

June 9, 2021

Freckle
6625 W. 78th Street, Suite 220
Bloomington, MN 55439



Re: Illinois Student Online Personal Protection Act (105 ILCS 85) student data requirements for educational technology software used in Illinois schools.

Dear Stephanie Carter,

Illinois State University ("ISU"), a public Illinois university, is a body corporate and politic of the State of Illinois. ISU includes two laboratory schools: Thomas Metcalf School (Grades: PreK – 8) and University High School (Grades 9-12) ("University Laboratory Schools"). The University Laboratory Schools are using the software, **Freckle**, as part of instructional activities and would like to continue to do so. There is a new Illinois law, named the Student Online Personal Protection Act, 105 ILCS 85, ("SOPPA"), that establishes new student data privacy requirements for providers (or operators) of educational technology. Information and resources about SOPPA are available from multiple sources including the Illinois Student Privacy Alliance (www.sdpc.a4l.org) and the Learning Technology Center of Illinois (<https://lrcillinois.org/services/dataprivacy/>). In addition, a copy of the law can be accessed on the Illinois legislature [website](#).

The purpose of this letter is to update and modify the terms/conditions and privacy policy for the software consistent with the requirements of SOPPA and other Illinois law. The University, as a public Illinois university, is also subject to the Illinois Procurement Code requirements, which require vendors to make certain required certifications.

The revised provisions of SOPPA become effective July 1, 2021. The primary requirements for vendors/operators include:

- Prohibitions against vendor/operators to use student data to engage in targeted advertising on behalf of the vendor/operator, against amassing student data profiles for commercial purposes, selling/renting student data, or disclosing student data to third-parties for purposes unrelated to the contract.
- Vendor/operator must maintain reasonable security procedures/practices appropriate to the nature of any data retained or collected by the vendor/operator, including appropriate procedures to respond in the event of a breach of security such as a 30-day notice obligation.
- A requirement that vendor/operators comply with federal and state student privacy protections, including the Family Educational Rights and Privacy Act (20 USC 1232g) and the Illinois School Student Records Act (105 ILCS 110).
- Appropriate procedures to return or delete student data.

ISU proposes to modify the software terms and conditions (attached at Attachment 1) to include an addendum incorporating SOPPA, Illinois Procurement Code, and ISU requirements (attached at Attachment 2). SOPPA requires that public schools must make copies of written agreements with operators available on the school's websites.

If you have any questions or proposed modifications to these terms, please contact Stacy Brown, Procurement Manager for Technology and General Purchases, Illinois State University Purchasing Department at 100 South Fell Ave., Normal, Illinois 61761, by phone at 309-438-1045 or by e-mail at ISUPurchasing@ilstu.edu. If the proposed terms and conditions are acceptable, please sign the letter below and return the executed contract to ISUPurchasing@ilstu.edu.

Sincerely,



Ernest Olson
Director of Purchases

Vendor Acceptance of University Laboratory School Software Addendum

The individual signing this Agreement represents and warrants they the Agreement (including the Vendors Terms & Conditions as amended by the University Laboratory School Software Addendum is acceptable. The individual represents and warrants they are authorized to sign this Addendum on behalf of the named Vendor/Operator.

Acknowledged & Accepted:

Vendor / Operator Signature:

 6/10/2021
Signature **Date**

Scott Johnson, Dir. Information Security
Print Name & Title

cc: University Laboratory Schools, labschools@ilstu.edu
Illinois State University Purchasing, ISUPurchasing@ilstu.edu

RENAISSANCE®

Terms of Service and License Renaissance Learning, Inc.

These Terms of Services and License are applicable to any Quote (as defined herein) to provide access to the Applications, Hosting Services and Services identified therein and to Licensee's use of the Applications, the Hosting Services and Services. Each Quote shall be deemed to be part of this Agreement and subject to the terms and conditions set forth herein.

1. **Definitions.** Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them as set forth in **Exhibit A**.
2. **License to Applications and Hosting Services**
 - 2.1 Grant of License. Subject to Licensee's compliance with the terms and conditions of the Agreement, Renaissance grants Licensee a non-exclusive, non-sublicensable, non-transferable, revocable, limited license, during the Subscription Period, to access and to use the Applications and Content provided therein in accordance with Section 2.3 below (the "**License**").
 - 2.2 Hosting Services. Renaissance shall provide Licensee with remote access to the Applications via the Internet (the "**Hosting Services**") for the Licensed Sites. The Applications will be housed at a Renaissance chosen facility, and will operate on servers determined by Renaissance, which may include servers owned by or leased by Renaissance.
 - 2.3 Authorized Use.
 - a. Renaissance Application. The following requirements apply to Renaissance Applications only:
 - i. Student Capacity. The number of unique students permitted to use the Renaissance Applications (excluding Renaissance-U) at any Licensed Site is limited to the Student Capacity set forth in the Quote. Circumventing the Student Capacity by any means is a material breach of the Agreement and may result in immediate termination of the Agreement by Renaissance. Student Capacity is allocated when a unique Licensee student first logs in and performs any activity or when any activity is first assigned to such student. Student Capacity may not be used interchangeably across students and any unused Student Capacity is non-refundable and expires at the end of the applicable Subscription Period. If a unique student no longer attends school at the License Site, Licensee may dis-enroll that unique student as an Authorized User of the Renaissance Application under Product Administration in the Renaissance Application and use that seat for a new unique student at the Licensed Site. Additional Student Capacity may be purchased through the Renaissance Applications or by contacting Renaissance and placing an order for the desired incremental, additional capacity amount, increasing the Student Capacity for that unique Quote. Any incremental, additional Student Capacity purchased shall be subject to these Terms of Services and License. Licensee can view allocated Student Capacity and which students are using the allocated Student Capacity under Product Administration in the Renaissance Applications.
 - ii. Location. Except as set forth in this Section 2.3(b)(ii) or approved in advance by Renaissance, in writing, the Renaissance Applications can only be accessed and used by Authorized Users at the Licensed Site. Licensee shall not make the Renaissance Applications available in whole or in part in any networked or time-sharing environment extending beyond the Licensed Site. Notwithstanding anything to the contrary in this Section 2.3(b)(ii), the following is permitted for an Authorized User subject to the terms and conditions contained in the Agreement: (i) teacher and administrator access to Renaissance-U and the management feature of the Renaissance Applications via the Internet is permitted from outside a Licensed Site; (ii) Homebound Student access to the student portion of the Renaissance Applications via Internet is permitted for up to 60 days during the Subscription Period from such Homebound Student's home using a computer owned or leased by Licensee or such Homebound Student; (iii) student and parent access to the Home Connect feature of the Renaissance Applications via Internet is permitted from such student or parent's home using a computer owned or leased by Licensee, such student or parent; (iv) access to the Renaissance Applications by Authorized Users at a public library on computers owned or leased by such public library only to the extent the Licensed Site is providing a summer reading program authorized by Licensee through such public library (v) access to Accelerated Reader or Accelerated Reader 360 by Authorized Users in connection with a summer reading program

authorized by Licensee and (vi) with respect to a Licensee that is an International School, access to the Renaissance Applications by its Authorized Users outside the Licensed Site subject to the conditions set forth in **Exhibit B**. Licensee shall not make any portion of the Renaissance Applications accessible to parents or students, which are not specifically intended for parent or student use, as the case may be, including, but not limited to, the educator and administrator portion of the Renaissance Applications.

- b. myON Applications. The myON Applications can only be accessed and used by Authorized Users, provided that Authorized Users that are parents shall only access and use the myON Applications to review reports.
- c. Access. Renaissance shall provide Licensee access to the Applications by the date identified in the Quote. Access rights granted to Licensee shall be limited to those access rights necessary to use of the intended functionality of the Applications. Renaissance reserves the right to restrict or prevent access to activities or suspected activities that involve security breaches, hacking, distributed denial of service attacks, or uploading a virus, Trojan horse, time bomb, unauthorized application, or any other harmful form of programming or vandalism.

2.4 Account Set Up.

- a. Renaissance shall create an administrator account to enable Licensee's administrator access the Applications and provide Licensee with the identification number, password, encryption key, or other access codes to access the administrator account (the "**Admin Login Information**").
- b. Renaissance shall assist Licensee with loading the Licensee Data and creating user names and passwords for each Authorized User to use the Applications (the "**Onboarding Services**"). To the extent Licensee has purchased any Data Integration Services as identified in the Quote, Renaissance grants Licensee a non-exclusive, non-sublicensable, non-transferable, revocable, limited license, during the Subscription Period, to access and integrate the API provided by Renaissance with Licensee's Student Information System to enable the Applications to obtain and update Licensee Data in the Applications. Any use of the Applications through the Admin Login Information or any other accounts created by Licensee (collectively, the "**Login Information**") will be considered use by the Licensee. Licensee agrees not to sell, transfer, or assign its Login Information or allow others to use it except Authorized Users. Licensee agrees to immediately notify Renaissance of any unauthorized use of its Login Information or any other breach of security or confidentiality thereof,

and in such event Renaissance shall have the right, without limitation of any other rights under the Agreement, at law or in equity, to terminate the Agreement and/or take any steps necessary to prevent the unauthorized use.

