

THIS AGREEMENT WILL BE POSTED ON THE CPS WEBSITE.

## PRODUCTS SUPPLY AGREEMENT

(Amazon.com Services LLC)

This Products Supply Agreement is effective as of September 1, 2022 (“**Effective Date**”) and is entered into by and between the Board of Education of the City of Chicago, a body politic and corporate commonly known as Chicago Public Schools (the “**Board**” or “**CPS**”) and Amazon.com Services LLC, with its principal office located at 410 Terry Avenue North, Seattle, WA 98109 (“**Vendor**”).

### RECITALS

- A. The Board desires to have access to and use of Vendor’s Amazon Business on-line store to purchase certain breakroom supplies, foodstuffs, cafeteria supplies and kitchen equipment, first aid safety, instructional, art, and craft supplies, maintenance, repair and operations, office supplies and other miscellaneous items.
- B. Vendor has demonstrated expertise in offering such products on its Amazon Business on-line store and has represented that it has the requisite knowledge, skill, experience and other resources necessary to operate its Amazon Business on-line store.
- C. Prince William County Public Schools Procurement Office, located in the Commonwealth of Virginia (the “**Agency**”), issued a Request for Proposals (“**RFP**”) #R-TC-17006 for interested suppliers to provide an Online Marketplace for the Purchase of Products and Services to satisfactorily support the Agency, and other public agencies supported under the contract. The Agency served as Lead Public Agency on behalf of the U.S. Communities Government Purchasing Alliance through a public agency clause, which provides that any county, city, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution (including community colleges, colleges and universities, both public and private), state, other government agency or nonprofit organization may purchase products and services through the contract. The Agency evaluated and accepted Vendor’s response to the RFP and selected Vendor to provide access to and use of the Amazon Business on-line store to purchase the products described above to the Agency. Vendor entered Contract Number R-TC-17006 with the Agency with an effective date of January 19, 2017. The contract entered into between the Agency and Vendor pursuant to the RFP, together with all exhibits, is collectively referred to hereinafter as the “**Reference Contract.**” A copy of the Reference Contract is attached hereto as Exhibit A – Reference Contract.
- D. The Board pursuant to Board Rule 7-4(b) which authorizes the Board to purchase biddable and non-biddable items based on contracts between another governmental entity, including, among others, the Agency, and its vendors, provided (i) the procurement process used to form the Reference Contract substantially complies with the competitive procurement requirements of the Board and complies with all legal obligations applicable to the Board and (ii) a separate agreement is entered into between Vendor, and the Board now wishes to obtain access and use of the Amazon Business on-line store to purchase certain products as set forth in the Reference Contract, except to the extent those terms and conditions are modified or supplemented in this Agreement.

**NOW THEREFORE**, in consideration of the mutual promises and the terms and conditions set forth herein, the Board and Vendor hereby agree as follows:

1. **Incorporation of Recitals:** The matters recited above are hereby incorporated herein and made a part of this Agreement.
2. **Incorporation of Reference Contract:** The Board adopts the terms and conditions of the Reference Contract and its exhibits, which is attached and incorporated into this Agreement as Exhibit A, unless specifically amended or modified herein. In the event there is a conflict between

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the terms in the Reference Contract and the terms in this Agreement, the terms of the Agreement will control. Capitalized terms used, but not otherwise defined in this Agreement, shall have the meanings ascribed to them in the Reference Contract. All references to the Agency, each of its employees, agents, entities, representative, and the like in the Reference Contract shall be interpreted in this Agreement as references to the Board of Education of the City of Chicago and its departments, officers, employees, agents, and the like. The Board shall have the same rights, remedies, and expectations of Vendor's performance under this Agreement as may apply to the Agency under the Reference Contract, unless specifically amended or modified herein. Notwithstanding anything in the Reference Contract to the contrary, in the event of a conflict between the terms of this Agreement and the terms of the Reference Contract, the terms of this Agreement shall control as between the Vendor and the Board.

3. **Term:** The Agreement will commence on September 1, 2022 and continue through August 31, 2025 (the "**Term**"). There shall be two (2) options to renew the Agreement for a period of two (2) year each following the expiration of the Term.
4. **Scope of Work:**
  - a. **Scope of Work:** Vendor agrees to provide the Board with access and use of the Amazon Business on-line store to purchase products as set forth in the Reference Contract, which may be amended from time to time. "**Services**" mean, collectively, any services purchased from Vendor on the Amazon Business on-line store under the Reference Contract and any and all work necessary to complete them or carry them out fully and to the standard of performance required in the Agreement. "**Products**" mean, collectively, any goods, hardware, software, documentation, licenses, updates, components, equipment, or accessories as described in the Agreement that one would consider within the ordinary meaning of products as understood in the applicable industry or field of business. The Board retains final authority with respect to all Services related decisions. The Board may, from time to time, request changes in the scope of Services. Any such changes, including any increase or decrease in Vendor's fees, shall be documented by a written amendment to the Agreement signed by the authorized representatives of both parties. The Board assumes no obligation hereunder to purchase any quantity of Services other than those identified on a purchase order issued by the Board.
  - b. **Quantity:** The Board assumes no obligation hereunder to purchase any quantity of Products and Services other than those identified on a purchase order issued by the Board.
  - c. **Packaging and Shipment and Risk of Loss:** Vendor shall package and ship all Products sold by Vendor in a commercially reasonable manner. All shipments shall be as indicated on Vendor's shipment contract. The Board may request that shipment be made to any location or within a specific delivery window that the Board designates as a Chicago Public School or a CPS facility. It is understood and agreed that the Board shall have no liability for any insurance charges not incorporated in the prices quoted, and that freight charges shall be limited to those provided to the customer at the time of purchase on the Amazon Business on-line store. The Board may adjust the Purchase Order shipping destination in the manner specified on the Amazon Business on-line store. The risk of loss and damage to Products ordered by the Board shall pass to the Board as specified in the shipment contract. Time is of the essence to the delivery of all Services ordered hereunder.
  - d. **Access and Use of Amazon Business On-Line Store** The parties agree that this Agreement is entered into by Vendor for the access and use of the Amazon Business on-line store (the "**Contract Purpose**"), and all representations and certifications by Vendor in this Agreement shall relate to the Contract Purpose. Vendor does not issue subcontracts and has no subcontractors for the Contract Purpose.
  - e. **No Services to be Provided:** The parties agree that CPS will not be purchasing any Services from Vendor, nor will Vendor be providing any Services to CPS as part of this Agreement.

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Therefore, unless the Agreement is amended to include Services, the parties agree that any provisions that relate to Services in this Agreement will not apply.

- f. **Survival:** The provisions of this Section shall survive the expiration or termination of the Agreement.
5. **Compensation:** The pricing for all Products shall be dynamic marketplace pricing as set forth in the Reference Contract. The maximum compensation payable to Vendor for the Term of the Agreement shall not exceed the amount stated on the Board Report, cited on the signature page of this Agreement, as may be amended (“**Maximum Compensation Amount**”). It is understood and agreed that the Maximum Compensation Amount is a ‘not-to-exceed amount’ and is not a guaranteed payment. Compensation shall be based on actual Services performed and Products provided during the Term of this Agreement, and the Board shall not be obligated to pay for any Products, Services or other deliverables not in compliance with this Agreement. No expenses shall be reimbursed under this Agreement. In the event the Agreement is terminated early, the Board shall only be obligated to pay the fees incurred up to the effective date of termination and Vendor shall promptly refund to the Board any payments received from Services and deliverables not provided.
6. **Purchase Orders; Billing and Payment Procedures; Electronic Payments:**
- a. **Purchase Orders:** The pre-printed terms and conditions found on the Board’s Standard Purchase Order Form, when provided to Supplier for a particular order, shall apply to such order unless such terms are superseded by the terms of this Agreement or its Exhibit. Under no circumstances shall Vendor provide any Products without an approved Purchase Order (“**PO**”).
- b. **Billing and Payment Procedures:** All invoices must be submitted electronically via email in PDF format to [cpsinvoice@cps.edu](mailto:cpsinvoice@cps.edu). Each email may only contain one invoice and must include the Vendor’s name and the CPS Purchase Order number. All invoices must include:
- Vendor name and payment address
  - Unique invoice number (determined by Vendor)
  - Valid purchase order number (only one PO number may be referenced on each invoice)
  - Invoice date
  - Itemized description of the services rendered and goods delivered
  - Date the services were provided and goods were purchased by CPS
  - Detailed pricing information such as quantities, unit prices, discount, and final net amount due
- Invoices shall be submitted in a timely manner. The final invoice shall be submitted no later than ninety (90) days after the expiration or termination of the Agreement. If Vendor has more than one contract with the Board, separate invoices must be submitted for each contract. The Board shall process payments in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.* The Board reserves the right to request additional information and supporting documentation necessary for the Board to verify the Services provided under the Agreement.
- c. **Electronic Payments:** Vendor agrees that, at the Board’s sole discretion, the Board may make payment electronically to Vendor for any and all amounts due to Vendor pursuant to the Agreement by means of the Board’s procurement charge card account. Vendor recognizes that any charge to the Board’s procurement charge card that is in excess of the open remaining amount as stipulated in the applicable Purchase Order, or any charge unaccompanied by the requisite documentation and data as required by the Board, shall be deemed invalid and disputed by the Board. Vendor further recognizes that, in the absence of

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any supporting documentation as may be required by the Board, payments associated with disputed charges shall be rescinded by the Board and deemed not owed by the Board. Vendor agrees to comply with the rules, procedures and documentation required for electronic payment via the Board's procurement charge card as established by the Board's Department of Procurement.

7. **Standards of Performance:** Vendor shall devote, and shall cause all of its Employees, agents, and subcontractors to devote, such of their time, attention, best skill and judgment, knowledge and professional ability as is necessary to perform all Services effectively, efficiently and to the satisfaction of the Chief Procurement Officer ("CPO"). For purposes of this Agreement, "Employee" shall mean a Vendor's employee that perform Services under this Agreement. Vendor shall retain and utilize, as required by law or by the Agreement, professionals licensed to practice in the State of Illinois in the applicable profession Vendor shall use efficient business administration methods and perform the Services in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and in an expeditious and economical manner consistent with the best interests of the Board, so as to assure, among other things, that the Services are performed at a reasonable cost to the Board and that Services performed by other entities or persons in connection with the Agreement are efficiently and cost-effectively delivered. Vendor acknowledges that, if in the course of providing Services hereunder, it is entrusted with or has access to valuable and confidential information and records of the Board, that with respect to that information, Vendor agrees to be held to the standard of care of a fiduciary. Any review, approval, acceptance of Services or other deliverables or payment for any of the Services by the Board does not relieve Vendor of its responsibility for the professional skill, care, and technical accuracy of its Services and deliverables. Vendor shall remain financially and legally responsible to the Board for the professional and technical accuracy of all Services, including any deliverables furnished, whether by Vendor or its subcontractors or others on its behalf.
8. **Personnel:** The Board has retained Vendor because of Vendor's expertise and that of its Employees, agents, volunteers and subcontractors (collectively referred to as "Staff"). For the avoidance of doubt, all volunteers of Vendor shall be considered agents of Vendor. Vendor must assign and maintain during the Term of the Agreement and any renewal of it, an adequate staff of competent personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned to perform the Services. If the Board determines, in its sole discretion that any Employee, subcontractor or other person providing Services hereunder for Vendor is not performing in accordance with the performance standards or other requirements of the Agreement the Board shall have the right to direct the Vendor to remove that person from performing Services under the Agreement.
9. **Non-appropriation:** Expenditures not appropriated by the Board in its current fiscal year budget are deemed to be contingent liabilities only and are subject to appropriation in subsequent fiscal year budgets. In the event no funds or insufficient funds are appropriated and budgeted in any subsequent fiscal period by the Board for performance under the Agreement, the Board shall notify Vendor and the Agreement shall terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under the Agreement are exhausted. Payments for Services completed to the date of notification shall be made to Vendor except that no payment shall be made or due to Vendor under the Agreement beyond those amounts appropriated and budgeted by the Board to fund payments under the Agreement.
10. **Termination, Suspension of Services, Events of Default, Remedies, and Turnover of Documents:**
  - a. **Early Termination:** The Board may terminate the Agreement in whole or in part, without cause, at any time, by a notice in writing from the Board to Vendor in accordance with the

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notice provisions herein. The effective date of termination shall be thirty (30) calendar days from the date the notice is received or the date stated in the notice, whichever is later.

After notice is received, Vendor must restrict its activities, and those of its subcontractors, to winding down any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination are allowed. Payment for any Services actually and satisfactorily delivered before the effective date of the termination is on the same basis as set forth in the Compensation Section of the Agreement.

Vendor must include in its contracts with subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the Board arising from termination of subcontractors after the early termination of the Agreement.

Vendor shall not be entitled to make any early termination claims against the Board resulting from any subcontractors' claims against Vendor or the Board to the extent inconsistent with this provision.

