

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
First Point, Inc.		12/31/2012	CORPORATION: ILLINOIS

RECEIVING PARTY DATA	
Name:	NCS Pearson, Inc.
Street Address:	5601 Green Valley Drive
City:	Bloomington
State/Country:	MINNESOTA
Postal Code:	55437
Entity Type:	CORPORATION: MINNESOTA

PROPERTY NUMBERS Total: 2		
Property Type	Number	Word Mark
Registration Number:	2675588	POINT
Registration Number:	2817548	POINT

CORRESPONDENCE DATA	
Fax Number:	9526813066
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>	
Phone:	(952) 681-3070
Email:	dan.devoe@pearson.com
Correspondent Name:	Daniel J. DeVoe, Assistant Genl Counsel
Address Line 1:	5601 Green Valley Drive
Address Line 4:	Bloomington, MINNESOTA 55437

ATTORNEY DOCKET NUMBER:	FIRST POINT-NCSP ASSIGNMT
NAME OF SUBMITTER:	Daniel J. DeVoe
Signature:	/Daniel J. DeVoe/

OP \$65.00 2675588

Date:

06/03/2013

Total Attachments: 10

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ASSIGNMENT AND TRANSFER AGREEMENT

This assignment and transfer agreement ("Agreement"), effective, following signature by all parties, as of December 31, 2012, hereinbelow ("Effective Date"), is by and between **NCS Pearson, Inc.**, a Minnesota corporation, having its corporate offices at 5601 Green Valley Drive, Bloomington, Minnesota 55437 ("Pearson") and **First Point, Inc.**, an Illinois S corporation with its office at 778 Frontage Road, Suite 103, Northfield, Illinois, 60093 ("Owner").

WHEREAS, the Authors have developed the Work (as defined below) and have duly assigned and transferred all of their rights in and to the Work to Owner;

WHEREAS, Owner published the Work and Pearson has functioned as the Authors exclusive distributor.

WHEREAS, the Authors and Owner believe that the Work and the attendant Intellectual Property Rights may continue to have value in the early childhood market and wish to grant the right to exploit that value solely and exclusively to Pearson by irrevocably assigning and transferring the Work, all attendant Intellectual Property Rights and all physical inventory relating to the Work to Pearson;

WHEREAS, following the Effective Date of this Agreement, Owner intends to dissolve the Corporate Entity called First Point, Inc.

WHEREAS, Pearson wishes to receive such assignment and transfer of the Work and all attendant Intellectual Property Rights and all physical inventory relating to the Work,

WHEREAS, the parties acknowledge that as of the Effective Date of this Agreement, this Agreement will cancel and supersede any prior distribution arrangement for the Work between Owner and Pearson;

NOW THEREFORE, for consideration, the adequacy of which is acknowledged by the parties, the parties agree as follows:

1. **Definitions.** For purposes of this Agreement, the following definitions will apply:

- a. Author, Authors, or Author(s) means individually and collectively the following identified person(s):
- **Carol D Mardell, PhD,**
 - **Dorothea S Goldenberg, EdD,**
- b. Owner means First Point Inc., an Illinois S corporation with its office at 778 Frontage Road, Suite 103, Northfield, Illinois, 60093;
- c. Pearson shall mean NCS Pearson, Inc., its successor in contract or its assigns.
- d. Work shall mean a rating scale for children ages 2-36 months in age, to screen for potential developmental problems that may require further assessment, published under the title "**Parents' Observation of INFANTS and TODDLERS**" as further described in Schedule A attached hereto as well as the trademark "**POINT.**"
- e. Intellectual Property Rights shall mean all intellectual property rights and interests including, without limitation: (a) all copyrights and copyrightable subject matter, including any and all worldwide applications, registrations, renewals and extensions thereof and all rights of reproduction and publication, rights to create derivative works and all of the rights incident to copyright ownership; (b) all trade secrets and confidential information, all technology, ideas, know-how and proprietary processes and formulae; (c) all inventions, designs, models, mask works, patents and pending patent applications; (d) all trademarks and pending trademark applications applicable to the Work; and (e) all causes of action heretofore and hereafter accrued in favor of the owner of such intellectual property rights for infringement of any one or all of the aforesaid intellectual property rights.
2. Grant. Owner, grants, transfers and assigns to Pearson all of its right, title and interest in and to the Work and the Intellectual Property Rights in and to the Work and any trade marks and design marks related thereto, retaining no rights in the Work or attendant Intellectual Property Rights. Pearson accepts such grant, will own the Work and all attendant Intellectual Property Rights. Pearson shall be free, and shall