2.5 Reserved.

2.6 Service Level. Renaissance shall use reasonable commercial efforts to ensure that the Hosting Services are Operational during at least 99% of each calendar month of the Subscription Period. "**Operational**" means functioning so as to allow normal operation for the intended purpose of the Applications for Authorized Users to access the Applications hosted on the Hosting Services. The inability of the Licensee to access the Hosting Services due to its own hardware or software issues or internet connectivity issues is not sufficient to constitute the services non-operational. Notwithstanding the foregoing, the service level does not apply to (i) maintenance as described in Section 2.8 and (ii) any application or service provided by a third party, including, without limitation, Third Party Services, does not include availability impacted by scheduled maintenance or planned updates and is subject to Licensee complying with the system requirements set forth at <https://www.renaissance.com/system-requirements/>.

2.7 Third Party Services. The Applications and Hosting Services may operate using third party applications and services obtained separately by Licensee ("**Third Party Services**"). Renaissance is not responsible for the operation or functionality of such Third Party Services. While Renaissance may configure its Applications and Hosting Services to operate with Third Party Services, Renaissance cannot and does not guarantee that such Third Party Services will operate correctly or that the Third Party Services will be available during the entire Subscription Period and Renaissance does not endorse the Third Party Services.

2.8 Maintenance. Renaissance reserves the right to update the Applications and Hosting Services and provide maintenance releases related to the Applications and Hosting Services. All updates and maintenance releases that are deployed shall be deemed subject to all applicable terms and conditions in the Agreement. Licensee does not have any right hereunder to receive any new versions of the Applications that Renaissance may, in its sole discretion, release from time to time.

2.9 Technological Changes. As technology advances it becomes necessary for software application providers to discontinue support for older operating systems and third-party applications. It is the responsibility of Licensee to keep its computers, networks, operating systems, and third-party applications up-to-date and functional. For the avoidance of doubt, this includes Licensee being responsible for any hardware or software upgrades required to operate Applications and/or revisions thereto.

3. Professional Services

- 3.1 Professional Services. If identified in the Quote, Renaissance will provide the Professional Services identified therein in accordance with terms and conditions set forth in the Agreement including those terms and conditions set forth in **Exhibit C** attached hereto.
- 3.2 Quality of Services. Renaissance agrees to perform the Professional Services with care, skill, and diligence, in accordance with the applicable professional standards currently recognized in the educational software applications industry, and shall be responsible for the professional quality and completeness of all Professional Services furnished hereunder.
- 3.3 Deliverables. Renaissance shall own all right, title and interest in and to all Deliverables and any other work product, regardless of medium, created in the performance of Professional Services hereunder; provided, however, that Licensee is granted a non-transferable, non-sublicensable, non-exclusive, limited license to use the Deliverables for Licensee's internal, authorized purposes for the duration of the term of the Subscription Period.
- 3.4 Reschedule Professional Services. For those Professional Services that require Renaissance to be present at Licensee's facility or any other facility chosen by Licensee, if Licensee reschedules the date for provision of such Professional Services, Licensee shall pay Renaissance a one-time fee equal to \$200 to the extent Renaissance had already booked its travel arrangements.
- 3.5 Cancellation of Professional Services. Notwithstanding the termination provisions of this Agreement and subject to this Section 3.5, the Parties agree that Licensee only has the right to cancel any particular Professional Service without terminating the Agreement in its entirety by providing Renaissance with written notice prior to Renaissance rendering such Professional Service and no later than the first anniversary of the date identified in the Quote for such Professional Service. If Licensee exercises its right to cancel a Professional Service for which Renaissance has already booked travel, Licensee shall pay Renaissance a one-time cancellation fee of \$750. To the extent the Licensee does not schedule the Professional Services it purchases as identified in the Quote on or prior to the first anniversary of the date identified in the Quote for such Professional Service, Licensee shall have no right to cancel the Professional Service and will have no right to seek a refund from Renaissance.
- 3.6 Subcontractors. Renaissance may employ third parties to assist with the performance of Professional Services; however, Renaissance is solely responsible for ensuring that any third party performing Professional Services under the Agreement is bound by the obligations of confidentiality and assignment provided herein.

Renaissance shall pay all fees, wages, salaries, and other amounts due any third party in connection with Renaissance's performance of its obligations under the Agreement and shall be responsible for all reports and obligations respecting any such third party relating to any taxes, insurance, and similar matters.

4. **Fees**. Licensee shall pay Renaissance the fees in the amounts specified in the Quote (the "**Fees**"). Upon Licensee's acceptance of the Quote, Licensee shall submit to Renaissance the fully executed Quote and its purchase order and Renaissance shall issue Licensee an invoice for the Fees. Licensee shall pay the Fees within 30 days of Renaissance's invoice. Any amounts owed by the Licensee under this Agreement that are not paid when due (and not subject to a good faith dispute), shall bear interest, from the time the payment was due until the time paid, at a rate of 1% per month compounded monthly, or if lower, the highest rate allowed by law. Notwithstanding any language to the contrary contained therein, no terms or conditions stated in a Licensee purchase order or in any other Licensee order documentation shall be incorporated into or form any part of this Agreement and all such terms and conditions shall be null and void. Failure to pay the Fees in accordance with the Agreement shall constitute a material breach by Licensee.
5. **Term; Termination; Effect of Termination**
- 5.1 Term. The Agreement shall be effective as the date of set forth in the Quote and continue until the end of the Subscription Period (the "**Term**").
- 5.2 Termination.
- a. *(Intentionally Omitted)*
- b. Termination for Breach. Either party may terminate the Agreement by written notice if the other party fails to cure any material breach within 30 days of receipt of written notice.
- c. Termination for Bankruptcy. Either party may terminate the Agreement immediately if any of the following events occur affecting the other party: (a) voluntary bankruptcy or application for bankruptcy; (b) involuntary bankruptcy or application for bankruptcy not discharged within 60 days; (c) appointment of receiver or trustee in bankruptcy for all or a portion of the other party's assets; or (d) an assignment for the benefit of creditors.
- 5.3 Effect of Expiration or Termination; Survival.
- a. Access. Upon expiration or termination of the Agreement for any reason, Licensee access to the Applications, Hosting Services and Services will be discontinued upon the effective date of expiration or termination. Licensee agrees to, and direct its Authorized Users to, cease access of the Applications, Hosting Services and Services and will remove, and direct its Authorized Users to remove, any Applications components installed on any

computers. Licensee shall also return or destroy all materials provided by Renaissance under the Agreement, including any Content, within 30 days of termination or expiration of the Agreement

b. Refunds.

- i. If Licensee terminates the Agreement pursuant to Section 5.2(b) or (c), Licensee shall be entitled to a refund equal to a prorated amount of the Fees from the date of termination through the end of the Subscription Period.
- ii. If the Agreement terminates for any other reason, Licensee shall not be entitled to any refund.

c. Survival. Those provisions that naturally survive termination or expiration of the Agreement shall survive such termination or expiration, including, but not limited to, Sections 5.3, 6-10 and Section 12.

6. Intellectual Property Rights; Ownership

6.1 No Transfer of Ownership. Licensee acknowledges that all Intellectual Property Rights in Renaissance's Marks, the Applications, the Hosting Services, Services and Content as well as any corrections, bug fixes, enhancements, updates or other modifications, including custom modifications thereto whether made by Renaissance or any third party, are owned and retained by Renaissance and the relevant licensors of any embedded Third Party Services. By virtue of the Agreement, no ownership of any Intellectual Rights relating to the Applications, Content, Hosting Services, Services, Renaissance's Marks or other information or material provided by Renaissance to Licensee is assigned or transferred to Licensee and such Intellectual Property Rights are protected by U.S. and international copyright and other intellectual property laws.

6.2 No Implied Grants. Except as explicitly granted under the Agreement, no other right, license, release, covenant not to sue or other rights or immunities, express or implied, by estoppels or otherwise are granted to any part of the Applications, Content, Hosting Services, Services or Renaissance's Marks.