- b. **Suspension of Services:** The Board may, upon written notice, direct Vendor to suspend Services in whole or part. Vendor shall promptly resume performance of Services upon written notice from the Board and upon such equitable extension of time as may be mutually agreed upon in writing by the Board and Vendor. Responsibility for any additional costs or expenses actually incurred by Vendor as a result of remobilization shall be determined by mutual agreement of the parties.
- c. **Events of Default:** Events of default ("**Events of Default**") include, but are not limited to, the following:
  - i. Any action or failure to act by Vendor which affects the safety and/or welfare of students or Board staff;
  - ii. Any material misrepresentation by Vendor in the inducement or the performance of the Agreement;
  - iii. Breach of any term, condition, representation or warranty made by Vendor in the Agreement;
  - iv. Failure of Vendor to perform any of its obligations under the Agreement, including, but not limited to, the following:
    - a. Failure to perform any portion of the Services in the manner specified in the Agreement;
    - b. Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services;
    - c. Failure to promptly re-perform within a reasonable time and at no cost to the Board, Services that were determined by the Board to be incomplete or unsatisfactory;
    - d. Discontinuance of the Services for reasons within Vendor's reasonable control; or
    - e. Failure to comply with any term of the Agreement, including but not limited to, the provisions concerning insurance, nondiscrimination, and MBE/WBE program participation goals, and any other acts specifically and expressly stated in the Agreement constituting an Event of Default.
  - v. Default by Vendor under any other agreement Vendor may presently have or may enter into with the Board;

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- vi. Where Services include contact with CPS students, any failure to comply with the Background Check Section, in whole or in part; and
  - vii. Assignment by Vendor for the benefit of creditors or consent by Vendor to the appointment of a trustee or receiver or the filing by or against Vendor of any petition or proceeding under any bankruptcy, insolvency or similar law that is not dismissed within sixty (60) days of the date of its filing.
- d. **Remedies:** The Board, in its sole discretion, may declare Vendor in default, in whole or in part, if Vendor commits an Event of Default. The CPO may give Vendor an opportunity to cure the default within a certain period of time ("**Cure Period**"). The CPO shall give Vendor written notice of a default, either in the form of a cure notice ("**Cure Notice**") or, if no opportunity to cure is granted, a default notice ("**Default Notice**").

The CPO may give a Default Notice after a Cure Notice if: (1) Vendor fails to effect a cure within the Cure Period given in the applicable Cure Notice; or (2) if the Event of Default cannot be reasonably cured within the Cure Period, Vendor fails to commence and continue diligent efforts to cure in the sole opinion of the Board.

A written Default Notice shall be final and effective on Vendor's receipt of such notice or on the date set forth in the notice, whichever is later. When a Default Notice is given, Vendor must discontinue all Services, unless otherwise specifically directed in the notice, and Vendor must deliver to the Board all materials prepared or created in the performance of the Agreement, whether completed or in-process.

Upon the occurrence of an Event of Default, the Board may invoke any or all of the following remedies:

- i. Take over and complete the Services or any part thereof, either directly or through others, as agent for and at the cost of Vendor. In such event, Vendor shall be liable to the Board for any excess costs incurred by the Board. Any amount due Vendor under the Agreement or any other agreement Vendor may have with the Board may be offset against amounts claimed due by the Board in exercising this remedy.
- ii. Terminate the Agreement, in whole or in part, as to any or all of the Services yet to be performed, effective at a time specified by the Board.
- iii. Suspend Services during the Cure Period if the default results from an action or failure to act by Vendor which affects the safety and/or welfare of students or Board staff. In the event that the performance of Services is resumed, Vendor shall not be entitled to seek reimbursement from the Board for any additional costs and expenses incurred as a result of the remobilization.
- iv. Seek specific performance, an injunction or any other appropriate equitable remedy for any Services.
- v. Money damages.
- vi. Withhold all or part of Vendor's compensation under the Agreement that are due or future payments that may become due under the Agreement.
- vii. Deem Vendor non-responsible in future contracts to be awarded by the Board, and/or seek debarment of the Vendor pursuant to the Board's Debarment Policy (08-1217-PO1), as may be amended from time to time.

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The Board may elect not to declare Vendor in default or to terminate the Agreement. The parties acknowledge that this provision is solely for the benefit of the Board and that if the Board permits Vendor to continue to provide the Services despite one or more Events of Default, Vendor shall in no way be relieved of any responsibilities, duties or obligations under the Agreement nor shall the Board waive or relinquish any of its rights under the Agreement, at law, in equity or by statute, nor shall the Board be deemed to have waived or relinquished any of the rights it has to declare an Event of Default in the future. If the CPO decides not to terminate, then she or he may decide at any time thereafter to terminate the Agreement, in whole or in part, in a subsequent Default Notice.

The remedies under the terms of the Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default shall be construed as a waiver of any Event of Default or acquiescence thereto, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

If the Board's election to terminate the Agreement for default under this Section is determined by a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered an early termination pursuant to the Early Termination Section above.

- e. **Turnover of Documents and Records:** Upon demand of the Board after termination of the Agreement for any reason or the expiration of the Agreement by its terms, Vendor shall turn over to the Board or its designee within five (5) days of demand, all materials, supplies, equipment owned or purchased by the Board, completed or partially completed work product or analyses, data, computer disks, documents and any other information relating to the performance or furnishing of Services, except that Vendor may keep a copy of such information for its own records subject to the terms of the Agreement.
  - f. **Vendor Termination:** Vendor may terminate this Agreement as follows:
    - i. Immediately upon the termination of the Reference Contract. Vendor shall endeavor to provide CPS with notice of termination or non-renewal of the Reference Contract promptly after receiving such notice from Prince William County Public Schools.
    - ii. With thirty (30) days advance written notice to Board in the event (a) the Board engages in a material and intentional breach of this Agreement, provided that no breach by the Board is material unless the Board is given notice of the breach and fails to cure within ninety (90) days of the notice, or (b) the Board declares bankruptcy or insolvency.
    - iii. With nine (9) months advance written notice to the Board without cause.
11. **Assignment:** This Agreement shall be binding on the parties and their respective successors and assigns, provided however, that neither party may assign the Agreement or any obligations imposed hereunder without the prior written consent of the other party, except to an affiliate, or in connection with any merger, consolidation, reorganization, sale or similar transaction involving all or substantially all assets relating to this Agreement as long as the Agreement is binding on and enforceable by such assignee, and the assigning party remains liable for assignee's performance.
12. **Confidential Information, Dissemination of Information, Survival:** The parties agree that CPS will not be providing any Confidential Information to the Vendor. Notwithstanding the foregoing, in the event Vendor does receive any Confidential Information from CPS, Vendor shall comply with this Section 12.
- a. **Confidential Information:** In the performance of the Agreement, Vendor, including its staff,

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volunteers, and agents may have access to or receive certain information that is not generally known to others (“**Confidential Information**”). Vendor acknowledges that Confidential Information includes, but is not limited to, proprietary information, copyrighted material, business plans, financial data, Student Data (defined below), educational records, employee data, information relating to health records, and other information of a personal nature. It is understood that Confidential Information may also include confidential or proprietary information of third parties provided by the Board to Vendor in the course of the performance of Services under the Agreement. Confidential Information will not include information that is: (i) or becomes part of the public domain through no fault of Vendor; (ii) made available to Vendor by an independent third party having the legal right to make such disclosure; and (iii) information that can be established and documented by Vendor to have been independently developed or obtained by Vendor without violating the confidentiality obligations of the Agreement and any other agreements with the Board. For the avoidance of doubt, it is understood that information that the Board provides to Vendor as part of its Amazon Business Account will not be considered “Confidential Information” for purposes of this Section 12. Such Amazon Business Account information provided by the Board will be treated as set forth in the Amazon Business Account Terms and Conditions (Document (d.) of Memorandum of Negotiations to the Reference Contract) (“**Account Terms**”) and as set forth in Vendor’s Privacy Notice.

- b. Use of Confidential Information: Vendor shall only use Confidential Information for the sole purpose of providing Services to the Board and shall not disclose the Confidential Information except to those of its directors, officers, agents, servants, employees, and contractors who need to know the Confidential Information in order to perform the Services set forth in the Agreement. Vendor shall not copy or otherwise reproduce the Confidential Information for any purposes outside the terms of the Agreement without the prior written consent of the Board. Vendor shall use at least the same standard of care in the protection of Confidential Information as Vendor uses to protect its own confidential information, but in any event, such Confidential Information shall be protected in at least a commercially reasonable manner. Notwithstanding the foregoing, it is understood and agreed that such protection of the Confidential Information may be subject to the special requirements set forth in the Family Educational Rights and Privacy Act (“**FERPA**”), Student Online Personal Protection Act (“**SOPPA**”) and the Illinois School Student Records Act (“**ISSRA**”). Upon the expiration or termination of the Agreement, Vendor shall promptly cease using and shall return or destroy (and certify in writing destruction of) all Confidential Information furnished by the Board upon request along with all copies thereof in its possession including copies stored in any computer memory or storage medium. The parties agree that Vendor will not access any Student Data or student records as part of the Contract Purpose, nor do the parties anticipate that Vendor will access or interact with any CPS students as part of the Contract Purpose.
- c. Handling of Confidential Information: Vendor shall protect against the unauthorized access, use or disclosure of Confidential Information by employing security measures that are no less protective as those used to protect Vendor’s own confidential information. When handling Confidential Information:
- i. CPS agrees not to provide Vendor, and Vendor agrees not to create or retain, any physical copies of Confidential Information;
  - ii. Vendor shall encrypt all Confidential Information using industry best practices in compliance with applicable requirements of law and in the following circumstances: (A) the processing of Confidential Information on any mobile device or removable media, that connects to or contains Confidential Information from Vendor’s server, and (B) electronic transmissions of Confidential Information by Vendor outside of its network.



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- iii. Vendor will install and maintain a working network firewall or equivalent acceptable technology to protect Confidential Information accessible via the Internet on its servers and will keep all such Confidential Information protected by the firewall. The firewall or equivalent acceptable technology must provide both ingress and egress filtering, and have a default policy of blocking network traffic.
  - iv. Vendor will keep its systems and software up-to-date with the latest upgrades, updates, bug fixes, new versions and other modifications necessary to ensure security of Confidential Information within a reasonable time of release of such upgrades, bug fixes, versions or modifications.
  - v. Vendor will at all times use appropriate anti-virus software and scanning technologies or equivalent acceptable technology, and regularly updated signature files, to ensure that operating systems, software and other systems hosting, storing, processing, or that have access to Confidential Information, and are known to be susceptible or vulnerable to being infected by or further propagating viruses, spyware and malicious code, are and remain free from such viruses, spyware and malicious code. Vendor will mitigate threats from all viruses, spyware, and other malicious code that are or should reasonably have been detected by the party.
  - vi. Vendor will comply with industry best practices to ensure appropriate access controls in relation to the access of Confidential Information on its servers, including adhering to the security principles of "segregation of duties" and "least privilege" with respect to Confidential Information.
  - vii. Vendor will ensure that any remote access to its servers holding Confidential Information on Vendor's corporate or development workstation networks requires multi-factor authentication (e.g., requires at least two separate factors for identifying users).
  - viii. Vendor shall manage security configurations of its systems using industry best practices to protect Confidential Information from exploitation.
  - ix. Vendor shall implement a written information security program, including appropriate policies, procedures, and risk assessments that are reviewed at least annually. Vendor's security policies, standards, and implementation consider both local data and data stored in cloud-based systems.
  - x. Vendor will maintain intrusion detection and prevention services to protect the production environment.
  - xi. Vendor shall have a documented disaster covered plan for the electronic systems where Confidential Information may be stored. .
- d. Dissemination of Information: Other than as specifically allowed under the Agreement, Vendor shall not disseminate any Confidential Information and/or any Work Product (as

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defined below) obtained or developed in performance or delivery of Services and/or materials for the Board to a third party without the prior written consent of an authorized representative of the Board. If Vendor is presented with a request for documents by any administrative agency or with a *subpoena duces tecum* regarding any Confidential Information and/or Work Product (as defined below) which may be in Vendor's possession as a result of Services and/or materials provided under the Agreement, Vendor shall promptly give notice to the Board and its General Counsel with the understanding that the Board shall have the opportunity to contest such process by any means available to it prior to submission of any documents to a court or other third party. Vendor shall not be obligated to withhold delivery of documents beyond the time ordered by a court of law or administrative agency, unless the request for production or subpoena is quashed or withdrawn, or the time to produce is otherwise extended.