have the unencumbered right (but no obligation), to exercise such rights in any and all media now existing and by any manner and means now known or hereafter devised, including, but not limited to, any form of print via digital, analog, or other electronic, magnetic, and/or electromagnetic composition methods; and such rights to display, retain/store, and/or distribute via any mechanical, electronic, chemical, nanotechnology, or electromagnetic means; including, but not limited to, the following:

- **Visual**, including but not limited to:
 - Print
 - Video, video streaming
 - Photographic
 - Digital book-reader formats
 - Smart phone formats or applications
 - Tablet technology
- **Audio**, including but not limited to:
 - Audio streaming
 - Text-to-voice
 - Voice recognition
- **Motion**
- **Touch**, including but not limited to:
 - Braille
- Any other **physically or neuro-cued/neuro engineered signals**
- **Optical or magnetic disk**
- **Portable drive devices**
- **Solid state** drives
- Any and all **online formats** carried on the Internet, Intranets, and/or the World Wide Web including but not limited to:
 - Cloud
 - Mobile web
 - Virtual environment
- **Other formats** available through information access technologies

Pearson has the right (but no obligation) to, by any manner and means now known or hereafter devised, fully exploit the Work for whatever purpose forever. The Authors and the Owner hereby forever waive any and all claims against Pearson or Pearson's licensees that may arise or accrue under this Agreement based on moral rights in the Work.

The Owner hereby additionally transfers to Pearson, ownership of Pearson's now existing hard-copy stock of the Work. The Authors further grant Pearson the right to reproduce, print, display, publish, broadcast or disseminate in any medium, including, but not limited to those set forth in Section 2 hereof, Authors' names, likenesses, recorded voices, and biographical information relating to Authors for purposes of trade advertising, including, but not limited to "institutional

advertising" (i.e., advertising designed to create goodwill and prestige and not for the express purpose of selling any specific product or service).

3. Delivery. Within thirty (30) days of the execution of this Agreement, the Owner will deliver to Pearson, at no charge other than freight (using the carrier and method specified by Pearson), any and all files, artwork, vendor names, or any other materials or information that Owner or the Authors possess and Pearson could reasonably require to publish the Work.
4. Commercial Publication. Pearson may, but has no obligation to, sell products and services embodying or relating to the Work at such time, in such style and manner and with Pearson's trademarks and service marks as Pearson shall deem suitable. Pearson may sell the Work or portions thereof, and any related products and services at such prices as Pearson shall determine in its sole discretion.
5. Consideration.
 - a. As full consideration to Owner and Authors for the Assignment and Transfer of rights in the Work granted in this Agreement, Pearson, pursuant to this Agreement, will pay to Owner a single payment on or before January 31, 2013 in the amount of three thousand five hundred dollars (US\$3500.00)
 - b. A final accounting and any amounts accruing to Owner under the Distribution Agreement as of the Effective Date of this Agreement will be paid to Owner and transmitted no later than March 31, 2013.
 - c. The payments required in Section 5a-b shall be in the form of Pearson checks payable to Elizer & Meyerson, LLC Trust Account and forwarded to Steven H. Elizer, Esq. at 900 Skokie Blvd., Suite 100, Northbrook, Illinois, 60062.
6. Representations and Warranties; Indemnification.
 - a. Owner represents and warrants that it has, and through this Agreement, assigned and transferred good and marketable title to the Work to Pearson free and clear of all judgments, liens, licenses, claims, charges, encumbrances, security interests, pledges and conditional sales.
 - b. Owner and Authors represent and warrant: (i) that the Work is

