Product Order Form

Make two copies of this Agreement. Sign and return both copies, with original signatures and including all pages, by mail to: Miriam Cajal, NCEA/ACT, 8701 N. MoPac Expressway, Suite 200, Austin, TX 78759-8364. A fully executed copy, with original signatures will be returned to you.

Call **512.320.1800** if you have any questions about placing your order.

Step 1: District Information

District Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

Step 2: Billing Information

❑ Same as above

School or District Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

Step 3: Schools

Use the form on the next page to list all schools for which products are ordered. Please add pages for more schools.

CoreWork Diagnostics (CWD) provides a simple, online process for districts and school leaders to benchmark their practices against higher performing schools. Contract period is one calendar year from contract start date.

CoreWork Performance Reports (CWPR) include online reports you can use to enhance the use of CoreWork Diagnostics. CoreWork Performance Reports are available in our partnership states. See **www.nc4ea.org/partners** for a current list of partnership states. CWPR include data through the year of purchase and are available online for one year.

Step 4: Payment Method

Purchase order # _____

Begin the one year contract on _____ (Date)

Customers may be charged state sales tax in states where it is required. For more information about sales tax and payment, go to **www.act.org/orderinfo**.

Thank you for your order.
Once we have processed your order,
you will receive an e-mail with access information
for the solution(s) you have purchased.

Step 5: Signature

By signing below, the Customer's authorized representative hereby indicates Customer's agreement to the CoreWork Diagnostics Customer Terms and Conditions included as part of this order form and found at **www.nc4ea.org/index.cfm/e/corework_diagnostics_terms_and_conditions**. Further, they acknowledge ACT will invoice immediately based on the quantities indicated below.

Signature _____

Date _____

Product	Price	Number	Cost
CoreWork Diagnostics in a non-partnership state per individual school–02700112FE	$299		$0
CoreWork Diagnostics in a non-partnership state for the district (does not include school levels)–02701712FE	$299		$0
CoreWork Diagnostics in a partnership state per individual school–02700012FE	$199		$0
CoreWork Diagnostics in a partnership state for the district (does not include school levels)–02701612FE	$199		$0
School-level CoreWork Performance Report in a partnership state per individual school–02700212FE	$ 99		$0
District-level CoreWork Performance Report (does not include school levels) in a partnership state only–02701812FE	$ 99		$0
CoreWork Diagnostics with school-level CoreWork Performance reports per school or district (no school levels) in a partnership state only–02700312FE	$249		$0
		Total	$0

(continue →)

Schools

Complete the information below for all schools receiving products.

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

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Street Address _____

City _____ State _____ ZIP _____

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E-mail Address **(required)** _____

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School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

❑ CWD ❑ CWPR

School Name _____

Contact Person _____

Title _____

Street Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

E-mail Address **(required)** _____

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CoreWork® PRODUCTS CUSTOMER TERMS AND CONDITIONS

ACT, Inc. ("ACT") has developed an online school improvement tool known as CoreWork®. Customers of CoreWork gain access to certain materials (referred to herein as the "Program Materials"). Customers have access to a website made available by ACT (the "Website"), which is designed to provide internet based resources made available by ACT for Authorized Users to access, and which are designed to facilitate the dissemination of the Program Materials.

1. **Definitions:** as used in this agreement the following terms shall mean:
   a. "ACT" means ACT, Inc.
   b. "TCs" means the CoreWork Terms and Conditions
   c. "Agreement" means the Order Form for a CoreWork product or services and these TCs.
   d. "*Authorized Purpose*" shall mean school improvement planning using CoreWork to improve student learning.
   e. "*Authorized User(s)*" shall mean the district, school, and/or classroom educators employed by the Customer and other individuals for whom the Customer is responsible that need to access the Program Materials or the Website in connection with the Authorized Purpose.
   f. "Customer" means the party named on the Order Form.
   g. "*Program Materials*" shall mean any and all materials (hard copy or on-line) related to CoreWork. Program Materials may include the following: integrated college and career readiness performance reports, student growth reports, and the Core Practice Framework.
   h. "*Website*" shall mean the internet based resources made available by ACT for Authorized Users to access which are designed to facilitate the dissemination of the Program Materials and provide other features related to the scoring and reporting services.

2. **Term.** This Agreement ("Term") shall become effective as of the Contract Start Date as indicated on the Order form and remain in effect for one year from that date, subject to earlier termination, as set forth in Paragraph 11 of these TCs. After the Initial Term, this Agreement may be renewed upon mutual written agreement of the parties for successive additional one-year periods (each an "Extension Term"). As used herein, the "Term" shall mean the Initial Term and any Extension Term(s).

3. **Orders.** In order to receive CoreWork, Customer must complete and submit to ACT an Order Form. Nothing in this Agreement shall require the Customer to order CoreWork; however, all such products and services ordered by the Customer during the term of this Agreement shall be subject exclusively to these TCs.