- e. Injunctive Relief: In the event of a breach or threatened breach of this Section, Vendor acknowledges and agrees that the Board would suffer irreparable injury not compensable by money damages and would not have an adequate remedy at law. Accordingly, Vendor agrees that the Board shall be entitled to immediate injunctive relief to prevent or curtail any such breach, threatened or actual. The foregoing shall be in addition and without prejudice to such rights that the Board may have in equity, by law or statute.
- f. Unauthorized Access, Use or Disclosure of Confidential Information: If the Vendor becomes aware of any unauthorized access, use, or disclosure of the Confidential Information, it shall: (i) promptly notify the Board; (ii) take prompt and appropriate action to prevent further unauthorized access, use, or disclosure; (iii) reasonably cooperate with the Board and any government authorities with respect to the investigation and mitigation of any such unauthorized access, use, or disclosure, including the discharge of the Board's duties under the law; and (iv) take such other actions to remedy such unauthorized access, use or disclosure, as required under any federal or state law, which may include providing notification to the affected persons. Vendor shall bear the losses and expenses (including **attorneys' fees**) associated with a breach of Vendor's obligations for the protection and handling of Confidential Information including, without limitation, any costs: (1) of providing notices of a data breach to affected persons and to regulatory bodies; and (2) to the extent required by law, remedying and otherwise mitigating any potential damage or harm of the data breach including, without limitation, establishing call centers and providing credit monitoring or credit restoration services. Vendor shall include provisions consistent with this Section in contracts with any subcontractors providing any Services under the Agreement.
- g. Return or Destruction of Confidential Information: Vendor shall, at the Board's option, destroy or return all Confidential Information provided by the Board to the Board within five (5) business days of demand, including any Work Product (defined below). In the event the Board elects to have Vendor destroy the Confidential Information, upon the Board's request Vendor shall provide an affidavit attesting to such destruction.
- h. Student Data: Student Data means any data, metadata, information, or other materials of any nature recorded in any form whatsoever, that is generated, disclosed, transmitted, created, or provided by the Board, either directly or through its students, employees, agents, and subcontractors, including all information used, created, or generated through the Board's use of any technology including but not limited to any software that is directly related to a CPS student. For purposes of this Agreement, Student Data is considered Confidential Information; additional requirements regarding Student Data specifically are described below.
- i. De-Identified Data: De-identified Data will have all direct and indirect personal identifiers removed. This includes, but is not limited to, persistent unique identifiers, name, ID numbers, date of birth, demographic information, location information, and school ID. Vendor agrees not to attempt to re-identify de-identified Data. For the purposes of this Agreement, De-Identified Data will still be considered Confidential Information and treated as such.

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- j. **Employees, Agents and Subcontractors:** Vendor agrees to cause its employees, agents and subcontractors to undertake the same obligations of confidentiality regarding the handling of Confidential Information as agreed to by Vendor in the Agreement.
- k. **Survival:** The provisions of this Section shall survive the termination or expiration of the Agreement.
13. **Ownership:** Vendor agrees that, to the extent permitted by law, any and all finished or unfinished documents, screens, reports, writings, procedural manuals, forms, source code, object code, work flow charts, methods, processes, data, data studies, drawings, maps, files, records, computer printouts, designs, equipment descriptions, or other materials prepared or generated from the performance of Services ("**Work Product**") shall exclusively be deemed "works for hire" within the meaning and purview of the United States Copyright Act, 17 U.S.C. § 101 *et seq.* To the extent any Work Product does not qualify as a "work for hire," Vendor irrevocably grants, assigns, and transfers to the Board all right, title, and interest in and to the Work Product in all media throughout the world in perpetuity and all intellectual property rights therein, free and clear of any liens, claims, or other encumbrances, to the fullest extent permitted by law. All Confidential Information, Work Product, and intellectual property developed by, created for, or incorporating information gained from the Services performed under the Agreement, shall at all times be and remain the property of the Board. Vendor shall execute all documents and perform all acts that the Board may request in order to assist the Board in perfecting or protecting its rights in and to the Work Product and all intellectual property rights relating to the Work Product. All of the foregoing items shall be delivered to the Board upon demand at any time and in any event, shall be promptly delivered to the Board upon expiration or termination of the Agreement within three (3) business days of demand. In addition, Vendor shall return the Board's data in the format requested by the Board. If any of the above items are lost or damaged while in Vendor's possession, such items shall be restored or replaced at Vendor's expense.
14. **Press Releases; Publicity:** Vendor shall not issue publicity news releases; grant press interviews; use any intellectual property belonging to the Board, including but not limited to the CPS logo or the logos of any schools during or after the performance of any Services without the prior written consent of the Board's Chief Communications Officer or its designee. Furthermore, Vendor shall not photograph or film or cause others to photograph or film within any CPS school or facility without the prior express written consent of the Board's Chief Communications Officer or its designee.
15. **Representations and Warranties of Vendor:** Vendor represents and warrants that the following shall be true and correct as of the effective date of the Agreement and shall continue to be true and correct during the Term of the Agreement and any Renewal Terms.
- a. **Licensed Professionals:** Vendor is appropriately licensed under Illinois law to perform Services required under the Agreement and shall perform no Services for which a professional license is required by law and for which Vendor, its Employees, agents, or subcontractors, as applicable, are not appropriately licensed.
- b. **Compliance with Laws:** Vendor is and shall remain in compliance with all applicable federal, state, county, and municipal, statutes, laws, ordinances, and regulations relating to the Agreement and the performance of Services in effect now or later and as amended from time to time, including but not limited to the Prevailing Wage Act, 820 ILCS 130/1 *et seq.*, the Drug-Free Workplace Act, the Illinois School Student Records Act, the Family Educational Rights and Privacy Act, the Protection of Pupil Rights Amendment and any others relating to non-discrimination. Further, Vendor is and shall remain in compliance with all applicable Board policies and rules. Board policies and rules are available at <http://www.cps.edu/>.

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- c. Good Standing: Vendor is not in default and has not been deemed by the Board to be in default under any other contract with the Board during the five (5) year period immediately preceding the effective date of the Agreement.
- d. Authorization: In the event Vendor is an entity other than a sole proprietorship, Vendor represents that it has taken all action necessary for the approval and execution of the Agreement, and execution by the person signing on behalf of Vendor is duly authorized by Vendor and has been made with complete and full authority to commit Vendor to all terms and conditions of the Agreement which shall constitute valid, binding obligations of Vendor.
- e. Financially Solvent: Vendor warrants that it is financially solvent, is able to pay all debts as they mature and is possessed of sufficient working capital to complete all Services and perform all obligations under the Agreement.
- f. Gratuities: No payment, gratuity or offer of employment was made by or to Vendor in relation to the Agreement or as an inducement for award of the Agreement.
- g. Contractor's Disclosure Form: The disclosures in the Contractor Disclosure Form, previously submitted by Vendor, are true and correct. Vendor shall promptly notify Board in writing of any change in information set forth therein that has a material effect on its ability to perform its obligations under this contract, including but not limited to change in ownership or control, and any such change shall be subject to Board approval which shall not be unreasonably withheld.
- h. Third Parties' Intellectual Property: In performing and delivering the Services under the Agreement, Vendor shall not violate or infringe upon any patent, copyright, trademark, trade secret or other proprietary or intellectual property right of any third party and will not improperly use any third party's confidential information. Vendor shall have, without encumbrance, all ownership, licensing, marketing, and other rights required to furnish all materials and products that it furnishes to the Board for any Services provided under the Agreement and can grant or assign all rights granted or assigned to the Board pursuant to this Agreement.
- i. Technical Accuracy: Vendor warrants that all Services will be technically accurate and correct.
- j. Assignment of Warranties: Vendor has the right, title and ability to assign and shall assign to the Board any third-party warranties concerning the Services provided under the Agreement to the Board.
- k. Free of Computer Viruses: Vendor shall use commercially reasonable best efforts to ensure that the Services, including but not limited to any software used in the performance of the Services, do not introduce or transfer any malicious code, malware, Trojan horses, ransomware, worms or other computer viruses into the Board's network, systems, and computers.
- l. Debarment and Suspension: Vendor certifies, to the best of its knowledge and belief, after due inquiry, that:
  - i. It, its principals, or its subcontractors providing Services under the Agreement are not barred from contracting with any unit of state or local government as a result of violation of either Section 33E-3 (bid-rigging) or 33E-4 (bid rotating) [720 ILCS 5/33E];
  - ii. It, its principals, or its subcontractors providing Services under the Agreement are not presently debarred, suspended, proposed for debarment, declared ineligible, or

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voluntarily excluded from participation in this transaction by any federal department or agency or any unit of state or local government; and

- iii. It, its principals, or its subcontractors providing Services under the Agreement have not violated any applicable rules, regulations, or laws of any federal, state, or local government unit or agency in their provision of Services under this Agreement.

**“Principals”** for the purposes of this certification means officers; directors, owners, or Employees; and, if a joint venture is involved, each joint venture member and the principals of each such member.

In performing any obligations of the Agreement, Vendor shall not utilize any firms that the Board has debarred from doing business with CPS pursuant to the Board’s Debarment Policy (08-1217-PO1), as amended.

- m. **Prohibited Acts:** To the best of Vendor’s knowledge and belief, within the three (3) years prior to the Effective Date of the Agreement, Vendor or any of its members if a joint venture or a limited liability company, or any of its or their respective officers, directors, shareholders, or Employees; (i) have not been convicted of bribery or attempting to bribe a public officer or employee of any public entity and (ii) have not been convicted of agreeing or colluding among contractors or prospective contractors in restraint of trade, including bid-rigging or bid-rotating, as those terms are defined under the Illinois Criminal Code.
  - n. **Continued Disclosure Requirement:** If at any time during the Term of the Agreement or during any Renewal Terms, Vendor becomes aware of any change in the circumstances that makes the representations and warranties stated above no longer true, Vendor must promptly disclose such change to the Board.
16. **Use of Board’s Network:** If at any time, Vendor has access to the Board’s computer network, Vendor warrants that it is and shall remain in compliance with the Board’s Information Security Policy adopted September 25, 2013 (13-0925-PO1), as amended, and the Board’s Staff Acceptable Use Policy, adopted August 22, 2018 (18-0822-PO2), both as amended, during the term of the Agreement and any renewals thereof. Vendor shall not act or fail to act in any manner that will cause any CPS student to not comply with the Board’s Student Acceptable Use Policy, adopted August 22, 2018 (18-0822-PO1), as amended. The parties do not anticipate that Vendor will have access to the Board’s computer network as part of the Agreement.
17. **Background Check:** Vendor shall comply with the following requirements and such other procedures as may be determined necessary by the Board from time to time for each Employee, agent, volunteer or subcontractor who may have contact with a CPS student as a result of this Agreement (individually and collectively **“Staff”**) (**“Background Check”**). For purposes of this Section, contact via text messages, live chats, emails, any other digital or online media, telephone, in person, or through any other means shall be considered **“contact”**. Vendor shall not allow any Staff to have contact with students until Vendor has confirmed with the Board that each respective Staff has successfully completed the Background Check in accordance with the following requirements:
- a. **Do Not Hire List:** The Board will perform a check of eligibility of each Staff who may have contact with a CPS student pursuant to this Agreement by checking the Board’s **“Do Not Hire”** (**“DNH”**) records (**“DNH Check”**). The Board will utilize the same DNH Check process that the Board uses for its own prospective staff. Staff with a DNH designation shall not provide Services hereunder.
  - b. **Criminal History Records Check:** Vendor shall, at its own cost and expense, have a complete fingerprint-based criminal history records check conducted on each Staff who may have contact with a CPS student pursuant to this Agreement through the process established by

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the Board, including using the Board's contracted vendor for conducting such checks, and otherwise in accordance with the Illinois School Code (105 ILCS 5/34-18.5), which refers to and incorporates the Sex Offender and Child Murderer Community Notification Law (730 ILCS 152/101 et seq.), and the Murderer and Violent Offender Against Youth Registration Act (730 ILCS 154/1 et seq.) (collectively "**Criminal History Records Check**"). A complete Criminal History Records Check includes the following:

- i. Fingerprint-based checks through the Illinois State Police and the Federal Bureau of Investigation;
- ii. A check of the Illinois Sex Offender Registry and the Nationwide Sex Offender Registry; and
- iii. A check of the Illinois State Police Murderer and Violent Offender Against Youth Registry.

The results of each Criminal History Records Check shall be adjudicated by the Board. Staff shall not have contact with CPS students prior to successfully completing the Criminal History Records Check. When the Board determines that any Staff has not passed a Criminal History Records Check, such Staff shall not access any Board facility and shall not have contact with any CPS student hereunder.

- c. Department of Children and Family Services Check: At Vendor's cost and expense, the Board shall have the right to check Staff who may have contact with a CPS student pursuant to this Agreement for indicated reports of child abuse and/or neglect with the Illinois Department of Children and Family Services ("**DCFS**") State Automated Child Welfare Information System (or a comparable determination of child abuse or neglect by a government agency in another jurisdiction) for each Staff ("**DCFS Check**"). Vendor shall follow the directives and processes of the Board for initiating any DCFS Check, and the results of each DCFS Check shall be adjudicated by the Board. Staff determined by the Board not to have passed a DCFS Check shall not access any Board facility and shall not have contact with any CPS student hereunder.
- d. Background Check Representations and Warranties: With respect to each Background Check, Vendor further represents and warrants that Vendor shall:
  - i. Utilize the process established by the Board for completing each Background Check and immediately initiate all action, as directed by the Board, to have such Background Check performed;
  - ii. Obtain from each of its prospective and current Staff and provide to the Board a signed copy of any release and consent required to conduct the Background Check in the form determined by, and as directed by the Board;
  - iii. Confirm with the Board's Chief of Safety and Security that each respective Staff has successfully completed the Background Check through the process established by the Board and complied with the Board's directives regarding the results of each Background Check before any contact with a CPS student may occur;
  - iv. When contact with a CPS student may occur, not allow any Staff to provide Services until a DNH Check, Criminal History Records Check, and DCFS Check have been completed by the Board and the results of the Background Check satisfy for the Board, at a minimum, the requirements of 105 ILCS 5/34-18.5 and the requirements of all other Acts and Laws referenced in this Section, as may be amended;
  - v. Comply with and require compliance of all Staff with directives from the Board relating to any updates to any Background Check (which updates shall be received and adjudicated by the Board) and provide any other information requested by the Board necessary for the performance of the Background Check and its update process; and
  - vi. Immediately remove from any contact with any CPS student pursuant to this Agreement and otherwise terminate access for any Staff determined by the Board not to have passed a Background Check or update for any matters arising after an initial Background Check.