6.3 Licensee Data. Licensee shall exclusively own all right, title and interest in and to all Licensee Data. Licensee hereby grants to Renaissance a non-exclusive, royalty-free, worldwide license to use, reproduce, adapt, combine with other data, edit and re-format, generate, and store Licensee Data for use in connection with the Applications, Hosting Services and Professional Services for the duration of the Agreement for Renaissance to carry out its rights and obligations hereunder. Licensee hereby further grants to Renaissance an irrevocable, perpetual, non-exclusive, royalty-free, worldwide license to use, reproduce, adapt, combine with other data, edit and re-format, generate, and store any Licensee Data that does

not constitute Personally Identifiable Information for Authorized Users in the United States or Personal Data for Authorized Users in all other countries for any lawful purpose consistent with this Agreement and the Privacy Policy. Licensee covenants that it is responsible for any data, including Licensee Data, submitted via the Applications and to the Hosting Services, including the accuracy, quality, integrity, legality, reliability, and appropriateness of such Licensee Data. Other than as set forth in this Section, Renaissance shall acquire no rights in any Licensee Data. Licensee represents and warrants that it has the right to provide Renaissance with the Licensee Data for the purposes described in the Agreement.

6.4 Renaissance Data. Renaissance aggregates or anonymizes certain data and information (including Personally Identifiable Information for Authorized Users in the United States or Personal Data for Authorized Users in all other countries) that it collects regarding use of the Applications, Content and Hosting Services related to the operation of the Applications and Hosting Services ("**Renaissance Data**") that is not subject to this policy. Renaissance Data is not reidentified or sold to any third parties, but to the extent permitted by law, Renaissance shall be allowed to utilize, reproduce, adapt, combine with other data, edit, re-format, generate, store, and/or disclose any and all Renaissance Data for any lawful purpose consistent with this Agreement and the Privacy Policy.

6.5 Feedback. Licensee (a) shall provide Renaissance with information concerning errors, problems, complaints and other matters related to the Applications, Content and the Services and (b) may provide Licensee's feedback and/or suggestions for improvements to the Applications, Content and Services (collectively, "**Feedback**"). Licensee acknowledges and agrees that (a) Licensee shall not retain, acquire or assert any Intellectual Property Right or other right, title or interest in or to the Feedback; (b) Renaissance may have development ideas similar to the Feedback; (c) Feedback does not contain Confidential Information or proprietary information of Licensee or any third party; and (d) Renaissance is not under any obligation of confidentiality with respect to the Feedback. In view of the foregoing, Licensee grants Renaissance and its Affiliates an exclusive, transferable, irrevocable, free-of-charge, sublicensable and perpetual right to use Feedback in any manner and for any purpose.

7. Confidential Information. Except as expressly and unambiguously allowed herein, each party agrees that it will hold in confidence and not use or disclose any Confidential Information received from the other party except to the receiving party's employees, affiliates, consultants and advisors who need access to the Confidential Information for the receiving party to exercise its rights or carry out its obligations under the Agreement and who are legally bound to maintain the confidentiality of the Confidential Information. Each party further agrees to use the same means it uses to protect

its own confidential and proprietary information, but in any event not less than reasonable means, to prevent disclosure and to protect the confidentiality of Confidential Information received from the other party. Upon discovery of any unauthorized disclosure of Confidential Information the receiving party shall use its good faith efforts to prevent any further disclosure or unauthorized use thereof. In case of discovery of unauthorized disclosure, the receiving party shall notify the disclosing party without any delay. Upon termination of this Agreement or upon request of the disclosing party, the receiving party will return to the disclosing party all Confidential Information of such disclosing party, all documents and media containing such Confidential Information and any and all copies or extracts thereof, or certify in writing that all such copies and documents have been destroyed. The foregoing shall not prevent either party from disclosing Confidential Information which belongs to such party or which (i) is in or becomes part of the public domain through no act or omission of the receiving party, (ii) can be demonstrated by the receiving party as being known to the receiving party previously, (iii) is rightfully obtained by the receiving party from a third party, (iv) is independently developed by the receiving party without use of the other party's Confidential Information, or (v) is required to be disclosed pursuant to a requirement of a governmental agency or law so long as the disclosing party provides the other party with prompt notice of such required disclosure and complies with any protective order imposed on such disclosure.

8. Data Protection.

8.1 Prohibited Data. Licensee hereby acknowledges that the Applications are intended for academic practice and assessment only and that the Applications are not intended for the storage or use of any data not related to such purpose including, without limitation, social security numbers, financial account numbers, health information, behavioral records, disciplinary records, driver's license, passport or visa number, credit card data or any Special Categories of Data ("**Prohibited Data**"). Licensee agrees to not input any Prohibited Data into the Applications.

8.2 Data Protection Addendum. The additional provisions of the Data Protection Addendum located at <https://doc.renlearn.com/KMNet/R62068.pdf> are incorporated herein based on the location of the Authorized Users of Licensee.

9. Indemnification

9.1 Renaissance Indemnification. Subject to the limitations set forth in Section 9.2, Renaissance agrees to indemnify Licensee against any Actions by a third party alleging that the Applications or Hosting Services, as provided by Renaissance under this Agreement, infringe a United States copyright, trademark, or patent issued on or before the Effective Date, by paying the amounts Licensee is obligated to pay to the third party in accordance with a final judgement or settlement of the claims.

Notwithstanding the foregoing in this Section 9.1, Renaissance shall have no liability and Renaissance's obligations under this Section 9.1 shall not apply if the claim, judgment or settlement is either partially or in whole based on (i) any software, service or other material provided by or on behalf of Licensee, (ii) any modification of the Applications or Hosting Services if such modification is not done by Renaissance or if such modification is done by Renaissance pursuant to Licensee's written instruction, (iii) Licensee continuing any allegedly infringing activity after being notified of any such allegedly infringing activity or after being informed of or provided with modifications that would have avoided the alleged infringement; (iv) any Third Party Services or (v) Licensee's use of the Applications or Hosting Services that is not strictly in accordance with the terms and condition of the Agreement. If the Applications or Hosting Services as provided by Renaissance are found, in a final non-appealable order or decision from a court of competent jurisdiction, to infringe the rights of a third party and as a result a final injunction is obtained against the Licensee's use of the Applications or Hosting Services, or if in Renaissance's opinion, actions are needed to avoid potential infringement, Renaissance may, at its expense and option: (i) procure for Licensee the continued right to the Applications or Hosting Services, (ii) replace or modify the Applications or Hosting Services in whole or in part, with substantially similar, functionally equivalent, non-infringing Applications or Hosting Services, or (iii) if Renaissance is unable to effect the foregoing despite its reasonable efforts, Renaissance may terminate the Agreement or request Licensee to discontinue use of the Applications or Hosting Services in whole or in part, subject to Licensee having a right to terminate the Agreement.

9.2 Licensee Indemnification. Licensee agrees to defend, indemnify, and hold harmless Renaissance, its Affiliates and their respective directors, officers, employees, contractors and agents, from all Losses that result from any third party Action and amounts paid in settlement thereof alleging or relating to claims of Licensee's breach of the Agreement or any violation of the terms of use or any other agreement governing the use of the Applications, Hosting Services, Services or Content.

9.3 Indemnification Procedure. The indemnification obligations of the parties specified above are subject to the following conditions: the indemnified Party (a) promptly notifies the indemnifying party in writing of the claim, (b) provides exclusive control to indemnifying party to defend (including choosing its counsel) and settle the Action at the indemnifying Party's exclusive discretion, (c) agrees to cooperate (at indemnifying party's expense) in good faith with the indemnifying Party in the defense as the indemnifying party may reasonably request, and (d) shall not agree and/or acknowledge (i) any liability regarding the Applications or Hosting Services and (ii) the validity, enforceability or infringement of any intellectual

property right asserted against the Applications or Hosting Services.

- 9.4 Sole Remedy. Notwithstanding anything to the contrary in the Agreement, the indemnity provided in this Section shall be the sole and exclusive remedy for Licensee regarding third party Intellectual Property Rights infringement claims.

10. Limitation of Liability and Disclaimer of Warranties

- 10.1 Disclaimer of Limited Warranty. EXCEPT AS OTHERWISE PROVIDED IN THE AGREEMENT, THE APPLICATIONS, HOSTING SERVICES, SERVICES AND CONTENT ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS; RENAISSANCE AND ITS AFFILIATES AND THEIR RESPECTIVE LICENSORS MAKE NO WARRANTY THAT THE APPLICATIONS, HOSTING SERVICES, SERVICES OR CONTENT WILL BE UNINTERRUPTED, SECURE, OR ERROR FREE OR THAT DEFECTS IN APPLICATIONS, HOSTING SERVICES, SERVICES OR CONTENT WILL BE CORRECTED; AND; RENAISSANCE AND ITS AFFILIATES AND THEIR RESPECTIVE LICENSORS SPECIFICALLY DISCLAIM, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE APPLICATIONS, HOSTING SERVICES, SERVICES AND CONTENT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE OR ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR PERFORMANCE.

