail. The failure by Follett to enforce any of its rights hereunder will not constitute a waiver of such rights. If any portion of this Agreement is found by a court of competent jurisdiction to be invalid, the other provisions will remain in full force and effect.

17. *Intellectual Property.* Follett is the owner or licensee of copyright, trademark, and other intellectual property and proprietary rights in the Product. All trademarks appearing in the Product are the property of Follett or their respective third-party owners. Follett disclaims any affiliation or endorsement of such third parties' goods or services and does not intend to imply any endorsement or affiliation by using such marks. Likewise, such use is not meant to imply any third party's endorsement of Follett's goods or services. Please be aware and inform your patrons that copyright, trademark and other intellectual property rights may protect content on third party Web sites and databases accessed through the Product. Nothing in this Agreement affects such rights or implies that you, your patrons or Follett has any rights in this content. Use of third-party content may be governed by a separate agreement with the third-party owner and you agree not to use the content in any way that violates this Agreement or the intellectual property rights of the third-party owner. You also agree to take reasonable measures to make your patrons aware of all provisions in this Section.

18. *Exporting Products.* This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. You agree not to ship, transfer or export the Product or any data obtained from the Product into any country or use the Product or data obtained from the Product in any manner prohibited by the United States Export Administration Act or any other export laws or regulations.

U.S. GOVERNMENT RESTRICTIONS

1. If the Product is acquired by or on behalf of a unit or agency of the United States Government this provision applies. The Product: (a) was developed at private expense, and no part of it was developed with government funds; (b) contains trade secret information of Follett for all purposes of the Freedom of Information Act; (c) is "commercial computer software" subject to limited utilization as provided in the contract between Follett and the governmental entity; and (d) in all respects contains proprietary data belonging solely to Follett.

2. For units of the Department of Defense (DOD), this Product is sold only with "Restricted Rights" as that term is defined in the DOD Supplement to the Federal Acquisition Regulations ("DFARS") 52.227-7013(c) (1) (ii) and use, duplication or disclosure is subject

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3. If the Product is acquired under a GSA Schedule, the U.S. Government has agreed: (a) to refrain from changing or removing any insignia or lettering from the Product that is provided or from producing copies of manuals or disks (except one copy for backup purposes); (b) title to and ownership of the Product and any reproduction thereof shall remain with Follett; (c) use of the Product and documentation shall be limited to the facility for which it is acquired; and (d) if use of the Product is discontinued at the installation specified in the purchase/delivery order and the Government desires to use it at another location, it may do so by giving prior written notice to Follett, specifying the type of computer and new location site.

4. U.S. Government personnel using the Product, other than under a DOD contract or GSA Schedule, are hereby on notice that use of the Product is subject to restrictions which are the same as, or similar to, those specified above.

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Destiny 16.5 February 2019