4. **Compensation.** As compensation for ACT's performance under this CoreWork Agreement, Customer shall pay the compensation (the "Compensation") to ACT, for the quantities and at the prices indicated on the Order Form. Customer shall make all payments to ACT within thirty (30) days of date of an invoice from ACT. All invoices shall be sent to the Customer at the address listed under the Billing Information Section on the Order Form. All taxes shall be at the Customer's expense.

5. **Ownership of Intellectual Property.** ACT owns or is otherwise permitted to deliver the products and services. ACT owns all rights, title and interest in and to the CoreWork trademark, the Program Materials, the Website, any deliverables specifically developed for Customer under this Agreement, and all information, know-how, methodologies, processes, specifications, programs, technologies, algorithms or software, or other development tools used in performing under this Agreement or producing any deliverables. Customer does not acquire any right, title, or interest in or to the trademark CoreWork, the Program Materials, the Website, or any deliverable other than the limited right to use the Program Materials or Website subject to the terms and conditions of this Agreement.

6. **Customer's Use of the Program Materials and Website.** Customer shall only permit Authorized Users access to the Program Materials and Website, and limit access to the extent necessary to carry out the Authorized Purpose. Authorized Users will be required to abide by the terms and conditions of this Agreement and any Website conditions of use as may be added or amended by ACT from time to time in ACT's sole and complete discretion.

   Customer may not, and Customer shall not permit the Authorized Users to: (i) use, or allow any unauthorized person to use, the Program Materials or the Website for any purpose other than the Authorized Purpose, (ii) use the Program Materials or the Website in a manner not contemplated by the Program Materials, (iii) assign, license, sell, loan, lease, copy or otherwise transfer the Program Materials or the Website content to unauthorized individuals or allow anyone else to do so; (iv) modify, enhance, decompile, disassemble, reverse engineer, or make any addition to the Program Materials or the Website; or (v) use the Program Materials or the Website after the termination or expiration of this Agreement.

7. **Confidentiality.** The parties acknowledge that, during the term of this Agreement, they will disclose certain Confidential Information of a special and unique nature to each other. As used in this Agreement, "Confidential Information" means the Program Materials and any information (whether in written, verbal, or other format) marked or identified as being confidential.

   Each party covenants and agrees that neither it nor its employees shall at any time during or following the term of this Agreement, either directly or indirectly, (a) disclose to any person, organization, or entity in any manner whatsoever any Confidential Information, or (b) use any Confidential Information for any purpose whatsoever, except as strictly necessary to perform the Services. Each party shall restrict disclosure of the Confidential Information to its employees with a need to know such information in order to perform the Services and shall advise such employees of their obligations with respect to the Confidential Information. Each party shall protect the other party's Confidential Information using the same standard of care it uses to protect its own confidential and proprietary information, but in any event not less than a reasonable standard of care.

   Each party (the "Receiving Party") shall immediately notify the other party (the "Disclosing Party") in writing in the event of any unauthorized use or disclosure of the Confidential Information and assist in remedying such unauthorized use or disclosure, as requested by the Disclosing Party (which shall not limit other remedies of the Disclosing Party as provided herein or by applicable law). In the event of a breach or threatened breach of this Paragraph 6, the Disclosing Party, in addition to and not in limitation of any of the rights, remedies or damages available to it at law or in equity, shall be entitled to a temporary or permanent injunction to prevent or restrain any such breach by the Receiving Party.

   All Confidential Information shall be and remain the property of the Disclosing Party notwithstanding the subsequent termination of this Agreement. The Receiving Party shall, within ten (10) days of the Disclosing Party's written request, return all Confidential Information (including any copies thereof) or certify in writing that all Confidential Information (including any copies thereof) has been destroyed using a method designed to ensure confidentiality and permanently delete such Confidential Information from any computer hardware or other equipment.

8. **Authorized Users.** Customer agrees to instruct Authorized Users to abide by the terms of this Agreement. Customer is responsible for the acts and omissions of its Authorized Users.

9. **Updates and Modifications.** The Program Materials and the Website may be modified or updated from time to time in ACT's sole discretion. ACT may make such modifications and updates available to Customer as they are developed; provided however, that: (1) ACT reserves the right to charge a fee for any updates or modifications; and (2) to the extent that updates to the Website require revised computer configuration, Customer shall provide such hardware or software that meets the revised computer configuration requirements for the updated Website within the time frame set forth in a written (including e-mail) notice from ACT detailing the timeframe of such update and the revised computer configuration requirements.

   ACT has established recurring maintenance windows ("Maintenance Windows"), during which ACT may take down servers and conduct routine maintenance checks. ACT also reserves the right to provide unscheduled maintenance periodically. ACT shall not be responsible for any damages or costs incurred by Customer, if any, for such down time.