10.2 Limitation of Liabilities.

- a. Direct Damages Only. To the maximum extent permitted by law, the liability of Renaissance shall be limited to direct damages only, thus excluding liability for any other damages such as indirect, special, incidental, consequential or punitive damages (including, but not limited to, lost profits, lost data, lost revenue, lost savings and loss of goodwill).
- b. Aggregate Liability. To the maximum extent permitted by law, in no event shall Renaissance's aggregate liability with respect to any matters whatsoever arising under or in connection with the Agreement exceed the lesser of (i) total fees paid by Licensee to Renaissance under the Agreement within the twelve-month period prior to the date the cause of action giving rise to liability arose or (ii) \$100,000. The foregoing liability is cumulative with all payments for claims or damages in connection with the Agreement being aggregated to determine satisfaction of the limit.
- c. Third Party Products and Services. Licensee understands that Renaissance is not responsible for and will have no liability for hardware, software or other items or any services provided by any

persons other than Renaissance, including, without limitation, Third Party Services.

- d. Professional Services. Any liability of Renaissance with respect to the Professional Services or Deliverables will be limited exclusively to correction of such Professional Services or such Deliverables or, if such correction is not possible or impractical, to refund of the pertinent Fees.

- e. Economic Basis of Agreement. The parties acknowledge that the fees, the rights granted to each party and the allocation of the risk (as expressed in the indemnities and the limits of warranties, liabilities, damages and remedies) contained in the Agreement reflect the economic basis of the Agreement, in absence of which the Agreement would not have been made.

11. **Force Majeure**. In the event of an issue that causes either Party's delay or failure to perform its obligations under the Agreement due to acts of God and natural disasters (each, a "**Force Majeure**"), the affected Party will: (a) promptly give the other Party notice in writing of the Force Majeure; (b) use all reasonable efforts to mitigate the effects of the Force Majeure upon that Party's performance of its obligations under the Agreement; and (c) promptly resume performance of its obligations after the Force Majeure has passed. Provided a Party affected by a Force Majeure complies with the foregoing, delay or failure to perform its obligations under the Agreement shall not constitute a breach of the Agreement.

12. Miscellaneous

- 12.1 Entire Agreement. The Agreement and any and all Quotes and all exhibits and attachments attached hereto, constitutes the entire agreement between the parties and supersedes all previous and/or inconsistent agreements, negotiations, representations and promises, written and oral, regarding the subject matter. No modification, course of conduct, amendment, supplement to or waiver of the Agreement or any provisions hereof shall be binding upon the parties unless made in writing and duly signed by both parties.

- 12.2 Severability. If any provision of the Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable as if such provision had not been set forth herein. The parties agree to substitute for such provision a valid provision that most closely approximates the intent of the severed provision.

- 12.3 Waiver. A failure of any party to exercise any right given to it hereunder, or to insist upon strict compliance by the other party of any obligation hereunder, shall not constitute a waiver of the first party's right to exercise such a right, or to exact compliance with the terms hereof. Moreover, waiver by any party of a particular default by another party shall not be deemed a continuing waiver so

as to impair the aggrieved party's rights in respect to any subsequent default of the same or a different nature.

Party in any respect whatsoever. There are no third-party beneficiaries to the Agreement.

- 12.4 Governing Law. If Licensee is a publicly funded, non-profit educational institution in the United States, the Agreement will be governed by the internal laws of the State in which Licensee is situated, without giving effect to the state's choice of law rules and the exclusive venue for disputes arising out of the Agreement shall be an appropriate state or federal court located in such State. In all other cases, the Agreement shall be governed by the laws of state of Wisconsin without giving effect to the state's choice of law rules and the exclusive venue for disputes arising out of the Agreement shall be an appropriate state or federal court located in Wisconsin.
- 12.5 Dispute Resolution. If a dispute arises between the parties relating to the interpretation or performance of the Agreement, the parties agree to hold a meeting, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith, to negotiate a resolution of the dispute prior to pursuing other available remedies.
- 12.6 Notices. All notices required or permitted under the Agreement shall be in writing and shall be deemed delivered when (a) delivered in person, (b) deposited in the United States mail, postage prepaid, (c) via a recognized national delivery service, such as UPS, FedEx or DHL, or (d) via e-mail, with receipt of confirmation of delivery, addressed to the addresses set forth in the Quote.
- 12.7 Captions. The captions that head certain Sections and paragraphs in the Agreement are inserted only as a matter of convenience, and in no way define, limit, or extend or interpret the scope of the Agreement or of any particular Section.
- 12.8 Assignment. The rights and obligations of either party under the Agreement may not be transferred or assigned directly or indirectly without the prior written consent of the other party, except that Renaissance may assign the Agreement without restriction to an entity that acquires substantially all of its stock, assets, or business. Except as otherwise expressly provided herein, the provisions hereof will inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties.
- 12.9 Relationship of the Parties. The parties are independent contractors and not joint venture partners or otherwise Affiliated. Neither party has any right or authority to assume or create any obligations of any kind or to make any representation or warranty on behalf of the other Party, whether express or implied, or to bind the other
- 12.10 Limitation of Action. Any action by Licensee in connection with the Agreement must be brought within two years after the cause of action arose or such longer period of time as required by applicable law.
- 12.11 Duplicates, Originals, Counterparts. The Agreement and any Quote may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same agreement.
- 12.12 Scanned Documents & Electronic Signatures. Electronic signatures by duly authorized signatories of the parties are valid. Each party may scan and electronically preserve the Agreement and all other documents related to the Agreement. All documents that have been scanned and stored by a party are treated as original documents for all purposes.
- 12.13 Export Law Assurances. Licensee may not use or otherwise export the Applications except as authorized by U.S. law. In particular, but without limitation, the Applications may not be exported (i) into (or to a national or resident of) any U.S. embargoed country (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders. By using the Applications, Licensee represents and warrants that Licensee is not located in, under control of, or a national or resident of any such country or on any such list.
- 12.14 Representations. Each party represents and warrants that it has been duly authorized to enter into the Agreement for and on behalf of any person, company, or other entity identified herein.
- 12.15 Equitable Rights. Each party acknowledges that a breach by a party of Section 6 (Intellectual Property Rights; Ownership) or Section 7 (Confidentiality) may cause the non-breaching party irreparable damages, for which an award of damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the non-breaching party will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the non-breaching party may be entitled at law or in equity, without the necessity of posting bond. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in the Agreement to the contrary.

EXHIBIT A

Definitions

"Action" shall mean any third-party claim, suit, arbitration, action, or proceeding.

"Agreement" means the Quote, these Terms of Service and License, including any amendments and/or restatements expressly agreed upon by the parties.

"Applications" means the commercial software products being provided to Licensee under the Agreement and applicable Quote, including, in all cases, executable program modules thereof, as well as related documentation and computer readable media. The Applications are set forth in the Quote and shall include Application component of Renaissance-U to the extent identified in such Quote.

"Authorized User" means an employee of the Licensed Site (including administrators and teachers), a student enrolled at the Licensed Site or a parent of such student, provided that such student is one that is counted in Licensee's Student Capacity.

"Confidential Information" means all business, technical, and financial information that one party ("**receiving party**") obtains from the other party ("**disclosing party**"). Confidential Information of Renaissance includes, but is not limited to, trade secrets, technology, information pertaining to business operations and strategies, information pertaining to pricing and marketing, and any technical information relative to the setup and security of the Application or Hosting Service including, but not limited to, Hosting Service Internet addresses, Login Information, Internet URL's, Virtual Private Network setup and encryption key information.

"Content" means all types of information including, without limitation, books, articles, recordings, documentation, photographs, graphics, video, databases or any other compilations rendered available by Renaissance or accessible through the Applications or Deliverables. For the avoidance of doubt, Content includes any and all original expression in any media, as well as any derivations of such original expressions.

"Data Integration Services" means any commercial software products being provided to Licensee under the Agreement and applicable Quote that enables a Licensee to connect the Applications to Licensee's student information system to enable automatic loading and updating of Licensee Data in the Applications.

"Deliverables" means any work product or materials to be developed or delivered by Renaissance in connection with providing the Services to Licensee.

"Homebound Student" means a student that is an Authorized User of a Licensed Site that cannot attend school due to medical or emotional conditions substantiated to the extent required by a health care provider in the jurisdiction of the Licensed Site.

