

EARLY DEVELOPMENT INSTRUMENT LICENCE ('LICENCE')
Licence No. L/014-024

DATE August 2, 2013 ('Effective Date')

PARTIES

Name **McMaster University ('McMaster')**
Notice Details MIP - 305, 175 Longwood Road S.
Hamilton, ON L8P 0A1
Fax: 905-546-1372
Attention: Executive Director
McMaster Industry Liaison Office

AND

Name **Ministry of Education, Peru**
Notice Details Calle Del Comercio N° 193, San Borja – Lima
(511) 615-5800, anexo 21001 – 21002
Attn: Mrs. Emma Patricia Salas O'Brien

BACKGROUND

- A. McMaster licenses the Early Development Instrument ('EDI') and EDI Teacher Guide ('EDI Guide') for research into children's early development.
- B. Ministry of Education, Peru wishes obtain a Licence from McMaster to use in a pilot study in Peru in two (2) cities for approximately 1,000 children in 2013 (the 'Study').
- C. McMaster has agreed to license Ministry of Education, Peru the right to use the EDI for the Study in accordance with the terms and conditions set out in this Licence.

AGREEMENT

In consideration of the benefits that the parties will receive from this Licence and for other good and valuable consideration (the receipt and sufficiency of which is acknowledged by each of the parties), the parties agree to the following terms and conditions:

1. GRANT OF LICENCE

Subject to compliance with the terms and conditions set out in this Licence, McMaster grants Ministry of Education, Peru a non-exclusive, non-transferable, revocable, licence to use, copy and administer the EDI in the Study.

PROHIBITED USES

Ministry of Education, Peru must not:

- a. sell, sublicense, rent, loan or otherwise distribute the EDI or EDI Guide to any third party;
- b. modify, translate, adapt or otherwise alter the EDI or EDI Guide without the prior written approval of McMaster;



- c. distribute, make available or otherwise use the EDI or EDI Guide for any purpose other than the Study; or
- d. publicly display, communicate or otherwise publish the EDI or EDI Guide or make the EDI or EDI Guide available for download to anyone else on any computer system or network outside the Ministry of Education, Peru institutions without explicit permission from the Offord Centre for Child Studies ('OCCS').

3. RETURN OF DATA

Ministry of Education, Peru must provide McMaster with copies of all data, other than any data which include personal information or render such data personally identifiable, as soon as is reasonably practical after collection of the data. The OCCS is the international depository for all EDI data. Data collected under this Licence will be added to the International database.

4. USE OF DATA

Ministry of Education, Peru will be provided with an electronic copy of the scored data collected using the EDI ('EDI Data') within two (2) months of completion of analyses and reporting for use in further research in accordance with the following conditions:

- a. Ministry of Education, Peru must obtain a signed data sharing agreement between all Institutions involved in EDI data collection indicating that data will be shared with McMaster;
- b. Ministry of Education, Peru may only use EDI Data at a group level in any analysis and in accordance with the terms of this Agreement;
- c. Ministry of Education, Peru must not interpret EDI Data for individual students for diagnosis or identification purposes;
- d. If /Ministry of Education, Peru links individual student data with other data sources, any analysis conducted by Ministry of Education, Peru must be done in a secure and confidential manner that ensures that the identities of individual respondents and children are protected;
- e. In all analyses using individual level data, Ministry of Education, Peru will only report group level data; and
- f. It is the responsibility of Ministry of Education, Peru to investigate local requirements around appropriate ethics approval for use of individual data for research purposes.

Cost of scoring data is not included as part of this Licence Agreement and will be invoiced separately.

Up until three (3) years after the Effective Date of the Licence, (unless permission is granted by Ministry of Education, Peru, McMaster will refrain from communicating to the public any results produced using the scored data file until after Ministry of Education, Peru has itself communicated to the public a first publication containing statistical results.

5. SUPPORT

McMaster will provide guidance and technical support regarding the administration of the EDI and interpretation of results at its absolute discretion only.

6. ACKNOWLEDGMENT OF MCMASTER AND EDI AUTHORS

Ministry of Education, Peru must ensure that any reports, papers or other publications (including scientific publications, electronic documents and websites) relating to the EDI include appropriate acknowledgment of McMaster and Drs. Dan Offord and Magdalena Janus, the original authors of the EDI. Papers, reports and publications must be shared with the authors of the EDI.

7. LICENCE FEE



In consideration of the rights granted to Ministry of Education, Peru under this Licence, the Ministry of Education of Peru must pay McMaster a licence fee of \$200 CDN plus any applicable taxes ('Licence Fee') which is due and payable within thirty (30) days of receiving an invoice from McMaster. McMaster will issue the Ministry of Education of Peru with an invoice for the Licence Fee when it has received a copy of this Licence duly executed by the Ministry of Education of Peru. Neither all nor any portion of the Licence Fee will be refundable to the Ministry of Education of Peru under any circumstances. This Licence Fee covers Ministry of Education, Peru's use of the EDI and EDI Guide for in the Study only. If Ministry of Education, Peru wishes to use the EDI beyond the use of the Study or for any other purposes, it must enter into a separate licence agreement with McMaster and pay additional license fees.