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- e. **Allocation of Costs and Liquidated Damages:** Vendor is obligated to cause the Background Check to be performed for all Staff who may have contact with any CPS student pursuant to this Agreement, and Vendor shall be responsible for the costs of such Background Check. Whether or not Vendor allocates the costs to its subcontractor shall not affect Vendor's obligations in this Section.

If Vendor fails to comply with this Section, in whole or in part, then, in addition to the Remedies set forth in this Agreement, the Board may exercise additional remedies, including but not limited to: (i) withholding payments due under this Agreement, and any other agreement Vendor may have or enter into with the Board until Vendor remedies such non-compliance to the Board's reasonable satisfaction; (ii) immediately terminating this Agreement without any further obligation by the Board of any kind (other than payment for Services previously rendered pursuant to the terms herein); (iii) seeking liquidated damages; (iv) or taking any other action or remedy available under this Agreement or by law.

Liquidated damages shall be calculated as \$5,000.00 per breach of this Section, which, for purposes of clarity, for the aggregate calculation of liquidated damages, will include each instance of contact with CPS students by Staff as a separate breach. It is understood and agreed that Vendor's non-compliance with this Section shall constitute a material breach of this Agreement.

18. **Research Activities and Data Requests:** Vendor shall not conduct research in the Chicago Public Schools or use CPS student data for research purposes. In the event Vendor seeks to conduct research in the Chicago Public Schools or use CPS student data for research purposes in connection with the Agreement or for any other purposes, Vendor shall comply with the Board's Research Study and Data Policy adopted on November 14, 2007, as may be amended from time to time. Vendor acknowledges and agrees that it may not begin any research activities or obtain data for research purposes without the prior written consent of the Chief Education Officer.
19. **Independent Contractor:** It is understood and agreed that the relationship of Vendor to the Board is and shall be that of an independent contractor and neither Vendor nor any of Vendor's employees shall be entitled to receive Board employee benefits. As an independent contractor, Vendor agrees to be responsible for the payment of all taxes and withholdings specified by law which may be due in regard to compensation paid by the Board. To the extent that Vendor is subject to taxes under Section 4980H of the Internal Revenue Code, Vendor shall be solely responsible for paying such taxes. Vendor agrees that neither Vendor nor its employees, staff or subcontractors shall represent themselves as employees or agents of the Board. Vendor shall provide the Board with a valid taxpayer identification number as defined by the United States Internal Revenue Code, including but not limited to, a social security number or federal employer identification number. In the event that the Board is determined to be liable for taxes under Section 4980H of the Internal Revenue Code as a result of the use of Vendor's employees under the Agreement, Vendor shall indemnify the Board for any such liability.
20. **Insurance:** Vendor, at its own expense, shall procure and maintain insurance covering all operations under the Agreement, whether performed by Vendor or by subcontractors. All insurers shall be licensed by the State of Illinois and rated A-VII or better by A.M. Best or a comparable rating service. Vendor shall submit to the Board satisfactory evidence of insurance coverage. Minimum insurance requirements include the coverage set forth:
- a. **Workers' Compensation and Employers' Liability Insurance:** Workers' Compensation Insurance affording workers' compensation benefits for all employees as required by law and Employers' Liability Insurance covering all employees who are to provide Services under the Agreement with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence. The workers' compensation policy must contain a waiver of subrogation clause.

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- b. Commercial General Liability Insurance: Commercial General Liability Insurance or equivalent with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate for bodily injury, personal injury and property damage liability. Coverage shall include, but not be limited to: all operations, contractual liability, independent contractors, products/completed operations (for a minimum of two (2) years following completion), and defense.
- c. Automobile Liability Insurance: Automobile Liability Insurance when any motor vehicle (whether owned, non-owned or hired) is used in connection with Services to be performed, with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.
- d. Cyber Liability and Privacy & Security Coverage: Vendor has elected to self-insure its Professional/Errors & Omissions (including Cyber Liability). Such self-insurance shall provide coverage for damages arising from a failure of computer security, or wrongful release of private information, including expenses for notification as required by local, state or federal guidelines, with limits of liability not less than Ten Million Dollars (\$10,000,000.00) per claim. Coverage shall include failure to prevent transmission of malicious code. Such coverage shall either be maintained continuously for a period of 2 years after expiration or termination of this Agreement.
- e. Umbrella/Excess Liability Insurance: Umbrella or Excess Liability Insurance with limits not less than Two Million Dollars (\$2,000,000.00) per occurrence, which will provide additional limits for employers' general and automobile liability insurance and shall cover the Board and its employees, subject to that of the primary coverage.
- f. Additional Insured: Vendor shall have its General, Umbrella, and Automobile Liability Insurance policies include the Board of Education of the City of Chicago, a body politic and corporate, and its members, employees and agents, and any other entity as may be designated by the Board named as additional insured on a primary basis without recourse or right of contribution from the Board.

The insurance company, or its representative, shall submit an insurance certificate, or a Memorandum of Insurance which can be found at <http://www.amazon.com/moi>, evidencing all coverage as required hereunder and indicating the Additional Insured status as required above. The Board will not pay Vendor for any Services if satisfactory proof of insurance is not provided by Vendor prior to the performance of any Services. The Vendor must provide thirty (30) days prior written notice of cancellation or non-renewal to be given to:

Risk Management  
Board of Education of the City of Chicago  
42 W. Madison  
Chicago, Illinois 60602  
[riskmanagement@cps.edu](mailto:riskmanagement@cps.edu)

Any failure of the Board to demand or receive proof of insurance coverage shall not constitute a waiver of Vendor's obligation to obtain the required insurance. The receipt of any certificate does not constitute agreement by the Board that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. Vendor's failure to carry or document required insurance shall constitute a breach of the Vendor's Agreement with the Board. In the event Vendor fails to fulfill the insurance requirements of the Agreement, the Board reserves the right to stop the Services until proper evidence of insurance is provided, or the Agreement may be terminated.

Any deductibles or self-insured retentions on referenced insurance coverage must be borne by Vendor. Any insurance or self-insurance programs maintained by the Board of Education do not contribute with insurance provided by the Vendor under the Agreement.



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All subcontractors are subject to the same insurance requirements of Vendor unless otherwise specified in the Agreement. The Vendor shall require any subcontractors under the Agreement to maintain comparable insurance naming the Vendor, the Board inclusive of its members, employees and agents, and any other entity designated by the Board, as Additional Insureds. The Vendor will maintain a file of subcontractor's insurance certificates evidencing compliance with these requirements.

The coverages and limits furnished by Vendor in no way limit the Vendor's liabilities and responsibilities specified within the Agreement or by law. The required insurance is not limited by any limitations expressed in the indemnification language in the Agreement, if any, or any limitation that might be placed on the indemnity in the Agreement given as a matter of law.

Vendor agrees that insurers waive their rights of subrogation against the Board.

21. **Indemnification:**

Vendor agrees to defend, indemnify and hold harmless the Board, its members, employees, agents, officers and officials from and against all liabilities, losses, penalties, damages and expenses, including costs and attorney fees, arising out of all claims, liens, damages, obligations, actions, suits, judgments or settlements, or causes of action, of every kind, nature and character (collectively "**Claims**") arising or alleged to arise out of the acts or omissions of the Vendor, its officers, agents, employees and subcontractors in the performance of the Agreement. The foregoing obligation extends to and is intended to encompass any and all Claims that the Services infringe, misappropriate, or otherwise violate any confidentiality, proprietary, or intellectual property right of a third party.

Furthermore, as stated in Independent Contractor Section above, in the event that the Board is determined to be liable for taxes under Section 4980H of the Internal Revenue Code as a result of its use of Vendor's employees under the Agreement, Vendor shall indemnify the Board for any such liability. As stated in the Confidential Information Section above, in the event of unauthorized access, use, or disclosure of the Board's Confidential Information arising or alleged to arise from the acts or omissions of Vendor, its employees, agents, or subcontractors, in addition to the obligations provided in this Section, Vendor shall cover any costs or fees associated with (i) providing notices of a data breach to affected persons and to regulatory bodies and (ii) remedying and otherwise mitigating any potential damages or harm from the data breach, including but not limited to call centers and providing credit monitoring or credit restoration services as may be requested by the Board.

Vendor shall, at its own cost and expense, appear, defend and pay all attorney fees and, other costs and expenses arising hereunder. In addition, if any judgment shall be rendered against the Board in any such action, Vendor shall, at its own expense, satisfy and discharge such obligation of the Board. The Board shall have the right, at its own expense, to participate in the defense of any suit, without relieving Vendor of any of its obligations hereunder. The Board retains final approval of any and all settlements or legal strategies which involve the interest of the Board.

However, if Vendor, after receiving notice of any such proceeding, fails to promptly begin the defense of such claim or action, the Board may (without further notice to Vendor) retain counsel and undertake the defense, compromise, or settlement of such claim or action at the expense of Vendor, subject to the right of Vendor to assume the defense of such claim or action at any time prior to settlement, compromise or final determination thereof. The cost and expense of counsel retained by the Board in these circumstances shall be borne by Vendor and Vendor shall be bound by, and shall pay the amount of, any settlement, compromise, final determination or judgment reached while the Board was represented by counsel retained by the Board pursuant to this paragraph, or while Vendor was conducting the defense.

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To the extent permissible by law, Vendor waives any limits up to Vendor's limitation of liability described in Section 24, to the amount of its obligations to defend, indemnify, hold harmless, or contribute to any sums due under any losses, including any claim by any employee of Vendor that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision (such as *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2<sup>nd</sup> 155 (1991)). The Board, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code, any other statute or judicial decision.

The indemnities set forth herein shall survive the expiration or termination of the Agreement.

**22. Limitations of Liability:** TO THE FULLEST EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES WILL AMAZON BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, THAT RESULT FROM YOUR PURCHASE OF ANY PRODUCTS OR USE OF ANY SERVICES, EVEN IF AMAZON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. AMAZON'S LIABILITY UNDER THIS AGREEMENT IS LIMITED TO GREATER OF: (i) THE TOTAL AMOUNT PAID TO VENDOR BY CPS PURSUANT TO THIS AGREEMENT FOR THE PERIOD ENDING ON THE DATE OF THE EVENT GIVING RISE TO THE LIABILITY; OR (ii) \$20 MILLION.

**23. Marketplace:** The Board utilizes an eProcurement system referred to as 'Marketplace' for electronic order placement of goods and services via a hosted eCatalog. At the Board's sole discretion, the Board may eliminate use of an eProcurement system or determine that certain services or goods may not be made available for purchase by the Board through an eProcurement system. Access to Marketplace is for internal CPS use only. CPS Schools, Networks and Departments may use Marketplace to place an order/purchase. Once the purchase is made through the Marketplace a PO will be sent to the Vendor electronically through the CPS iSupplier portal.

Vendor shall have the option of making its Products available through Marketplace; however Vendor is not required to utilize Marketplace. Orders and purchases must still be placed utilizing POs. The Marketplace is a supplemental tool for the Board's benefit and efficiency and is not to be used in lieu of the process for placing orders or obtaining Products and Services as otherwise provided in the Agreement. Use of the Marketplace by Vendor may result in greater visibility of Vendor's Products to CPS Schools, Networks and Departments. If Vendor chooses to use Marketplace, Vendor is responsible for entering the description of the Products and associated pricing into the Marketplace and must maintain its own catalog(s).

The information entered into the Marketplace by Vendor must be in conformity with the terms of the Agreement. Prior to making any changes to the Marketplace Vendor information, Vendor must first submit the proposed modification or amendment to the Board Project Manager identified in the Scope of Products and Services for review and approval, which approval must be documented by a written amendment signed by the authorized representatives of both Parties in accordance with the terms of the Agreement. If applicable to this business model, any addition, deletion, change, modification or substitution of Products to Marketplace Vendor Information by Vendor that is not made in compliance with this provision shall be void.

Vendor may not include on the CPS Marketplace hyperlinks to any external site. If applicable to this business model, Vendor recognizes that any deviation in the description of Products entered in the Marketplace by Vendor from the Products described herein that results in an order being placed will result in that order being deemed invalid by the Board and the associated cost not owed by the Board.