"Intellectual Property Rights" means all intangible assets including (a) patents (design, utility or otherwise), patent disclosures, applications and inventions (whether ultimately deemed patentable or not), (b) trademarks, service marks, trade

dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, (c) all original expressions in any fixed medium, including registered and unregistered copyrights and copyrightable works (including Applications), and rights in data and databases, (d) trade secrets, know-how and other confidential information, and (e) all other intangible assets related to any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"International School" means a school that promotes international education, in an international environment, by following a national or international curriculum different from that of the school's country of residence.

"Licensed Site" means the physical location of a single school which has purchased Student Capacity for the Applications and identified in the Quote. Multiple schools in one building are each a separate Licensed Site and each must purchase a separate license.

"Licensee" means the entity identified in the Quote.

"Licensee Data" means (a) any information or data that Licensee collects on individual Authorized Users, including, without limitation, personal information (e.g., an Authorized User's name, age, gender, race, place of residence, and other directory information), enrollment information (e.g., the school a student attends, a student's current grade level and years of attendance, the number of days a student was absent), academic information (e.g., the courses a student completed, the test scores and grades a students earned, the academic requirements a student has fulfilled, and education records), and various other forms of data collected and used by such Licensee; (b) any data or outputs, including, but not limited to assignments, assessment and quiz scores, generated from using the Applications (including data or outputs contain with reports generated by the Applications); (c) Authorized User sign-on information; and (d) any data inputs by individual Authorized Users of myON Applications, including but not limited to essays, reading journals, book reviews, book notes, etc.

"Losses" mean all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

"Marks" mean any word(s) and/or symbol(s) used alone or in combination as trade names, trademarks, logos and service marks, in all cases, registered or unregistered.

"Mobile Applications" mean applications by which Licensee may have the ability to access some or all of the Applications on mobile devices.

"myON Application" means those Applications identified as a myON Application in the Quote.

"Privacy Policies" means the applicable Application Privacy Policy located at <https://www.renaissance.com/privacy-policy/> which may be updated from time-to-time by Renaissance in its sole discretion.

"Professional Services" means those professional services identified in the Quote and further described in **Exhibit B** and any other professional, technical or support services that Renaissance provides to Licensee.

"Quote" means (a) a quote issued by Renaissance to Licensee to provide access to the Applications, Hosting Services and Services identified therein for the Subscription Period that is accepted by Licensee by executing the quote and submitting Licensee's purchase order (the **"Initial Quote"**) and (b) a quote issued by Renaissance to Licensee to provide access to additional Applications, Hosting Services or Services within the Subscription Period of the Initial Quote that is accepted by Licensee by submitting Licensee's purchase order.

"Renaissance" means Renaissance Learning, Inc., a Wisconsin corporation.

"Renaissance Application" means those Applications identified as a Renaissance Application in the Quote.

"Terms of Service and License" means these Terms of Service and License and the Privacy Policies, as amended by the parties.

"Services" mean the Onboarding Services and Professional Services.

"Student Capacity" with respect to any Licensed Site, means the maximum number of Licensee students that are authorized to use the Renaissance Applications during the Subscription Period. Student Capacity for any Renaissance Application is identified in the Quote either under the Quantity column or separately as student subscriptions. Student Capacity may only be increased as described in section 2.3(a)(i) in these Terms of Service and License.

"Subscription Period" means the time period set forth in the Quote during which Licensee has access to the Applications unless the Agreement is terminated earlier in accordance with the Agreement, then the time period shall end as of the date of termination.

EXHIBIT B

International School Conditions to Use Renaissance Applications Outside of Licensed Site

- Licensee acknowledges and agrees that Renaissance will not provide any Licensee support to students or parents in connection with their use of the Renaissance Application outside the Licensed Site.
- Licensee must turn off its IP whitelist, which currently limits access to the Renaissance Application only to devices in Licensee's designated networks at Licensee's buildings. Licensee acknowledges and agrees that turning off its IP whitelist shall not change the relationship between Licensee and Renaissance and Renaissance will still be providing access to the Renaissance Application as a provider of Licensee.
- Renaissance does system maintenance and other updates to the Renaissance Application after hours to avoid impact on its licensees. Licensee acknowledges that if Licensee's students are attempting to use the Renaissance Application during this period, the system performance may slow down or may be temporarily unavailable and Renaissance disclaims any liability for the availability or lack thereof of the Renaissance Application.
- Any use of the Renaissance Applications not in accordance with the Agreement will immediately void Licensee's license to use the Renaissance Application.
- Licensee understand that one of the primary purposes for the restrictions in the Agreement is to minimize student cheating and to protect the Renaissance's Application's content from unauthorized access or distribution which would compromise the Renaissance Application and its contents. Licensee hereby releases Renaissance from any liability that may arise from or in connection with the security of the Renaissance Application, the inability to access or use the Renaissance Application and the results of use of the Renaissance Application, in all cases, where the Renaissance Application is used by Licensee's students outside of the Licensed Site. Licensee also agrees to promptly notify Renaissance upon becoming aware that any of the Renaissance Application's content has been compromised in any fashion, including, without limitation, posting or sharing answers by Licensee's students.

EXHIBIT C

Professional Services and Other Terms and Conditions

1. Included Professional Services

The following Professional Services are provided without additional charge:

- a. **Renaissance Smart Start:** A free on-demand, in-product training program utilizing Content, including instructional videos, resources, and activities for mastering critical early steps for use of certain Renaissance Applications. Licensee's administrators and teachers of the Licensed Sites can access and revisit Smart Start Content unlimited times through their Renaissance Home portal, however, Content, including copies of PDFs or other written materials is for the Licensee's internal use only.
- b. **myON PD Portal:** A free on-demand, in-product training program utilizing Content, including instructional videos, resources, and activities for mastering critical early steps for use of certain myON Applications. Licensee's administrators and teachers of the Licensed Sites can access and revisit the myON PD Portal unlimited times through their myON Applications, however, Content, including copies of PDFs or other written materials is for the Licensee's internal use only.

2. Additional Professional Services

The following Professional Services are available for an additional charge and if purchased by Licensee will be identified in the Quote:

- a. **Custom On-Site Seminars and Leadership Seminars:** Six-hours of professional development in the form of either one six-hour on-site seminar or two three-hour on-site seminars on the same day, each for up to 30 participants per seminar for hands on training.
- b. **Implementation Site Visits:** Six-hours of implementation support in the form of data reviews, classroom coaching, Q&A sessions, meeting with PLCs, and debrief with building leadership for small groups but no more than 30 participants.
- c. **Star Champions' Academy:** Three six-hour on-site seminars for up to 20 participants per seminar for hands on training. The 20 participants must be the same participants at each seminar. Licensee is required to purchase Renaissance-U for the Subscription Period.
- d. **Virtual Onsite Seminars:** 90-minute professional development virtual on-site seminar targeted at one specific topic, for up to 30 participants provided by Renaissance remotely. Licensee is responsible for providing an onsite facilitator who will work with Renaissance to plan the seminar in advance, test the technology, and co-facilitate during the seminar. Seminars are anticipated to be a two-way live video

feed via webcam and/or 3-D Webcam technology; however, should these video technologies not be available or working effectively at the time of the seminar, it will not inhibit the delivery the seminar.

- e. **Webinars:** Webinar related to a specific topic, for up to 30 participants in 1 hour increments up to 3 hours. Webinars can be used for Q&A session as well if arranged in advance.
- f. **Implementation and Data Coaching Services:** Renaissance will provide Licensee a dedicated Renaissance coach to facilitate a tailored action plan, provide email and phone support to building leadership and seven 30-60 minute structured sessions for up to 30 participants for learning experiences, data conferences or questions-and-answers. Licensee is responsible for scheduling the coaching sessions and it is recommended that Licensee schedule such sessions evenly distributed throughout the Subscription Period. The content of the coaching session will focus on data, but the content can be tailored to the specific needs of the participants, to the extent that Licensee participates in a pre-planning meeting with Renaissance in advance of the coaching session. Renaissance shall provide these services remotely.
- g. **Renaissance-U:** An Application that provides professional development courses via on-demand, online tutorials and Implementation and Data Coaching Services. Licensee's administrators have a portal to monitor participant progress through the courses offered. If a Licensee has multiple Licensed Sites, it must purchase a license to access Renaissance-U for each Licensed Site. Licensee understands that as of August 2018, Renaissance-U will hosted on Teaching Channel's platform and agrees that use of Renaissance-U on the Teaching Channel Platform by Licensee and its Authorized Users is subject to Teaching Channel's Terms of Use and Privacy Policy located at <https://www.teachingchannel.org> (the "Teaching Channel Terms"). Licensee agrees that it and its Authorized Users will comply with the Teaching Channel Terms.
- h. **Smart Start Coaching:** Three initial training sessions with a Renaissance coach based on the Smart Start product training course content, and phone and email support for school leadership, to be used over the first three months of the Subscription Period.
- i. **Strategic Planning, Monitoring, and Reporting:** District-level service that begins with a planning session with the key Licensee stakeholders to establish the goals for the implementation of the Applications and key performance indicators that will indicate progress toward those goals. A strategic plan will be

delivered to Licensee, followed by three progress reports related to the goals and key performance indicators. Upon delivery of each of the progress reports Licensee may also participate in a 30-minute conversation with Renaissance to review progress and recommendations. A "plus" version of this service is also available that offers the Strategic Planning, Monitoring and Reporting Services and district-level Implementation and Data Coaching Services throughout the Subscription Term.