8. OWNERSHIP

Ministry of Education, Peru acknowledges that McMaster owns all right, title and interest in the copyright and all other intellectual property rights in the EDI and EDI Guide and that Ministry of Education, Peru will acquire no ownership interest in the EDI under this Licence. No rights, title or interest in or to any official mark, trade-mark, service mark, logo or trade name of McMaster or the OCCS) is granted to Ministry of Education, Peru under this Licence.

9. WARRANTIES

McMaster represents and warrants that McMaster is the owner of the EDI and EDI Guide, and has the right and authority to license the EDI, and all corporate power and authority necessary to enter into and perform its obligations under this Licence. OTHER THAN AS EXPRESSLY SET OUT IN THIS SECTION, MCMASTER IS PROVIDING THE MINISTRY OF EDUCATION OF PERU/Ministry of Education, Peru WITH THIS LICENCE "AS IS" WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. MCMASTER EXPRESSLY DISCLAIMS AND EXCLUDES ALL WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES THAT THE EDI IS MERCHANTABLE, ACCURATE OR FIT FOR A PARTICULAR PURPOSE.

10. ASSUMPTION OF RISK

Ministry of Education, Peru ASSUMES ALL RISK AND RESPONSIBILITY FOR THE SELECTION, USE, QUALITY, PERFORMANCE, AND RESULTS OBTAINED FROM THE EDI.

11. LIMITATION OF LIABILITY

IN NO EVENT WILL MCMASTER BE LIABLE TO Ministry of Education, Peru, OR ANY OTHER PERSON OR ENTITY, FOR ANY INDIRECT DAMAGES, INCLUDING LOST PROFITS, DATA, BUSINESS INTERRUPTION OR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, IN ANY WAY ARISING OUT OF OR IN CONNECTION WITH THE EDI, ITS USE OR PERFORMANCE, OR THIS LICENCE, EVEN IF MCMASTER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL MCMASTER'S LIABILITY TO Ministry of Education, Peru FOR ANY CLAIM ARISING FROM THE EDI OR THIS LICENCE EXCEED THE AMOUNT PAID BY THE MINISTRY OF EDUCATION OF PERU TO MCMASTER UNDER THIS LICENCE.

12. TERM AND TERMINATION

This Licence commences on the August 2, 2013 and terminates on December 5, 2013. McMaster may terminate the Licence immediately without notice if:

- a. Ministry of Education, Peru materially breaches any of the terms and conditions of this Licence and fails to remedy such breach within thirty (30) days of receiving notice; or
- b. Ministry of Education, Peru commits a material breach of any of the terms and conditions of this Licence which is not capable of remedy.



A material breach includes, but is not limited to, any breach of clauses 1, 2, 3, 4, 6, 7 or 13 of this Licence.

Upon termination of this Licence Ministry of Education, Peru's rights to use the EDI terminate and Ministry of Education, Peru must immediately stop using the EDI.

13. REPRESENTATION OF AUTHORITY

Ministry of Education, Peru represents and warrants that it possesses the legal authority to enter into this Licence.

14. NO ASSIGNMENT

Ministry of Education, Peru must not assign, sublicense or otherwise transfer this Licence or any rights granted by this Licence without the prior written consent of McMaster.

15. FORCE MAJEURE

Neither party to this Licence will be liable for delay or failure to perform their respective obligations to this Licence if such delay or failure arises from any cause beyond the reasonable control of the party ('Force Majeure') provided such party gives the other party written notice of the Force Majeure. Force Majeure includes, without limitation: labour disputes, strikes, other labour or industrial disturbances and any act of God, fire, natural disaster, power failures, accidents, act of government, shortages of materials or supplies and failure of contractors to perform. If a party is temporarily excused from performing its obligations under this Licence because of Force Majeure, it must promptly resume performance when such Force Majeure is cured or removed.

16. COMPLETE AGREEMENT

This Licence contains the entire agreement between Ministry of Education, Peru and McMaster relating to the EDI, and supersedes any prior understandings, arrangements, commitments, communications or agreements, oral or written, between Ministry of Education, Peru and McMaster with respect to the EDI. No amendments or modifications to this Licence are effective unless in writing and signed by both parties.

17. SEVERABILITY

If any provision of this Licence becomes void, invalid, illegal or unenforceable, the remaining provisions will not be affected and will continue in effect as though the unenforceable provision(s) were deleted.

18. WAIVER

If either party omits or delays to require the other party to punctually fulfill any of its obligations under this Licence, this omission or delay will not operate as a waiver by that party of any of its rights under this Licence.

19. SURVIVAL

Clauses 6 (Acknowledgment of McMaster and EDI Authors), 8 (Ownership), 9 (Warranties), 10 (Assumption of Risk), 11 (Limitation of Liability) and 13 - 21 (General provisions) survive termination of this Licence.

20. NOTICES

All notices or other communications to be given under this Licence must be in writing and delivered by courier or registered or certified mail, return receipt requested, to the parties at the respective addresses set out on page one of this Licence.




21. GOVERNING LAW


This Licence will be interpreted in accordance with the laws of the Province of Ontario, Canada.

IN WITNESS WHEREOF the parties, through their duly authorized officers or representatives, have executed this Licence:

McMASTER UNIVERSITY



Elsie Quaite-Randall
Executive Director
McMaster Industry Liaison Office


August 14, 2013
Date

MINISTRY OF EDUCATION, PERU





Sra. Emma Patricia Salas O'Brien
Minister of Education

Date