**24. Non-Liability of Board Officials:** Vendor agrees that no Board member, employee, agent, officer or official shall be personally charged by Vendor, its members if a joint venture, or any subcontractors with any liability or expense under the Agreement or be held personally liable under the Agreement to Vendor, its members if a joint venture, or any subcontractors.

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25. **Board Not Subject to Taxes:** The federal excise tax does not apply to the Board, and the State of Illinois sales tax does not apply to the Board by virtue of Exemption No. E9997-7109-06. The amounts paid to Vendor are inclusive of all other taxes that may be levied or based on the Agreement, including without limitation sales, use, nonresident, value-added, excise, and similar taxes levied or imposed on the Services to be provided under the Agreement, but excluding taxes levied or imposed on the income or business privileges of Vendor. Vendor shall be responsible for any taxes levied or imposed upon the income or business privileges of Vendor.
26. **Audit and Records Retention:** Vendor shall permit and cooperate in good faith in any audits by the Board, including its Department of Procurement or its agents, for compliance by the Vendor with the Agreement. Vendor shall furnish the Board with such information, supporting documentation and reports as may be requested relative to the Contract Purpose; progress, execution and costs of the Services and compliance with applicable MBE/WBE requirements. Vendor shall maintain all records related to the Agreement in accordance with its retention policies. As used in this Section, "records" shall include all, invoices, receipts, vouchers, and order data, regardless of type or medium relating to the Agreement and Vendor's performance of Services.
- If, notwithstanding Vendor's good faith efforts to resolve any questions concerning the statements and applicable back-up documentation provided by Vendor, the parties are unable to resolve such issues, during the Term and for six (6) months thereafter, the Board's independent third party certified public accountant who is reasonably acceptable to Vendor (any such independent third party accountant to be retained on a non-contingency fee basis), or the Inspector General as set forth in Section 44, may examine and audit Vendor's books and records directly relating to statements delivered to the Board under this Agreement to the extent necessary to verify the accuracy of such statements. Any such audit must: (i) not be disruptive to Vendor's business and must take place at a mutually agreed time during Vendor's normal business hours; (ii) not occur more than once during any 12-consecutive-month period; (iii) only cover statements rendered since the last audit conducted by the Board (if any) and during the 24 months prior to the date the audit is commenced; (iv) take place on at least thirty (30) days' prior written notice; (v) be completed within thirty (30) days from commencement; and (vi) be conducted by the Board alone and not in conjunction or cooperation with any other party. If the Board schedules an audit to take place in the month of July or the fourth calendar quarter of any year, Vendor will use reasonable efforts to complete the audit within 30 days and in no event after August 31 (for a July audit) or Jan 31 of the following year (for a fourth quarter audit). The Board agrees that any information learned or disclosed by its auditor in connection with any such audit is confidential information of Vendor and, subject to any Freedom of Information Act (5 ILCS 140/1) requests, such information is subject to nondisclosure and nonuse obligations under Section 7.3 of the Account Terms. Vendor shall require all of its subcontractors to maintain the above-described records and allow the Board the same right to inspect and audit said records as set forth herein. The parties agree that nothing in this section shall restrict Vendor's obligations to comply with Section 44, Inspector General.
27. **Freedom of Information Act:** Vendor acknowledges that the Agreement and all documents submitted to the Board related to the contract award are a matter of public record and are subject to the Illinois Freedom of Information Act (5 ILCS 140/1) and any .comother comparable state and federal laws and that the Agreement is subject to reporting requirements under 105 ILCS 5/10-20.44. Vendor further acknowledges that the Agreement shall be posted on the Board's Internet website. The parties agree nothing in this Section removes Vendor's rights including the right to request an exemption or restriction under FOIA.
28. **MBE/WBE Program:** Vendor acknowledges that it is familiar with the requirements of the Board's "*Remedial Program for Minority and Women Owned Business Enterprise Participation in Goods and Services Contracts*" ("**Remedial Plan**"), which is available on the Board's website at <http://www.csc.cps.k12.il.us/purchasing/mwbe.htm> and is incorporated as if fully set forth herein. Vendor's specific MBE/WBE goals are specified in a separate written plan between the Board and

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Vendor (the “**Vendor MBE/WBE Plan**”). Vendor agrees to adhere to the minimum participation goals and to all other applicable MBE/WBE requirements as set forth in the program as specified in the Vendor MBE/WBE Plan. Vendor agrees to submit such documentation in connection with the program as may be requested by the Board.

Vendor and its subcontractors shall provide all required compliance data with respect to the Remedial Plan via the Board’s electronic system available at <http://cps.diversitycompliance.com>. Vendor and its subcontractors shall be responsible for responding to any requests for data or information by the noted response due dates, and shall check the electronic system on a regular basis to manage contact information and contract records. Vendor shall also be responsible for ensuring that all subcontractors have completed all requested items with complete and accurate information and that their contact information is current.

29. **Notice:** All notices, requests, consents, approvals, acknowledgements and waivers under this Agreement will be in writing and delivered to the applicable party, addressed to the designee for notification purposes set forth below:

To Vendor, at: Amazon Services, LLC  
440 Terry Avenue N.  
Seattle, WA 98109  
Attn: Tom Wilson  
Email: tthowl@amazon.com

with a copy to: Amazon.com, Inc.  
Attn: General Counsel  
P.O. Box 81226 Seattle, WA 98108-1226  
E-mail: contracts-legal@amazon.com

and if to the Board, at: Board of Education of City of Chicago  
Procurement Department  
One North Dearborn, Ninth Floor  
Chicago, IL 60602  
Attn: Chief Procurement Officer

with a copy to: General Counsel  
Board of Education of City of Chicago  
One North Dearborn, Ninth Floor  
Chicago, IL 60602

Notice will be deemed given: (A) when verified by written receipt if sent by personal courier, overnight courier, or when received if sent by mail without verification of receipt; or (B) when verified by automated receipt. A party may change its address or designee for notification purposes by giving the other party written notice of the new address or designee and the date upon which it will become effective.

30. **Right of Entry:** Vendor and any of its officers, Employees, subcontractors or agents, performing Services hereunder shall be permitted to enter upon Board property in connection with the performance of the Services hereunder, subject to the terms and conditions contained herein and those rules established by the Board and the subject school principal. Vendor shall provide advance notice to the Board whenever applicable, of any such intended entry. Consent to enter upon a site given by the Board shall not create, nor be deemed to imply, the creation of any additional responsibilities on the part of the Board. Vendor shall use and shall cause each of its officers, Employees and agents to use the highest degree of care when entering upon any property owned by the Board in connection with the Services. Any and all claims, suits or judgments, costs, or expenses, including reasonable attorney fees, arising from, by reason of, or in connection with any such entries shall be treated in accordance with the applicable terms and

## THIS AGREEMENT WILL BE POSTED ON THE CPS WEBSITE.

conditions of the Agreement, including without limitation, the indemnification provisions contained in the Agreement. The parties agree that Vendor shall not enter Board property as part of the Contract Purpose.

31. **Non-Discrimination:** It shall be an unlawful employment practice for Vendor or any of its subcontractors to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, or other terms, conditions, or privileges of employment, because of such individual's race, color, national origin, religion, sex, gender identity/expression, sexual orientation, age or disability; or to limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual from equal employment opportunities or otherwise adversely affect an individual's status as an employee because of such individual's race, color, national origin, religion, sex, gender identity/expression, sexual orientation, age or disability. Where applicable, Vendor shall particularly remain in compliance at all times with: the Civil Rights Act of 1964, 42 U.S.C.A. § 2000a, *et seq.*; the Age Discrimination in Employment Act, 29 U.S.C.A. § 621, *et seq.*; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. § 701, *et seq.*; the Americans with Disabilities Act, 42 U.S.C.A. § 12101, *et seq.*; the Illinois Human Rights Act, 775 ILCS 5/1-101, *et seq.*; the Illinois School Code, 105 ILCS 5/1-1 *et seq.*; the Illinois Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.*; the Individuals with Disabilities Education Act (IDEA) 20 U.S.C.A. § 1400 *et seq.*; and, the Chicago Human Rights Ordinance, ch. 2-160 of the Municipal Code of Chicago, all as may be amended and all other applicable federal, state, and municipal statutes, regulations, ordinances and other laws. Nothing in this paragraph is intended nor shall be construed to create a private right of action against the Board or any of its employees. Furthermore, no part of this paragraph shall be construed to create contractual or other rights or expectations for the Vendor's employees or the Vendor's subcontractors' employees.
32. **Chicago's Minimum Wage Requirements:** Vendor must comply with the City of Chicago Minimum Wage Ordinance (01-24), as may be amended, and the Board's Minimum Wage Resolution (14-1217-RS2) and any applicable regulations issued by the Board's CPO. The Board's resolution adopts Chicago Mayoral Executive Order 2014-1. A copy of the Mayoral Order may be downloaded from the Chicago City Clerk's website at: [https://chicityclerk.s3.amazonaws.com/s3fs-public/document\\_uploads/executive-order/2014/Executive-Order-No-2014-1.pdf](https://chicityclerk.s3.amazonaws.com/s3fs-public/document_uploads/executive-order/2014/Executive-Order-No-2014-1.pdf). The Board's Resolution may be downloaded from the Chicago Public School's website at: [http://www.cpsboe.org/content/actions/2014\\_12/14-1217-RS2.pdf](http://www.cpsboe.org/content/actions/2014_12/14-1217-RS2.pdf). In the event of any discrepancy between the summary below and the Resolution and Order, the Resolution and Order shall control.

Vendor must: (i) pay its employees no less than the minimum wage in accordance with the Resolution and Order ("**Minimum Wage**") for work performed under the Agreement; and (ii) require any subcontractors, sublicensees, or subtenants, to pay their employees no less than the Minimum Wage for work performed under the Agreement.

The Minimum Wage must be paid to: 1) All employees regularly performing work on property owned or controlled by the Board or at a Board jobsite and 2) All employees whose regular work entails performing a service for the Board under a Board contract.

Beginning on July 1, 2015, and every July 1 thereafter, the Minimum Wage shall increase in proportion to the increase, if any, in the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor, and shall remain in effect until any subsequent adjustment is made. On or before June 1, 2015, and on or before every June 1 thereafter, the City of Chicago may issue bulletins announcing adjustments to the Minimum Wage for the upcoming year.

The Minimum Wage is not required to be paid to employees whose work is performed in general support of Vendor's operations, does not directly relate to the services provided to the Board under the Agreement, and is included in the contract price as overhead, unless that employee's

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regularly assigned work location is on property owned or controlled by the Board. It is also not required to be paid by employers that are 501(c)(3) not-for-profits.

The term 'employee' as used herein does not include persons subject to subsection 4(a)(2), subsection 4(a)(3), subsection 4(d), subsection 4(e), or Section 6 of the Illinois Minimum Wage Law, 820 ILCS 105/1 et seq., in force as of the date of the Agreement or as amended. Nevertheless, the Minimum Wage is required to be paid to those workers described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Illinois Minimum Wage Law.

The Minimum Wage is not required to be paid to employees subject to a collective bargaining agreement that provides for different wages than those required by the Board's Resolution, if that collective bargaining agreement was in force prior to December 17, 2014 or if that collective bargaining agreement clearly and specifically waives the requirements of the Resolution.

If the payment of a prevailing wage is required and the prevailing wage is higher than the Minimum Wage, then Vendor must pay the prevailing wage.

33. **Kickbacks:** To the best of Vendor's knowledge and belief, neither Vendor nor any of its members if a joint venture or limited liability company has accepted and shall not accept from or on behalf of any subcontractor or any intermediate tier subcontractor any payment, gratuity or offer of employment in relation to the Agreement or as an inducement for the acceptance of the Agreement. Vendor is and shall remain in compliance with all applicable anti-kickback laws and regulations.
34. **Joint and Several Liability:** In the event that Vendor, or its successors or assigns, if any, is comprised of more than one legal entity, then in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by Vendor shall be the joint and several obligation or undertaking of each such legal entity.
35. **Survival/Severability:** All express representations or indemnifications made or given in the Agreement shall survive the completion of Services or the expiration or termination of the Agreement for any reason. If any provision or part of the Agreement is held to be unenforceable, the Agreement shall be considered divisible and such provision shall be deemed inoperative to the extent that it is deemed unenforceable, and in all other respects the Agreement shall remain in full force and effect, provided however, that if any such provision may be made enforceable by limitation thereof, then such provision shall be deemed to be so limited and shall be enforceable to the maximum extent permitted by applicable law.
36. **Controlling Agreement:** Vendor shall not request any CPS students or staff including school principals, administrative staff or other CPS employee to sign any form, memorandum of understanding or any other agreement for the delivery of the Services except for those documents specifically approved by the Board under the Agreement. Additionally, the Board and its users shall not be bound by the terms and conditions contained in any clickwrap/clickthrough agreement or license, end user license or any other agreement or license contained or referenced in the Services or any quote provided by Vendor. For the avoidance of doubt, this exclusion does not include the Account Terms. Even if a CPS student or staff or other Board user agrees to any agreement or license contained or referenced in the Services or a quote from Vendor, Vendor acknowledges and agrees that those terms and conditions are null and void and are not binding on the Board. Vendor acknowledges and agrees that the terms and conditions of the Agreement represent the entire agreement of the parties for the Services. No additional terms or conditions shall apply to the Board unless a written amendment to the Agreement is made and signed by the authorized representatives of both parties and approved by the Board's General Counsel.
37. **Governing Law:** The Agreement shall be governed as to performance and interpretation in accordance with the laws of the State of Illinois. Vendor irrevocably submits itself to the original

## THIS AGREEMENT WILL BE POSTED ON THE CPS WEBSITE.

jurisdiction of those courts located in the County of Cook, State of Illinois, with regard to any controversy arising out, or relating to, or in any way concerning the execution or performance of the Agreement. Vendor agrees that service of process on Vendor may be made, at the option of the Board, by either registered or certified mail addressed to the office identified in the notice provision herein, by registered or certified mail addressed to the office actually maintained by Vendor, or by personal delivery on any officer, director, or managing or general agent of Vendor. If any action is brought by Vendor against the Board concerning the Agreement, the action shall only be brought in those courts located within the County of Cook, State of Illinois.