- j. **Project Management:** Project Management services are available for districts that need extra support managing the technical and logistical tasks associated with implementation of the Applications. Services are tailored to Licensee's needs, but typically include an in-person kick off meeting to develop the scope of the project and communication plan. The assigned project manager will serve as the Licensee's single point of contact, provide periodic updates, and oversee Renaissance delivery of the Professional Services purchased by the Licensee in accordance with the project plan.
- k. **Dedicated District Consultant ("DDC"):** A DDC is an individual embedded by Renaissance to assist in the implementation and provide Professional Services. The specific scope of the DDC's role will be defined in a subsequent statement of work between the Parties, but generally includes the DDC meeting with key district representatives to identify implementation expectations with specific goals and performance indicators. The DDC would then develop a tactic plan with a specific timeline indicating how Professional Services and implementation support services will be delivered throughout the Subscription Period.
- l. **Renaissance Results Package #1 (Remote):** Renaissance guides grade-level or department teaching teams to use data to inform instruction, measure growth, and replicate best practices through two webinars for one-hour for up to 30 people and 6 remote facilitated data team meetings per Results Team, delivered via WebEx for 40-60 minutes per meeting for up to 6 people. In addition, Renaissance will provide access to Renaissance-U for the Subscription Period.
- m. **Renaissance Results Package #2 (Onsite and Remote):** Renaissance guides grade-level or department teaching teams to use data to inform instruction, measure growth, and replicate best practices through 1 on-site training seminar for six hours for up to 30 people and 6 remote facilitated data team meetings per participating Results Team, delivered via WebEx for 40-60 minutes per meeting for up to 6 people. In addition, Renaissance will provide access to Renaissance-U for the Subscription Period.
- n. **Renaissance Results Package #3 (Onsite and Remote):** Renaissance guides grade-level or

department teaching teams to use data to inform instruction, measure growth, and replicate best practices through 1 on-site training seminar for six hours for up to 30 people, 4 on-site days for facilitated data team meetings for 40-60 minutes per Results Team for up to 6 people and 2 remote facilitated data team meetings delivered via WebEx for 40-60 minutes per meeting for up to 6 people. In addition, Renaissance will provide access to Renaissance-U for the Subscription Period.

- o. **Renaissance Advanced Certification:** Renaissance will certify Licensee's district personnel to provide ongoing professional development support to educators within the Licensee's district. Licensee's district personnel chosen to be certified (a "**Certification Candidate**") will be given individual access to Renaissance-U and must complete the course applicable to the certification topic (reading, assessment, or math) prior to attending the required two-day in person certification training (the "**Certification Training Event**"). The Certification Candidate must attend the Certification Training Event which will be held at various locations nationally (travel and expenses to attend are the responsibility of the Licensee and Certification Candidate), or alternately Renaissance can send a Renaissance consultant to Licensee to provide the Certification Training Event to the extent there are a minimum of 4 Certification Candidates on the same topic. Upon successful completion of the Certification Training Event, the Certification Candidates are deemed certified (a "**Certified Licensee Personnel**") that attended shall have rights to use all training materials found within Renaissance-U (to include projection of eLearning content in group professional development sessions and reproduction of PDFs) to conduct training session for educators within the Licensee's district and no other third parties. Certified Licensee Personnel shall not charge any fees for providing training. Certification is good for one year and includes registration for the Certified Licensee Personnel into the national certification Renaissance-U professional learning community and invitation to a quarterly webinar for all Renaissance Certified Licensee Personnel across the county. Certified Licensee Personnel that are active within the online community and attend all four quarterly webinars are eligible to renew their certification for up to two years. After the third year recertification is required. Certification is personal to the individual chosen by Licensee to be certified and does not transfer to any other person.

3. Other Terms and Conditions

- a. **On-Site Professional Services.** For any Professional Services that Renaissance will provide on-site, the following shall apply:

- i. Licensee shall provide facilities for its participants.
 - ii. The facilities provided by Licensee must be conducive to adult learning with computer, broadband Internet connection and two-way sound for each participant.
 - iii. Renaissance will tailor the content to the specific needs of the participants, to the extent that the Licensee participates in a pre-planning meeting with Renaissance 4-6 weeks prior to the event.
 - iv. Because travel is booked 4-6 weeks in advance, additional fees may apply for late booking, and last-minute rescheduling or cancellation.
- b. **Remote Professional Services:** For any Professional Services that Renaissance will provide remotely, the following shall apply:
- i. Licensee shall provide facilities for its participants.
 - ii. The facilities provided by Licensee must be conducive to adult learning with computer, broadband Internet connection and two-way sound for each participant and a hard-wired broadband internet connection for the computer that is projecting the online presentation.
 - iii. Renaissance will tailor the content to the specific needs of the participants, to the extent that the Licensee participates in a pre-planning meeting with Renaissance 3-5 business days prior to the event.
 - iv. Any materials sent electronically to support the session must be printed by Licensee for each participant.
- c. **Learning Environment:** Professional development sessions are designed to engage learners with hands-on experiences in the Applications, customization to group needs, and individualized support. Licensee assumes the responsibility for any diminished quality and/or satisfaction concerns if an appropriate learning setting is not provided by Licensee, including, without limitation, keeping to group size limits provided by Renaissance and providing facilities that meet technology and learning environment requirements.
- d. **Ownership:** All print and digital content provided as a part of the service is the sole property of Renaissance and is deemed Content under the Agreement. Recording or reproduction in any form is not permitted. Renaissance does not provide copies of any of the PowerPoint presentations presented during any seminar, webinar or any other presentation.
- e. **Learning Outcomes:** It is the responsibility of the Licensee to participate in a planning call with Renaissance a minimum of 3-5 business days for remote Professional Services and 4-6 weeks for onsite Professional Services, prior to the delivery of the Professional Services to determine the agreed upon learning outcomes. Renaissance will plan the delivery of the Professional Service to meet those pre-determined learning outcomes. At times the needs expressed by the participants of the Professional Services event do not exactly match the learning outcomes identified in the pre-planning meeting. Renaissance will use commercially reasonable efforts to address those needs as time allows, but Renaissance will first focus on fulfilling the learning outcomes agreed to during the pre-planning meeting.

University Laboratory School Software Addendum

Part One: Data Security Addendum

Vendor/Operator (referred to as Vendor or Operator) acknowledges and agrees that compliance with this Addendum in its entirety for the term of the contract and any renewals is a material requirement and condition of this contract. If the Parties determine that any clause in this section is not applicable to this contract it may be stricken without affecting the remaining subsections.

UNLESS SPECIFICALLY EXEMPTED, THE FOLLOWING CONFIDENTIALITY AND DATA SECURITY REQUIREMENTS APPLY TO ALL DATA MADE AVAILABLE TO THE VENDOR UNDER THE TERMS OF THIS AGREEMENT.

REQUIRED CONDITIONS:

1. **Order of Precedence:**

- a. To the extent, any provision in this Addendum is inconsistent or incompatible to terms included elsewhere in this Agreement, the parties agree that this Addendum shall take precedence and the conflicting provisions shall be null and void.

2. **Definitions:** The following terms shall be defined as follows for purposes of the Agreement.

- i. The term **SOPPA Covered Information** means personally identifiable information or material or information that is linked to personally identifiable information or material in any media or format that is not publicly available and is any of the following:
 1. Created by or provided to an Operator by a student or the student's parent or legal guardian in the course of the student's, parent's, or legal guardian's use of the Operator's site, service, or application for K through 12 school purposes.
 2. Created by or provided to an Operator by an employee or agent of a school or school district for K through 12 school purposes.
 3. Gathered by an Operator through the operation of its site, service, or application for K through 12 school purposes and personally identifies a student, including, but not limited to, information in the student's educational record or electronic mail, first and last name, home address, telephone number, electronic mail address, or other information that allows physical or online contact, discipline records, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, a social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, or geolocation information.
- ii. The term **Personally Identifiable & Protected University Data** shall include an individual's name first or last, e-mail address or password in an unencrypted or redact form when used in combination one or more of the following data elements including: an (i) identification numbers (e.g. individual's government-issued identification number or social security number, driver's license number); (ii) information protected by federal or state law (e.g. ethnicity, race, religion, disability status, veterans status, etc.), (iii) financial data (including account numbers, credit card number, or other information that would permit access to an individual's financial data; (iii) biometric or health data; or (iv.) other data that if released could create a safety or security concern for the University or members of the University community.
- iii. University Data includes any information provided by the University pursuant to the Agreement.