original and is protected by copyright, and except as otherwise specified in Schedule A, is not in the public domain; (ii) that at the time that the Work is assigned and transferred to Pearson, Owner exclusively owned all Intellectual Property Rights in and to the Work and that no other person has an option, claim or right to the Work; (iii) that all Owner is free to enter into this Agreement and to grant all rights granted hereunder; (iv) that the Work in its normal use will not violate any valid Intellectual Property Rights of any third party; (v) that the Work does not contain any scandalous or libelous matter or invade any third person's right of privacy or any other legal rights; and (vi) that the Work, when used in the manner specified, will perform in accordance with its functional specifications.

c. Owner agrees, for so long as its corporate entity exists and Authors thereafter agree to indemnify, defend and hold Pearson harmless from any losses, damages, liabilities, costs, expenses or reasonable attorneys' fees that may be incurred by Pearson based on any third-party claim, including any claim from any third party contributors to the Work, which, if true, would evidence a breach of any of the foregoing representations and warranties. Pearson agrees to indemnify, defend and hold Owner and Authors harmless from any losses, damages, liabilities, costs, expenses, or reasonable attorneys' fees that may be incurred by Owner or Authors arising from third party claims (except any claims arising from Owner or Authors' breach of the representations or warranties in Section 6b of this Agreement) based on Pearson's use of the Work and Intellectual Property Rights. The provisions of this Section shall survive any termination of this Agreement.

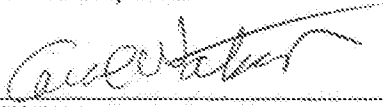
7. Confidentiality. Owner and Authors agree to protect and treat all confidential and trade secret information relating to the Work or this Agreement as confidential, proprietary information and will not use, disclose, or cause to be used or disclosed, such confidential and trade secret information, or otherwise impair or destroy the value of such confidential and trade secret information. Such confidential and trade secret information shall include all portions of the Work protectable as trade secret information, as well as any other information relating to the Work, this Agreement, Pearson's business, research and development efforts or products and services. Authors, and each Author, agree not to disclose or cause to be disclosed the terms of this Agreement.

8. Reversion Rights. The Work and the rights granted in this Agreement will never revert to the Owner, its successors, the Authors or their heirs.
9. Cancellation of Prior Agreements. As of the Effective Date of this Agreement, any prior agreements regarding the Work are cancelled and completely superseded by this Agreement, except that Pearson's obligations under Section 5 of this Agreement shall survive cancellation of any prior agreements
10. General.
 - a. Binding Effect and Governing Law. This Agreement, and each and every term, covenant and condition thereof, shall be binding upon, and inure to the benefit of, the successors, heirs and assigns of the Owner. This Agreement shall in all respects be governed by, and enforced and interpreted in accordance with, the laws of the State of Minnesota. The parties agree to exclusive forum in courts of competent jurisdiction in the State of Minnesota. Notwithstanding the foregoing, copyright issues are governed by US Federal law and the parties agree that any disputes related to copyright will be interpreted subject to the laws of the US Federal 8th Circuit (Minnesota).
 - b. Additional Documents. The parties agree to cooperate and execute such additional documents and papers as may be necessary to effectuate, document and protect the rights granted and transferred under this Agreement and all other provisions of this Agreement. Authors, individually and collectively, hereby irrevocably authorize and appoint Pearson, for as long as this Agreement remains in force and effect, as Authors' attorney-in-fact to execute any documents Pearson deems necessary to record and protect the rights granted and transferred under this Agreement. Pearson, and not the Owner or Authors, shall be solely responsible for payment of any fees or costs related to recording and protecting the rights granted and transferred under this Agreement.
 - c. Severability. In the event any portion of this Agreement is held to be invalid or unenforceable in any respect, the remaining portions of this Agreement shall be enforced to the maximum extent possible.