10. **Termination.** In the event ACT breaches this Agreement and fails to cure such breach within thirty (30) days of written notice of such breach, Customer may terminate this Agreement upon written notice to ACT. In the event Customer breaches this Agreement, ACT shall have the right to immediately terminate this Agreement upon written notice, deny Customer access to the Website and exercise any other right or remedy which may be available to it under law. Customer shall pay ACT for all products and services ordered through the date of termination. After expiration or termination of this Agreement, ACT shall not be obligated to continue to provide access to Program Materials or the Website, and Customer shall discontinue use of the Program Materials and the Website and shall destroy all copies of the Program Materials in its possession. Upon the expiration or termination of this Agreement, terms and conditions which by their nature are intended to survive, shall survive, including without limitation, Sections 4, 5, 6, 10, 11, and 12.

11. **WARRANTY AND LIMITATIONS.** ACT WARRANTS THAT THE PROGRAM MATERIALS HAVE BEEN DEVELOPED IN ACCORDANCE WITH INDUSTRY STANDARDS, EXCEPT AS SET FORTH IN THIS SECTION, THE PRODUCTS AND SERVICES ARE PROVIDED "AS IS" AND ACT EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY THAT THE OPERATION OF THE WEBSITE WILL BE INTERRUPTION OR ERROR FREE. THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, AND ACT'S ENTIRE LIABILITY, FOR A BREACH OF THE ABOVE WARRANTIES SHALL BE, IN ACT'S SOLE AND ABSOLUTE DISCRETION, EITHER (A) REPLACEMENT OF THE NON-CONFORMING PROGRAM MATERIALS OR (B) REFUND OF THE FEES PAID TO ACT FOR THE NON-CONFORMING PROGRAM MATERIALS (SUBJECT TO THE LIMITATIONS IN SECTION 14). THE CUSTOMER MUST NOTIFY ACT OF ANY DEFICIENCIES WITHIN 90 DAYS FROM DELIVERY OF THE PROGRAM MATERIALS. THIS LIMITED WARRANTY IS VOID IF THE FAILURE HAS RESULTED FROM CUSTOMER ACCIDENT, ABUSE, NEGLIGENCE, MISAPPLICATION, OR FAILURE TO USE THE PROGRAM MATERIALS IN ACCORDANCE WITH THIS AGREEMENT.

12. **LIMITATION ON DAMAGES.** IN NO EVENT SHALL ACT BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES. NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT TO THE CONTRARY, THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, AND THE ENTIRE LIABILITY OF ACT FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL IN NO EVENT EXCEED THE FEES THAT THE CUSTOMER HAS PAID ACT UNDER THIS AGREEMENT.

13. **Relationship of the Parties.** The parties to this Agreement are independent contractors. Neither party shall have the right or authority or shall hold itself out to have the right or authority to bind the other party, nor shall either party be responsible for the acts or omissions of the other.

14. **Force Majeure.** ACT shall not be liable to Customer for any delay or failure to perform, which delay or failure is due to causes or circumstances beyond its reasonable control, including, without limitation, national emergencies, fire, flood, epidemics, or catastrophe, acts of God, governmental authorities, or parties not under the reasonable control of ACT (including its subcontractors), insurrection, war, riots, or failure of transportation, communication, or power supply. Should any such delay or failure continue for more than sixty (60) days, the Agreement may be terminated without liability by either party upon notice to the other party.

15. **Assignment.** Customer may not assign nor transfer its obligations or interest in this Agreement without the express written agreement of the ACT. No permitted assignment shall relieve Customer hereto of its obligations prior to the assignment.

16. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein and supersedes all other prior agreements and understandings, both written and oral. ACT expressly objects to and rejects any different or additional terms included in Customer's request for proposal, quotation, purchase order, acknowledgment form, or other documents that purport to bind the parties. No waiver under this Agreement shall be binding unless in writing and signed by both parties. ACT may amend this Agreement as it relates to orders not yet placed by the Customer ("Updates") by sending a written notice to the Customer outlining the Updates. Updates shall become effective upon Customer's receipt of such notice. All other amendments and modifications shall not be binding unless in writing and signed by both parties.

17. **Notices.** Notices under this Agreement shall be deemed to be adequate and sufficient notice if given in writing and delivered via (a) registered or certified mail, postage prepaid, in which case notice shall be deemed to have been received three business days following deposit to U.S. mail; or (b) a nationally recognized overnight air courier, next day delivery, prepaid, in which case such notice shall be deemed to have been received one business day following delivery to such nationally recognized overnight air courier. All notices shall be addressed to ACT at the following addresses: ACT, Inc., 500 ACT Drive, P.O. Box 168, Iowa City, Iowa 52243-0168, Attention: CFO, Fax 319-341-2760. All notices shall be sent to Customer at the address set forth under the Customer Information on the Order Form.

18. **Authorization.** Each party represents and warrants (a) that it has the requisite authority to enter into this Agreement; and (b) that the individual(s) entering into this Agreement on behalf of such party is (are) authorized to do so.

ACT clients may be periodically asked by ACT staff or affiliated researchers to participate in surveys, interviews, and/or site visits to ascertain their perceptions of marketing materials, product implementation, use, and impact. Participation in such research by clients is voluntary.