38. **Continuing Obligation to Perform:** In the event of any dispute between Vendor and Board, Vendor shall expeditiously and diligently proceed with the performance of all its obligations under the Agreement with a reservation of all rights and remedies it may have under or pursuant to the Agreement at law or in equity.
39. **Conflict of Interest:** The Agreement is not legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3, which restricts the employment of, or the letting of contracts to, former Board members within a one year period following expiration or other termination of their office.
40. **Indebtedness:** Vendor agrees to comply with the Board's Indebtedness Policy adopted June 26, 1996 (96-0626-PO3), as amended from time to time.
41. **Ethics:** No officer, agent or employee of the Board is or shall be an Employee of Vendor or has or shall have a financial interest, directly, or indirectly, in the Agreement or the compensation to be paid hereunder except as may be permitted in writing by the Board's Code of Ethics adopted May 25, 2011 (11-0525-PO2), as amended from time to time, which policy is hereby incorporated by reference into and made a part of the Agreement as fully set forth herein.
42. **Inspector General:** Each party to the Agreement hereby acknowledges that in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Board of Education of the City of Chicago has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.
43. **Waiver:** No delay or omission by the Board to exercise any right hereunder shall be construed as a waiver of any such right and the Board reserves the right to exercise any such right from time to time as often and as may be deemed expedient.
44. **Authority:** Vendor understands and agrees that Vendor is not an authorized representative of the Board or the Chicago Public Schools. All agreements and approvals (written or verbal) of the Board or the Chicago Public Schools must be made by authorized Board employee(s).
45. **Removal and Reassignment:** Vendor agrees to remove any of its staff or subcontractors' staff from performing Services if the Board, in its sole discretion, believes that such individual is not performing acceptably or is endangering the safety or welfare of any CPS student. Vendor further agrees to bear any costs associated with the removal of such a person. Vendor shall have a transition plan for all key personnel on this account performing Services. In the event of removal, reassignment or departure, Vendor will provide transitional coverage of key personnel within five (5) business days and will have a new personnel fully in place within sixty (60) days.
46. **Subcontractor Employee Screening and Monitoring Process:** If the awarded Vendor plans to subcontract the Services outlined in the Agreement to a third party, Vendor must submit its subcontractor's employee screening and monitoring process for Board approval prior to final contract approval.
47. **Counterparts and Electronic Signature:** The Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall

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constitute but one instrument. A signature delivered by facsimile or electronic means shall be considered binding for both parties.

48. **Entire Agreement and Amendment:** The Agreement, including all exhibits attached to it and incorporated into it, constitutes the entire agreement of the parties with respect to the matters contained herein. All attached exhibits are incorporated into and made a part of the Agreement. No modification of or amendment to the Agreement shall be effective unless such modification or amendment is in writing and signed by the authorized representatives of each party; except that the Board agrees that Vendor may update its Account Terms from time to time by posting such a change on Amazon Business or by notifying the Board's account administrators as set forth in Section 10 of the Account Terms. Vendor shall notify the Board through its authorized Amazon Business Account of any material changes to the Account Terms. Notwithstanding the above, in the event of any conflict between any updated Account Terms and the terms of this Agreement, the terms of this Agreement will control. Any prior agreements or representations, either written or oral, relating to the subject matter of the Agreement are of no force or effect.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**



THIS AGREEMENT WILL BE POSTED ON THE CPS WEBSITE.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date set forth above.

**THE BOARD OF EDUCATION OF THE CITY OF CHICAGO** DS  
✓/h

**By:** DocuSigned by:  
Miguel del Valle  
Miguel del Valle, President

**AMAZON.COM SERVICES LLC** DocuSigned by:

**By:** Stephanie Lang  
Stephanie Lang, Authorized Signatory

**Attest:** DocuSigned by:  
Estela G. Beltran  
Estela G. Beltran, Secretary

**Date:** August 1, 2022

**Date:** September 2, 2022

**By:** DocuSigned by:  
Pedro Martinez  
Pedro Martinez, Chief Executive Officer

**Date:** September 2, 2022

Board Authority: 22-0824-PR11-1

Approved as to legal form: DS  
JDE DS  
MVA DS  
ES DS  
✓/h

**By:** DocuSigned by:  
Joseph T. Moriarty  
Joseph T. Moriarty, General Counsel

**Attachments:**

- 1. Exhibit A: Reference Contract

**Exhibit A**  
**Reference Contract**  
***Attached***



ON-LINE MARKETPLACE FOR THE PURCHASES OF PRODUCTS AND SERVICES  
Executive Summary

**Lead Agency:** Prince William County Public Schools      **Solicitation:** R-TC-17006  
**RFP Issued:** September 14, 2016      **Pre-Proposal Date:** N/A  
**Response Due Date:** October 14, 2016      **Proposals Received:** #12

**Awarded to: Amazon Services, LLC, Contract #R-TC-17006**

Prince William County Public Schools Purchasing Office issued RFP #R-TC-17006 on September 14, 2016, to establish a national cooperative contract for an On-line Marketplace for the Purchases of Products and Services.

The solicitation included cooperative purchasing in Section 1. Purpose:

*The Purpose and Intent of this Request for Proposal (RFP) is to establish a cooperative contract, or contracts, for an On-line Marketplace for the purchase of the product categories in Section 4.1 for Prince William County Public Schools, Virginia, (herein referred to as "PWCS" or "Lead Public Agency") on behalf of all states, local governments, school districts, and higher education institutions in the United States of America, and other governmental agencies and nonprofit organizations (herein "Participating Public Agencies) through sealed proposals from qualified sources to establish term contract, to include delivery, through competitive negotiations in accordance with the statement of needs, terms and conditions stated herein.*

Notice of the solicitation was sent to potential offerors, as well as advertised in the following:

- Daily Journal of Commerce, OR
- Fauquier Times, VA
- The Honolulu Star, HI
- The Buy Line Blog-City Purchasing, Seattle.gov
- The New York State Contract Reporter, NYSCR.ny.gov
- ONVIA
- Merx.com
- U.S. Communities
- Prince William County Public Schools, VA
- Virginia's e-Procurement Portal, eVA, dgs.virginia.gov
- Washington's Electronic Business Solutions

On October 14, 2016 proposals were received from the following offerors:

- American Product Distributors
- Complete Book & Media Supply
- Innoseal
- Hi-Touch
- Music and Arts
- LD Products

- World ERP
- Amazon Services, LLC/Amazon Business
- Essendent Co.
- Peripole, Inc. d.b.a. Peripole-Bergerault, Inc.
- Scull Studios, LLC
- Textbook Warehouse, LLC

Seven (7) proposals were deemed non-responsive, five (5) proposals were deemed responsive and evaluated by an evaluation committee. The five (5) responsive proposals are Amazon Services LLC/Amazon Business, Essendent, Peripole, Scull Studios and Textbook Warehouse. Using the evaluation criteria established in the RFP, the committee elected to award to Amazon Services, LLC /Amazon Business for an online marketplace.

Contract includes:

Amazon Business has everything you love about Amazon, tailored for the public sector, including state and local government agencies, public and private K-12 school districts and higher education organizations, and nonprofit businesses. Solution benefits include:

- Offers comparison shopping
- Tax Exemption Program
- Enable spending controls
- Approval workflows
- Level 3 transaction reporting
- Reporting and analytics

Term:

Initial five-year agreement from January 19, 2017 through January 18, 2022 with the option to renew for three (3) additional two (2) year periods through January 18, 2028.

Pricing/Discount:

The Prince William County Public Schools, VA awarded online marketplace makes it easy to compare prices and find the best deals. To begin, Amazon Business customers must be registered as participants of OMNIA Partners in order to use the contract. Please [Register to Participate](#). There are no costs, minimum quantity requirements or spend limits with OMNIA Partners or to create an Amazon Business account.

To get started, follow these steps:

**Register for a FREE Amazon Business account by clicking [here](#).**

Already have an Amazon Business account and registered with OMNIA Partners? Please enroll to use the contract by completing the contract enrollment form below.

**Complete the contract enrollment form by clicking [here](#).** Once you complete the form, an Amazon Business Customer Advisor will contact you within three business days to complete the registration process.

OMNIA Partners, Public Sector Landing Pages: <https://www.omniapartners.com/publicsector/contracts/supplier-contracts/amazon-business>



# Prince William County

PUBLIC SCHOOLS

*Providing A World-Class Education*

**CONTRACT NUMBER: R-TC-17006**

This Contract entered into this 19th day of January 2017 by, **Amazon Services, LLC, Amazon Business, 325 9<sup>th</sup> Avenue N., Seattle, WA 98109**, hereinafter referred to as the "Contractor" and **Prince William County School Board, P.O. Box 389, Manassas, VA 20108**, hereinafter referred to as the "Prince William County Public Schools", "Purchasing Agency" or "PWCS".

**WITNESSETH** that the Contractor and PWCS, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

1. **SCOPE OF CONTRACT:** Contractor shall provide an On-Line Marketplace for the Purchase of Products and Services in accordance with the Statement of Needs, General Terms and Conditions and Special Terms and Conditions stated herein.
2. **CONTRACT DOCUMENTS:** The contract documents shall consist of the following:
  - 2.1. This signed Contract document;
  - 2.2. Memorandum of Negotiations dated January 19, 2017.
3. **CONTRACT TERM AND RENEWAL:**
  - 3.1. The initial term of this contract shall be from the date of award, January 19, 2017 to January 18, 2022, with the option to renew for three (3) additional two (2)-one-year periods, upon mutual written consent of the parties to the contract. Proposed prices shall remain firm for the initial term of the contract.
4. **CONTRACT ADMINISTRATOR/PROJECT MANAGER:** The following PWCS employees are identified to use all powers under the contract to enforce its faithful performance:
  - 4.1. **CONTRACT ADMINISTRATOR:** As the Contract Administrator, the following individual, or his/her designee, shall serve as the interpreter of the conditions of the contract and shall use all powers under the contract to enforce its faithful performance.



- 4.2. **PROJECT MANAGER:** The following individuals shall work directly with the Contractor in scheduling and coordinating work, answering questions in connection with the scope of work, and providing general direction under the resulting contract:
- 5. **TIME OF PERFORMANCE:** In accordance with Contractor's proposal, Section 4.2.2. and 5.3.2.
- 6. **PRICING:** In accordance with Contractor's proposal, Section 4.2.1.
- 7. **PAYMENT TERMS:** In accordance with Contractor's proposal, Section 5.3.6.

Prince William County does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, §2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

*This contract shall constitute the whole agreement between the parties. There are no promises, terms and conditions, or obligations other than those contained herein, and this contract shall supersede all previous communications, representations, or agreements, written or verbal, between the parties hereto related to the provision of goods (including leases thereof), services and/or insurances described herein.*

**IN WITNESS THEREOF**, the parties have caused this Contract to be executed by the following duly authorized officials:

**CONTRACTOR:**

Prentis D. Wilson, Jr.  
 Authorized Signature  
Prentis D. Wilson, Jr.  
 Type Name  
Vice President  
 Title  
Jan 27, 2017  
 Date

**PURCHASING AGENCY:**

Jim Totty  
 Authorized Signature  
Jim Totty, CPPO, C.P.M.  
 Type Name  
Supervisor of Purchasing  
 Title  
1-31-17  
 Date





## MEMORANDUM OF NEGOTIATIONS

**R-TC-17006**

Dated: January 19, 2017

Prince William County Schools (hereinafter called PWCS) and Amazon Services, LLC (hereinafter called the Contractor) hereby agree to the following in the execution of Contract R-TC-17006 for On-Line Marketplace for the Purchases of Products and Services. The final Contract contains the following documents listed in the order of precedence:

- a. Contractor's proposal dated October 14, 2016;
  - b. Contractor's response to Clarification Questions dated October 31, 2016, attached;
  - c. PWCS's Request for Proposal, R-TC-17006 and all Addendum #1;
  - d. Contractor's Business Accounts Terms and Conditions (currently available at <https://www.amazon.com/gp/help/customer/display.html?nodeId=201613180>), attached;
  - e. PWCS's General Terms and Conditions, Section 11 (RFP – Revised 12/16/16), attached;
  - f. This Memorandum of Negotiations;
  - g. Any subsequent modifications to the Contract.
1. The contract term shall remain as originally issued in the RFP, as follows:
    - 9.1. The initial term of this contract shall be five years (5) from the date of award to **December 30, 2021**, with the option to renew for three-two (2) year periods, upon mutual written consent of the parties to the contract.
  2. Amazon Whispercast is not being offered upon award but will remain in scope for future offerings by the Contractor. In addition, all new Amazon business opportunities may be modified to the Contract by mutual agreement between the Contractor and PWCS.