- d. Expenses and Taxes. Except to the extent otherwise provided in this Agreement, each party shall pay for its own legal, accounting, tax and similar expenses in connection with the transactions set forth in this Agreement.
- e. Assignment. Pearson may assign the rights and obligations of this Agreement. Owner may not assign any of its obligations under this Agreement without the prior, written agreement of Pearson or Pearson's successor in contract.
- f. Survival of Rights and Obligations. In the event of any termination of this Agreement, all rights, obligations and duties under this Agreement will terminate, provided, however, that (i) subject to the limitations contained in this Agreement, termination of this Agreement will not constitute any waiver of a party's rights or remedies at law or in equity to redress any breach of this Agreement by the other party; (ii) in addition to any provisions of this Agreement, which by their express terms survive any termination of this Agreement, the following Sections of this Agreement will survive any termination of this Agreement: 1, 6, 9 and 10. In the event that Owner's corporate entity is dissolved, those portions of this Agreement that include the Authors (specifically sections 2, 3, 5, 6b-c, 7 and 8) will survive as to the Authors jointly and severally.
- g. Entire Agreement. This Agreement, including the attached Schedule ~~A, B, C, D~~ ^{NA, B, C, D}, which ~~is~~ hereby incorporated into this Agreement, contain the entire agreement between the parties and supersede in all respects all prior oral or written agreements or understandings between the parties pertaining to the transactions contemplated by this Agreement. This Agreement may be amended or modified only by a written instrument signed by the parties. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement, effective on the date it is signed by Pearson.

NCS PEARSON, INC.



Carol Watson
President, Clinical Assessment,
North America

1/24/13

Date

FIRST POINT, Inc.

Authorized Signature

Date

DOROTHEA S. GOLDENBERG,
EdD

Signature

Date

CAROL D. MARDELL, PhD


Signature

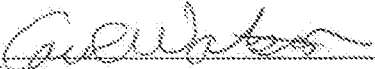
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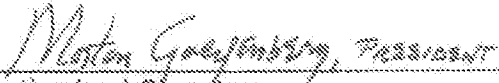
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NCS PEARSON, INC.

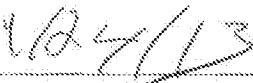
FIRST POINT, Inc.



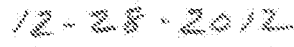
Carol Watson
President, Clinical Assessment,
North America



Authorized Signature




Date

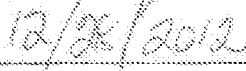


Date

**DOROTHEA S. GOLDENBERG,
EdD**



Signature



Date

CAROL D. MARDELL, PhD

Signature

Date

Schedule A

List of Retail Product Codes that comprise the POINT system

Inventory to be transferred relates to the following product codes and includes any associated components.

13800	Basic Kit English
13805	Basic Kit Spanish
13810	Record Forms English 6 Levels (12 each)
13811	Record Forms Spanish 6 Levels (12 each)
13812	Record Forms English Level 1 (24 each)
13813	Record Forms Spanish Level 1 (24 each)
13814	Record Forms English Level 2 (24 each)
13815	Record Forms Spanish Level 2 (24 each)
13816	Record Forms English Level 3 (24 each)
13817	Record Forms Spanish Level 3 (24 each)
13818	Record Forms English Level 4 (24 each)
13819	Record Forms Spanish Level 4 (24 each)
13820	Record Forms English Level 5 (24 each)
13821	Record Forms Spanish Level 5 (24 each)
13822	Record Forms English Level 6 (24 each)
13823	Record Forms Spanish Level 6 (24 each)
13824	POINT Manual English
13825	POINT Portfolio
13826	Master Masks Set 1-6 + Misc
13827	3 Duplication Masters with 6 Masks
13828	Training Disks (Mailed separately)