3. **University Data & SOPPA Covered Information Security Protections:** Vendor shall provide commercially reasonable and adequate protection on its network and systems to protect University Data and SOPPA Covered Information from unauthorized access, acquisition, destruction, use modification or disclosure that shall include but not be limited to include firewalls and intrusion detection/prevention, authentication and encryption capabilities (including mobile devices, USB storage devices and backup media) in accordance with standard industry practices.
- a. **Use of Data:** Vendor agrees that any and all University Data and SOPPA Covered Information exchanged shall be used expressly and solely for the purposes enumerated in the Agreement.
 - b. **Data Transmission & Storage:** In general, Vendor shall implement administrative, physical and technical safeguards to protect University Data and SOPPA Covered Information that are no less rigorous than accepted industry practices. Vendor agrees that University Data and SOPPA Covered Information must be stored and transmitted in accordance with standard industry encryption standards. Personally Identifiable & Protected University Data and SOPPA Covered Information may not be processed or stored outside the U.S.

- c. **Third-Party Assurances / Subcontractors:** Vendor may only release University Data and SOPPA Covered Information to a subcontractor, affiliate or other third party with the designated University authorized official's prior written consent and provided that such subcontractor, affiliate, or other third party agrees to comply with all provisions of this Agreement.
- d. **Return/Destruction of Data:**
 - i. As applicable and in accordance with law, within a reasonable time period after termination of this Agreement, for any reason, Vendor shall return or destroy (as specified by the University) all University Data and SOPPA Covered Information and indexing information received from University, or created or received by Vendor on behalf of the University. This provision shall apply to data in the possession of subcontractors or agents of Vendor.
 - ii. Destruction of University Data and SOPPA Covered Information will be conducted in accordance with standard industry practices deemed acceptable by the University and Illinois State Record Act requirements.
 - iii. Vendor shall provide proof or certification of destruction of the data to the University's Information Security Officer.
- e. **Data Processing Integrity:** As applicable, Vendor shall take commercially reasonable measures, including regular data integrity audits, to protect Data against deterioration or degradation of data quality and authenticity. Vendor will maintain appropriate contingency / recovery plans for any University Data and SOPPA Covered Information in the event of loss of data or breach.

4. **Breach:**

- a. **Notice:** Vendor, including any subcontractors, affiliates, and third parties, shall report in the most expedient timeframe possible but no later than 30 days to the University Information Security Officer (i) any breach of security involving, or potentially involving, University Data and SOPPA Covered Information, or (ii) any use or disclosure of University Data and SOPPA Covered Information other than the Permitted Uses or breach of federal and state privacy laws. Vendor shall fully cooperate with the University with respect thereto. The University Information Security Officer can be contacted e-mailing informationsecurityoffice@illinoisstate.edu.
- b. **Indemnification:** Vendor shall indemnify, defend and hold University harmless from and against all third-party claims, actions, suits and proceedings resulting from the release of any University Data and SOPPA Covered Information, including the University's costs and reasonable attorneys' fees which arise as a result of Vendor's failure to safeguard University Data and SOPPA Covered Information as provided in this Agreement. Any limitations of liability contained in the Agreement shall not be applicable to Vendor's obligations pursuant to this section.

ADDITIONAL DATA SECURITY TERMS & CONDITIONS:

Please check those terms and conditions applicable to this Agreement.

Vendor Certifications: Prior to performing services which require access to, transmission of and/or storage of **University Data & SOPPA Covered Information**, Vendor will provide a third party certification of compliance with standard industry practices in a form acceptable to the University Information Security Officer.

FERPA & State Privacy Protections. Vendor hereby acknowledge and agrees to comply with the limitations on the use and re-disclosure of **University Data and SOPPA Covered Information** from education records as defined in the Family Educational Rights & Privacy Act ("FERPA") 34 CFR § 99.00 et seq. Vendor agrees to comply with all applicable state privacy protections including but not limited to the Illinois School Student Records Act (105 ILCS 10), the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 10), the Identity Protection Act (105 ILCS 85), and the Personal Information Protection Act (815 ILCS 530). Vendor agrees that the Vendor is acting as a school official with legitimate educational interest; is performing an institutional service or function for which the school would otherwise use its own employees and is using University Data and SOPPA Covered Information for an authorized purposes and in furtherance of such legitimate educational interest. Vendor further acknowledge and agrees that it shall maintain the confidentiality, and shall not re-disclose, personally Identifiable Information from education records except as authorized by the University in writing.

SOPPA. Vendor agrees to comply with all operator prohibitions and restrictions on the use and re-disclosure of **University Data & SOPPA Covered Information** from education records as outlined in the Illinois Student Online Personal Protection Act, 105 ILCS 85, et seq. These include but are not limited to:

- Vendor may not use University Data & Covered Information to engage in targeted advertising, amass profiles on student or the parents, or sell/rent any student information, or disclose info to any third-party, unless such party maintains all required security procedures and practices.
- As required by SOPPA, Vendor agrees, upon request and within reasonable period of time, to provide a copy of any student's information provided or maintained by the Vendor, as operator. Vendor agrees to correct any factual errors within 90 days of such request.
- Vendor may only use data to improve operability/functionality of operator's site, to ensure legal and regulatory compliance, to take precautions against liability, to respond to judicial process, to protect the safety/integrity of users to the site.
- In the event of a breach of SOPPA Covered Information that is attributable to the Vendor, the Vendor agrees to reimburse and indemnify University for any and all costs and expenses University incurs in investigating and remediating the breach, without regard to any limitation of liability provision including but not limited to costs and expenses associated with:
 - Providing notification to parents of students whose data was compromised;
 - Providing credit monitoring to those students whose data was exposed in a manner that a reasonable person would believe may impact the student's credit or financial security;
 - Legal fees, audit costs, fines, and any other fees or damages imposed against the University as a result of the breach; and
 - Provision of any other notification or fulfilling any other requirements as required by law.

Health Insurance Portability and Accountability Act ("HIPAA"): If the Vendor is a "covered entity" as that term is defined under HIPAA, the Vendor shall enter into a Business Associate Agreement with the University. If the Vendor is not a "covered entity" as that term is defined under HIPAA, the Vendor acknowledges i) any students working at the Vendor's site or under the Vendor's supervision and control are part of the Vendor's "workforce" as defined in HIPAA Privacy Regulations at 43 C.F.R. 160.103, and ii) no Business Associate agreement is required between the University and Facility. The Facility will provide the necessary HIPAA training to students and students will be expected to comply with HIPAA and any other confidentiality requirements of the Facility.

PCI Standards: If, in the course of providing services to University, Vendor has access to or will collect, access, use, store, process, dispose of or disclose credit, debit or other payment cardholder information, Vendor shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at Service Provider's sole cost and expense.

Vendor Monitoring/Audit: With prior written notice, University (or its agent or affiliate) may audit Vendor's use of the University Data to ensure that Vendor is in compliance with the terms of this Agreement. Vendor will keep complete and accurate records of all

use of University data, including a log file of all employees with access to University Data. University may at its own expense and upon no less than five working days written notice audit Vendor's use, access, or maintenance of the University Data. As part of such audit, University is entitled to obtain physical and electronic data concerning use of University's data upon submitting a reasonable request to Vendor. Such audit will not interfere unreasonably with Vendor's business activities, will be conducted no more often than once per calendar year at a location, unless a previous audit disclosed a material breach. If an audit reveals the Vendor has breached this Agreement, University may immediately terminate the Agreement.

Illinois State University reserves the right and the parties agree to amend the Data Security Addendum and related Agreement to address required data security requirement changes in law, including those changes that may apply under the European Union General Data Protection Regulations, effective May 25, 2018.

Part 2: University & Illinois Procurement Code Addendum

The Board of Trustees of Illinois State University (University, ISU), a body corporate and politic of the State of Illinois and the Vendor are entering into a contract/agreement. For the parties' mutual convenience, the parties are using the Vendor's Contract Form. This Addendum is incorporated into the Vendor's Contract Form and made an integral part thereof.

Vendor acknowledges and agrees that the Vendor's Contract Form may include some types of clauses or sales terms not acceptable to the University because of statutory restrictions or other policy considerations. If the Parties determine that any provision of this Addendum in this section is not applicable to this contract it may be stricken without affecting the remaining subsections.