Memorandum of Negotiations  
R-TC-17006  
Page 2

3. The following provision is added to PWCS Special Terms and Conditions:

**10.7 NOTICE OF DEFERRAL UNDER FEDERAL GRANT UNIFORM GUIDANCE:**

As permitted under the rule published at 80 FR 54407, Prince William County Schools is electing to defer until July 1, 2017, the implementation of the procurement provisions of the Uniform Guidance, as detailed in 2 CFR 200 subsections .317 through .326. During this period, we will continue to operate under the guidance of 44 C.F.R. § 13.36(a)-(i) (States, Local and Tribal governments) and 2 C.F.R. 215.40-48 (Institutions of Higher Education, Hospitals, and Private Non-Profits). This provision shall constitute the documentation of this decision as required, and shall be deemed incorporated into our internal procurement policies.

4. Contractor's response to Clarification Questions dated October 31, 2016, Question #1: The State of Iowa is hereby removed as an excluded state and allowed use of the Master Agreement award.

ACCEPTED BY:

        *Rune D. Wilson*          
Contractor Authorized Signature

        Jan 27, 2017          
Date

        Vice President          
Title

        *Jim Totty*          
Jim Totty, C.P.M., CPPO  
Supervisor of Purchasing

        1/31/17          
Date







## CONTRACT MODIFICATION

**MODIFICATION #5**

**ISSUE DATE: October 19, 2018**

**REFERENCE:** Title: On-Line Marketplace for the Purchase of Goods and Services  
 Contractor: Amazon Services LLC  
 Period of Contract: January 18, 2017 through January 18, 2022

*Modify the above referenced contract as follows:*

1. Special Provision 10.7, which was added to the parties' contract via Contract Modification # 1, dated November 17, 2017, is hereby deleted and replaced with the following:

10.7. ADDITION OF BUSINESS PRIME. Contractor's Business Prime Program (currently described [here](#)) is hereby added to the Contract. PWCS' access and use of the Business Prime Program will be pursuant to the Business Prime Program's terms and conditions (currently available [here](#)). If PWCS chooses not to move forward with a paid Business Prime program, PWCS will be eligible to receive free standard shipping on eligible orders to the extent made available to Amazon Business customers (currently available for eligible purchases over \$25 as described [here](#)).

Except for the changes provided herein, all other terms and conditions of this contract remain unchanged and in full force and effect.

*Anthony E. Crosby, CPPO*

Anthony E. Crosby, CPPO Purchasing Supervisor

Amazon Services LLC

PRINCE WILLIAM COUNTY PUBLIC SCHOOLS

DocuSigned by:  
*Prentis Wilson*  
 7B8A8E34EE3E439

Signature

DocuSigned by:  
*Anthony E. Crosby*  
 766793F2DA6C40B

Signature



Anthony E. Crosby, CPPO  
Purchasing Supervisor

Name and Title

October 23, 2018

23, 2018

Date

Date

**PURCHASING OFFICE**

CC MISC 00088979 2018 TR





## CONTRACT MODIFICATION

**MODIFICATION #4**

**ISSUE DATE: July 11, 2018**

**REFERENCE:** Title: On-Line Marketplace for the Purchase of Goods and Services  
 Contractor: Amazon Services, LLC  
 Period of Contract: January 18, 2017 through January 18, 2022

*Modify the above referenced contract as follows:*

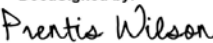
- The parties hereby acknowledge that Contractor has recently updated the Amazon Business Accounts Terms and Conditions ("Terms and Conditions"), which are incorporated by reference to the parties' Contract and currently available at [https://www.amazon.com/gp/help/customer/display.html/ref=b2b\\_250\\_tc?nodeId=201613180](https://www.amazon.com/gp/help/customer/display.html/ref=b2b_250_tc?nodeId=201613180). The parties hereby agree that pursuant to current Section 10 of the Terms and Conditions, (entitled "**MODIFICATIONS**"), the parties will no longer modify this Contract to account for future changes to Contractor's Business Accounts Terms and Conditions.

Except for the changes provided herein, all other terms and conditions of this contract remain unchanged and in full force and effect.

*Anthony E. Crosby*

Anthony E. Crosby, CPPO.  
Acting Supervisor of Purchasing

Amazon Services, LLC

DocuSigned by:  
  
 7BA8AF34FE3F439...  
 Signature

Prentis Wilson VP, Amazon Business

Name and Title

July 20, 2018

Date

PRINCE WILLIAM COUNTY PUBLIC SCHOOLS

DocuSigned by:  
  
 786798F2DA5C49B...  
 Signature

Anthony E. Crosby, CPPO  
Acting Supervisor of Purchasing

July 17, 2018

Date

**PURCHASING OFFICE**





## CONTRACT MODIFICATION

**MODIFICATION #3**

**ISSUE DATE: March 7, 2018**

**REFERENCE:**

Title: On-Line Marketplace for the Purchase of Goods and Services  
 Contractor: Amazon Services LLC  
 Period of Contract: January 18, 2017 through January 18, 2022

*Modify the above referenced contract as follows:*

1. Add the following to the General Terms and Conditions under 3. Debarment Status:
  - 3.1. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Except for the changes provided herein, all other terms and conditions of this contract remain unchanged and in full force and effect.

*Jim Totty*

Jim Totty, CPPO, C.P.M.  
Supervisor of Purchasing

Amazon Services LLC

PRINCE WILLIAM COUNTY PUBLIC SCHOOLS

DocuSigned by:  
  
 \_\_\_\_\_  
 Signature

DocuSigned by:  
  
 \_\_\_\_\_  
 Signature

Anne Rung Director

Jim Totty, CPPO, C.P.M.  
Supervisor of Purchasing

Name and Title

March 28, 2018

March 27, 2018

**PURCHASING OFFICE**



Date

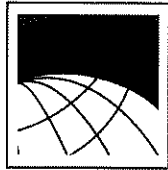
Date

**PURCHASING OFFICE**

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**Prince William County**  
**PUBLIC SCHOOLS**  
*Providing A World-Class Education*

**CONTRACT MODIFICATION**

**MODIFICATION #2**

**ISSUE DATE: January 19, 2018**

**REFERENCE:** Title: On-Line Marketplace for the Purchase of Goods and Services  
Contractor: Amazon Services, LLC  
Period of Contract: January 18, 2017 through January 18, 2022

*Modify the above referenced contract as follows:*

- 1. All references in the Contract to free two-day shipping on orders of \$49 or more are hereby deleted.

Except for the changes provided herein, all other terms and conditions of this contract remain unchanged and in full force and effect.

*Jim Totty*

Jim Totty, CPPO, C.P.M.  
Supervisor of Purchasing

Amazon Services, LLC

PRINCE WILLIAM COUNTY PUBLIC SCHOOLS

DocuSigned by:  
*Prentis Wilson*  
7B88AF34EE3F439...  
Signature

*Jim Totty*  
Signature

Prentis Wilson VP, Amazon Business

Jim Totty, CPPO, C.P.M.  
Supervisor of Purchasing

Name and Title

January 26, 2018

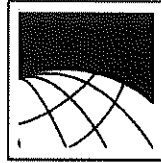
Date

*1-29-18*

Date

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## CONTRACT MODIFICATION

**MODIFICATION #1**

**ISSUE DATE: November 17, 2017**

**REFERENCE:**

Title:	On-Line Marketplace for the Purchase of Goods and Services
Contractor:	Amazon Services LLC
Period of Contract:	January 18, 2017 through January 18, 2022

*Modify the above referenced contract as follows:*

1. The following states may now use the contract: Hawaii, Vermont and Maine.
2. Date corrections on the Memorandum of Negotiations are as follows:
  - Change the date on PWCS General Terms and Conditions header from December 16, 2016 to January 19, 2017. All terms and conditions remain the same.
  - Change the contract term expiration date from December 31, 2021 to January 18, 2022. The renewal options remain the same.
  - Section d., latest Amazon's Business Accounts Terms and Conditions, per attachment, dated November 15, 2017.
3. Add the following Special Provision:
  - 10.7. ADDITION OF BUSINESS PRIME SHIPPING. Contractor's Business Prime Shipping Program (currently described here) is hereby added to the Contract. PWCS may enroll in and access the Business Prime Shipping Program's benefits at no charge during a limited promotional period, commencing on January 1, 2018 and ending on December 31, 2018. PWCS' access and use of the Business Prime Shipping Program will be pursuant to the Business Prime Shipping Program's terms and conditions (currently available here).

**PURCHASING OFFICE**



Except for the changes provided herein, all other terms and conditions of this contract remain unchanged and in full force and effect.

*Jim Totty*

Jim Totty, CPPO, C.P.M.  
Supervisor of Purchasing

Amazon Services LLC

DocuSigned by:  
*Prentis Wilson*  
7B8AF34EE3F439...  
Signature

Prentis wilson VP, Amazon Business

Name and Title

November 28, 2017

Date

PRINCE WILLIAM COUNTY PUBLIC SCHOOLS

*Jim Totty*  
Signature

Jim Totty, CPPO, C.P.M.  
Supervisor of Purchasing

11/24/17  
Date

PURCHASING OFFICE





Amazon.com

**Amazon Business Accounts Terms & Conditions**

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**Amazon Business Accounts Terms & Conditions**

Last updated November 15, 2017

These terms and conditions ("**Terms**") govern your access to and use of a set of features, services, and functionality on Amazon.com for registered business customers to purchase products and use services for business purposes ("**Amazon Business**"). These Terms constitute an agreement between Amazon Services LLC and/or its affiliates ("**Amazon**," "**we**," "**us**," or "**our**") and the entity you represent ("**you**"). Please note that your use of Amazon Business is also governed by Amazon's [Conditions of Use](#) and the [Amazon.com Privacy Notice](#), as well as all other applicable terms, conditions, policies, limitations, and requirements on the Amazon.com website, all of which (as changed over time) are incorporated into these Terms. Capitalized terms have the meanings given to them in these Terms or the Conditions of Use.

**1. REGISTRATION**

An organization has a Business Account with Amazon once an individual associated with the organization registers the business and creates the first business user account associated with that organization. That individual can invite others to be part of the organization's Business Account. Each additional user that purchases or otherwise acts on behalf of the business and joins the organization's Business Account must create a new business user account that is part of and associated with the organization's Business Account. Business Accounts and business user accounts are intended for businesses and business-related organizations and may be used solely for business purposes. To create a business user account, users must use a valid email address. Unless explicitly permitted, a user may only create one account per email address. If a user creates a business user account using the email address and password connected to an existing Amazon customer account, the user must either (a) change the email address and password associated with the existing account, or (b) if the user wishes to have only one account, convert the existing account into a business user account (which may make business user account information visible to others as described in Section 2). Once you complete the Business Account registration and verification process, your organization will be registered with Amazon.

**2. ACCOUNT MANAGEMENT**

You are responsible for all activities that occur under your organization's Business Account and any associated business user accounts, regardless of whether the activities are undertaken by you, your employees or a third party (including your contractors or agents). Except to the extent caused by our breach of these Terms, we and our affiliates are not responsible for unauthorized access to your Business Account or business user accounts. You are solely responsible for maintaining the security of your password. You may not disclose your password to any third party (other than third parties authorized by you to use your Business Account or associated business user accounts in accordance with these Terms) and are solely responsible for any use or action taken under your password. You will contact us immediately if you believe an unauthorized third party may be using your Business Account or associated business user accounts or if your Business Account or any business user

account information is lost or stolen. You are responsible for ensuring that all users affiliated with your organization's Business Account are aware of and comply with these Terms.

We may give users the ability to invite other individuals affiliated with your organization to create business user accounts that are associated with the organization's Business Account and purchase, approve or act as an administrator on behalf of your organization. Administrators have the ability to invite other users to join the Business Account and to administer, manage, or close business user accounts. You will be responsible for all actions taken by Business Account users. You acknowledge that users may have access to information from your Business Account and associated business user accounts, such as shipping addresses, payment methods, and order history. Administrators are responsible for inviting only people affiliated with, and authorized to act on behalf of, your organization to create a business user account that is associated with your organization's Business Account. Any user designated as an administrator will have similar capabilities to manage Business Account features and invite new users to purchase, approve or act as an administrator on behalf of your organization. You agree that Amazon is not responsible for, and will have no liability arising from, the disclosure of the information of your organization or any associated business user accounts to any user associated with your organization.

If any user with a business user account that is associated with your Business Account leaves your organization or is no longer authorized to purchase, approve or otherwise act on behalf of your organization, you are solely responsible for contacting Amazon through tools we designate to have that user's business user account closed, disabled or removed from the organization's Business Account. Amazon disclaims all liability for, and you are solely responsible for, any actions taken or purchases made prior to closing, disabling or removing the user's business user account from the organization's Business Account. Please review our [Amazon Business Help](#) carefully for more information on the effects of disabling or removing a business user account from your organization's Business Account. Please note that a business user account that is removed is converted back into a personal account, with the individual able to access order history for purchases made using an individual payment method while associated with the organization's Business Account.

If you, as an individual user, create a business user account that is associated with an organization's Business Account, you acknowledge and consent that your organization and designated individuals acting as administrators have full access to and authority over (a) your business user account (with the ability to close or disable your business user account or remove it from the business and convert it into a personal account), and (b) details from your business user account, such as, and not limited to: order history, addresses, payment details, and other personal information associated with your business user account. By creating a business user account that is associated with an organization's Business Account, you, as an individual user, consent to sharing this information with your organization and its designated representatives and agree to release Amazon for any and all liability for any of your business user account information provided to or used by your organization, the administrator(s) of your organization, and any other users associated with your organization. If you order a product using an individual payment method (e.g., personal credit card) and you or your administrator requests, and Amazon provides, a replacement of this item, you consent that we may charge any eligible payment method we have on record for your business user account for any replacement product sent to your business if the original product is not returned within 30 days of you or your administrator's request for replacement.

### **3. BUSINESS AND ORDER VERIFICATION**

We may use the business name, address, taxpayer ID# and any other information you provide about your organization or users or that we may request or determine is necessary to verify accuracy and eligibility for Amazon Business. We may make, directly or through third parties, inquiries to validate information that you provide to us. We may accept or refuse use of Amazon Business at our discretion and may modify purchasing rights or privileges at any time. We may share any information or documents you provide with third-party sellers that offer certain Amazon Business features for verification purposes.

Certain products require licensing, certification or other credentials to purchase them. To purchase such products, you must provide us with a valid license, certification or other credentials (collectively, the “**Credentials**”), as determined in our sole discretion. We may use information you provide, as well as information relating to your account such as your business name and address, to verify the Credentials, and we may request additional information from you to assist in that verification. We may, in our sole discretion and at any time, suspend or terminate your ability to purchase such products.

#### **4. THIRD-PARTY SERVICE PROVIDERS**

Amazon Business may enable third party service providers (“providers”) to integrate with Amazon Business. If you choose to use such a provider in connection with your Business Account, you authorize Amazon to disclose to the provider account information, including, without limitation, information regarding you, your Users, your employees or agents, and your and your User’s orders. You acknowledge this information will be governed by the provider’s privacy, data and security policies. You and your Users consent to Amazon’s sharing this information with the provider and agree that Amazon is not responsible for and will have no liability arising from Amazon’s disclosure of, or any provider’s use of, this information.

Amazon is not responsible for any services provided by the provider. You are responsible for the approvals of Amazon orders, verification of shipping addresses and any disputes regarding orders, and you agree that Amazon will have no liability arising in any way from your use of the provider, including, but not limited to, any unauthorized charges you or your employees or agents incur.

#### **5. REPRESENTATIONS, WARRANTIES AND COVENANTS**

You represent, warrant and covenant that:

- (a) you are using Amazon Business for business purposes and you agree that you will not purchase any products from Amazon.com for individual, personal, family or household use;
- (b) your organization is duly organized, validly existing and in good standing in the jurisdiction in which your organization is registered;
- (c) the individual entering into these Terms on behalf of your organization has all necessary legal authority to bind you to these Terms;
- (d) you have all requisite right, power, and authority to enter into these Terms, perform your obligations, and grant the rights and authorizations in these Terms;
- (e) any information provided or made available by you to Amazon or its affiliates is at all times accurate and complete;

(f) you and all your subcontractors and agents will comply with all applicable laws, rules, regulations, codes, orders and other requirements of governmental agencies (“**Laws**”) in your performance of your obligations and exercise of your rights under these Terms and with your purchase and use of any products from Amazon.com;

(g) all users who use business features or purchase on behalf of your organization are authorized to do so and all purchases made by these users are authorized purchases of your organization;

(h) any Credentials, and all documentation or other information you provide to us to validate such Credential, are accurate, complete and reflect your Credential status, and that you will provide updates, additional Credentials or supporting information as required to ensure all such documentation or information remains up-to-date at all times;

(i) the provision to Amazon of any Credentials and related information, any delegation of purchasing authority under any Credentials and all purchases made using the Credentials are with the authority of the Credential holder;

(j) you will only purchase products requiring Credentials as permitted under any Laws and within the scope of any Credential you provide;

(k) if your Business Account has a tax exemption certificate associated with it, any tax exempt purchase made from business user accounts are paid for with the organization’s funds;

(l) unless authorized by Amazon, you will not use any product purchased from Amazon.com in connection with, or to fulfill, a federal, state, or local government contract or subcontract, if doing so could subject Amazon to any term, condition, obligation or other provision different from or in addition to the provisions of these Terms;

(m) you will use any products purchased from Amazon.com as intended by the manufacturer and in compliance with all product information provided by the manufacturer;

(n) your purchase of products from us will not, either by your export of those products, your sale or use of those products, your legal status or otherwise, cause us to violate any Law;

(o) you are not an agent of Amazon and agree to comply with the applicable provisions of the Foreign Corrupt Practices Act. You are not on, or associated with, any person or entity on any of the blocked, denied or debarred persons and entities lists maintained by the U.S. Department of Commerce's Bureau of Industry and Security, the U.S. Department of the Treasury's Office of Foreign Assets Control or the U.S. Department of State's Directorate of Defense Trade Controls (collectively, “**Denied Persons Lists**”); or subject to a denial order issued by the U.S. Department of Commerce. You agree (i) not to export any product to any entity or person within any country subject to United States economic sanctions or embargoes without obtaining prior authorization from the United States government, (ii) not to export or provide items to persons that are ineligible under United States Law to receive those items, including but not limited to persons on any Denied Persons List, and (iii) that any products purchased by you will not be used, or made available to a third party for use, in any activities directly or indirectly related to Weapons of Mass Destruction (WMD) proliferation activities; and

(p) you agree to comply with the Healthcare Disclosure Policies if you purchase products that are reimbursable under Medicare, Medicaid, or other federal or state healthcare programs.

## 6. LICENSE

Subject to your compliance with these Terms and your payment of any applicable fees, Amazon or its content providers grant you a limited, non-exclusive, non-transferable, non-sublicensable license to access and use Amazon Business solely in accordance with these Terms. This license does not include the right to resell any Amazon Business feature; any collection and use of any product listings, descriptions, or prices; any derivative use of Amazon Business; any downloading or copying of Amazon Business information for the benefit of another merchant; or any use of data mining, robots, or similar data gathering and extraction tools. All rights not expressly granted to you in these Terms are reserved and retained by Amazon or its licensors, suppliers, publishers, rightsholders, or other content providers. No feature or part of Amazon Business may be reproduced, duplicated, copied, sold, resold, or otherwise exploited for any commercial purpose without express written consent of Amazon. You may not frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of Amazon without express written consent. You may not use any meta tags or any other "hidden text" utilizing Amazon's name or trademarks without the express written consent of Amazon. You may not misuse Amazon Business. You may use Amazon Business only as permitted by law. The licenses granted by Amazon terminate if you do not comply with these Terms.

## 7. INDEMNIFICATION

You agree to indemnify, defend and hold harmless us and our affiliates, and our and their respective officers, directors, employees, representatives and agents against any loss, claim, damage, settlement, cost, expense, tax or other liability (including, without limitation, reasonable attorneys' fees) (each a "Claim") arising from or related to (a) any breach of the Terms, (b) any unlawful or improper use by anyone of any product ordered by you, or (c) your negligence or willful misconduct. You will use counsel reasonably satisfactory to us to defend each indemnified Claim. If at any time we reasonably determine that any indemnified Claim might adversely affect us, we may take control of the defense at our expense. You may not consent to the entry of any judgment or enter into any settlement of a Claim without our prior written consent, which may not be unreasonably withheld.

## 8. PRODUCT INFORMATION; PRODUCT COMPLIANCE AND SUITABILITY

We recommend that you do not rely solely on the information presented on our website. Please always read labels, warnings and directions provided with the product before use. Amazon does not guarantee compliance or suitability of products with any Laws, nor does Amazon accept responsibility for installation and/or use of a product. It is your responsibility to review the product application and all applicable Laws for each relevant jurisdiction to be sure that the installation and/or use involving the products comply with applicable Laws.

## 9. AMAZON.COM SITE AND FEATURES

**9.1 SELLER CREDENTIALS.** Any diversity, industry and other certifications made available to you are provided by third-party sellers on Amazon.com and have not been independently verified by Amazon. You should carefully review and validate any certifications and supporting information that you use to make your purchasing decisions. We take no responsibility and assume no liability for any certifications or supporting information provided by third-party sellers.

**9.2 BUSINESS PRICING.** We may provide you access to discounts for business customers. In these instances, the available price on the detail page will reflect this discount. You agree that any business



pricing or discounts that Amazon provides to you are the confidential and proprietary information of Amazon. You agree not to manually copy or use any data mining, scraping or similar data gathering and extraction tools with respect to such pricing or discounts. If you have negotiated pricing with a supplier and choose to have pricing that is specific to you available on Amazon Business, you acknowledge and agree that we may share sales information regarding products purchased by you at these prices with the applicable supplier (including any business or shipping addresses). You acknowledge that we may share contact information for your organization's administrator or other applicable employees with the supplier in connection with this pricing.

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## **13. AGREEMENT CHANGES**

We may in our discretion change these Terms, Amazon.com's Conditions of Use and Privacy Notice, or any aspect of Amazon Business, without notice to you. From time to time, Amazon may choose in its sole discretion to add or remove benefits or features of Amazon Business. If any change to these Terms is found invalid, void, or for any reason unenforceable, that change is severable and does not affect the validity and enforceability of any remaining changes or conditions. YOUR CONTINUED USE OF AMAZON BUSINESS AFTER WE CHANGE THESE TERMS CONSTITUTES YOUR ACCEPTANCE OF THE CHANGES. IF YOU DO NOT AGREE TO ANY CHANGES, YOU MUST CANCEL YOUR BUSINESS ACCOUNT AND BUSINESS USER ACCOUNT.

## **14. TERM; TERMINATION BY US**

The term of these Terms will begin on the date you click to accept it and will continue until you or we terminate it. We may terminate these Terms and access to your Business Account, business user account or use of any business features at our discretion with or without notice. You are entitled to terminate these Terms by giving us notice and closing your account. Upon termination, all rights and obligations under these Terms will automatically terminate except for any right of action occurring



prior to termination, payment obligations, and obligations that are intended to survive termination, including, without limitation, Sections 4 –18 of these Terms.

## **15. FORCE MAJEURE**

We will not be liable for any delays in delivery or failure to perform any of our obligations under these Terms by reasons, events or other matters beyond our reasonable control.

## **16. CONFIDENTIALITY; PUBLICITY**

You will (a) protect and not disclose information made available by us that is identified as confidential or that reasonably should be considered confidential; (b) use this information only for internal purposes and in connection with your use of Business Accounts; and (c) destroy or return all such information to us promptly when the Terms terminate (and, upon request, confirm such destruction in writing). This section covers all confidential information regardless of when you receive it. Unless you have received our express written permission, you will not otherwise use any trademark, service mark, commercial symbol or other proprietary right of ours, issue press releases or other publicity relating to us or these Terms, or refer to us in promotional materials. If authorized, you may only use Amazon trademarks in accordance with the [Trademark Guidelines](#).

## **17. SUGGESTIONS**

If you elect to provide or make available suggestions, comments, ideas, improvements, or other feedback or materials to us in connection with or related to Business Accounts (including any related technology), we will be free to use, disclose, reproduce, modify, license, transfer and otherwise distribute, and exploit any of the foregoing information or materials in any manner.

## **18. MISCELLANEOUS**

Your use of Business Accounts is subject to the disputes and applicable law provisions of the Conditions of Use, which are incorporated by reference.

The parties to these terms are independent contractors. These Terms do not create any third party beneficiary rights in any individual or entity that is not a party to these Terms. You may not assign these Terms, by operation of law or otherwise, without our prior written consent. Subject to that restriction, these Terms will be binding on, inure to, and be enforceable against the parties and their respective successors and permitted assigns. We may perform any of our obligations or exercise any of our rights under these Terms through one or more of our affiliates. Our failure to enforce your strict performance of any provisions of these Terms will not constitute a waiver of our right to enforce such provisions or any other provision of these Terms subsequently. If any provision of these Terms is deemed unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from these Terms and will not affect the validity and enforceability of any remaining provisions. In the event of any conflict between these Terms and the Conditions of Use, these Terms will prevail.

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