1. **Order of Precedence:**

- a. To the extent, any provision in this Addendum is inconsistent or incompatible to the Vendor's Contract Form, the parties agree that this Addendum shall take precedence and the conflicting provisions of the Vendor's Contract Form shall be null and void.

2. **Insurance:**

- a. Illinois State University shall not be required to maintain any type of insurance for the Vendor's benefit.
- b. During all times relevant to this agreement, Vendor shall maintain and keep in effect applicable general liability insurance with limits acceptable to the Board of Trustees of Illinois State University, and shall provide proof of coverage upon request. Additional insurance coverage, as specified in subsection c below, may be required for this agreement depending upon the services provided by the Vendor

3. **Confidential Information:**

- a. Confidential Information may be made available to the Vendor under this Agreement. The Vendor agrees to i) protect any Confidential Information from unauthorized use or disclosure; ii) disclose Confidential Information only to employees and other representatives who have agreed to comply with this agreement; and iii) use the Confidential Information only for the purposes authorized in this Agreement.
- b. All Confidential Information remains the property of the University.
- c. "Confidential Information" means any information provided by the University whether of a technical, business or other nature that is disclosed to the Vendor that is designated as Confidential by the University, that is protected from disclosure by applicable state or federal law, or that the Vendor has reason to believe is confidential, proprietary, or trade secret information of the University. Confidential Information does not include any information that: (a) was acquired lawfully by the Vendor or independently developed or acquired by the Vendor outside this Agreement; (b) is or becomes part of the public domain through no fault of the Vendor; or, (c) is authorized for release by written notice from University to Vendor; or (d) is otherwise required to be disclosed by law.
- d. ISU reserves the right to disclose contract purchase information as required by the State of Illinois Freedom of Information Act without pre-notification or approval from the Vendor.

4. **Governing Law:**

- a. Notwithstanding any provision to the contrary, the Vendor's Contract Form shall be governed and construed in accordance with the laws of the State of Illinois.
- b. For venue purposes, it is deemed that all obligations of the parties created hereunder are performed in McLean County, Illinois.

5. **Term:**

- a. Notwithstanding any provision, the term of the contract (including original and renewal terms) shall not exceed 10 years in total.
- b. No term will automatically renew regardless of stated required notification periods. All renewals will only be valid with the issuance of a University purchase order or other written direction from University.

6. **Indemnification/Hold Harmless/Limitation of Liability:**

- a. It is understood and agreed that neither party to this agreement shall be liable for any negligent or wrongful acts, either of commission or omission, chargeable to the other, unless such liability is imposed by law, and that this agreement shall not be construed as seeking to either enlarge or diminish any obligation or duty owed by one party against the other or against a third party.
- b. The University shall not agree to any additional provision:
 - i. Requiring the University to indemnify or hold harmless the Vendor for any act or omission.
 - ii. Releasing the Vendor or any other entity or person from its legal liability, or limiting liability, or unlawful or negligent conduct or failure to comply with any duty recognized or imposed by applicable law.
 - iii. Requiring the University to make payments for total or partial compensation or payment for lost profit or liquidated damages if the Agreement is terminated before the end of the term.
 - iv. Limiting the liability of the Vendor for property damage or personal injury.
 - v. Binding the University to any arbitration or to the decision of any arbitration board, commission, panel or other entity.
 - vi. Obligating the University to pay costs of collection or attorney's fees.
 - vii. Granting the Vendor a security of interest in property of Illinois State University.
 - viii. Changing the time period within which claims can be made or actions can be brought under the laws of the State of Illinois.
 - ix. Requiring the University to waive the sovereignty of Illinois, waiver of any right to a jury trial, increasing the University's liability beyond that authorized in the Illinois Tort Claims Act, or authorizing Vendor to execute any settlement obligation that would bind the University without the consent of the Board of Trustees of Illinois State University and/or the Illinois Attorney General, as applicable.

7. **Payment Obligations:**

- a. All amounts, including but not limited to interest and/or late charges, owed by the University under the Vendor's Contract Form shall be made in accordance with applicable provisions of the Illinois Prompt Payment Act.

8. **Independent Contractor:** In Vendor's performance under this Agreement, the Vendor acts and will act as an independent contractor and not as an agent or employee of Illinois State University.

9. **Use of University Name & Facilities:** Vendor shall not use the name of the University in any written material including but not limited to brochures, letters, and circulars, without the prior written consent of University. If

applicable, Vendor's use of University Facilities shall comply with all University policies, procedures and requirements.

10. **Force Majeure Provisions:** It is agreed that no claim for damages, losses or liability may be made by either party upon the occurrence of any circumstance, whether directly or indirectly, beyond the control of either party (including without limitation strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, business interruptions, disease, national or local emergency, government action or inaction, travel restrictions, loss or malfunctions of utilities, communications or computer (software and hardware) services ("a Force Majeure Event")), to the extent that such circumstance delays or otherwise makes it illegal or impossible for a party to satisfy its performance obligations under the Agreement. In the event of a Force Majeure Event, the parties agree to negotiate in good faith any modifications of the terms of this Agreement that may be necessary or appropriate in order to resume performance obligations under the Agreement. However, the contract is subject to termination/cancellation by the non-declaring party, unless the parties mutually agree, in writing, to amend the Agreement. As soon as reasonably practicable after a Force Majeure Event occurs, the non-declaring party will provide a written notice to the other party (or parties) that specifies the Agreement termination date. In the event of a termination due to a Force Majeure Event, the Vendor will refund to University all recoverable expenses and 50% of any documented, reasonable, nonrecoverable expenses incurred by Vendor prior to the date of termination. Vendor agrees to provide University with documentation, acceptable to the University, in its sole discretion, that details reasonable, nonrecoverable expenses retained by Vendor relating to the Force Majeure Event.

11. **Procurement Code Required Certifications:**

- a. Vendor acknowledges and agrees that compliance with the attached Certifications and Additional Terms for the term of the contract and any renewals is a material requirement and condition of this contract. By executing the contract Vendor certifies compliance with this subsection in its entirety, and is under a continuing obligation to remain in compliance and report any non-compliance.
- b. This subsection, in its entirety, applies to subcontractors used on the contract. Vendor shall include these Standard Certifications in any subcontract used in the performance of the contract using the Standard Subcontractor Certification form provided by the University.
- c. If this contract extends over multiple fiscal years, including the initial term and all renewals, Vendor and its subcontractors shall confirm compliance with this section in the manner and format determined by the University by the date specified by the University and in no event later than July 1 of each year that this contract remains in effect.

12. **Compliance:**

- a. **Statutory Compliance:** All commitments by the University under this Agreement are subject to constitutional and statutory limitations and restrictions binding upon the University. Vendor agrees to comply with all applicable federal, state, and local laws, orders and regulations.
- b. **University Policies and Procedures:** Vendor agrees to comply with applicable University policies and procedures, as applicable.

- c. **Nondiscrimination:** Vendor agrees to comply with all applicable federal and state nondiscrimination, equal opportunity and affirmative action laws, orders and regulations. Vendor shall not engage in unlawful discrimination or harassment against any person because of race, color, religion, sex, national origin, ancestry, age, marital status, protective order status, disability, unfavorable discharge from the military, or status as a disabled veteran or a veteran of the Vietnam era in the performance of this agreement.
- d. **Taxes:** The Agreement shall not obligate the University to pay taxes unless otherwise required by law.
- e. **Withholding/Legal Status:** Vendor shall provide true and correct information regarding its Federal Tax Payer Identification Number (FEIN), tax withholding status and legal status information. Any change in the Vendor's tax withholding status must be immediately reported to the University by Vendor. If a W-8 or W-9 form is required, payment will not be made prior to receipt of a completed form.
- f. **Export Control:**
 - i. University agrees to comply with applicable U.S. laws, regulations, orders or other restrictions on exports and further shall not sell, license or re-export, directly, or indirectly, any information, data, products, items subject to the Agreement to any person or entity for sale in any country or territory, if, to the knowledge of University, such action would cause the Vendor to be in violation of any such laws or regulations now or hereafter in effect.
 - ii. Vendor shall also notify the University if any of the individuals, equipment, data, services provided or other commitments made or subject to the Agreement are subject to the U.S. Export Administration Regulations, controlled by the International Traffic in Arms Regulations, subject to Office of Foreign Assets Control restrictions, or otherwise subject to export restrictions by a federal agency.

12. Assignment: This contract may not be assigned, in whole or in part, by either party without the prior written approval of the other party, except in connection with a merger or sale of all or substantially all of the assets of such party provided, however, that the obligations of such party under this Contract shall not be extinguished or otherwise affected by any such assignment.

Certifications and Additional Terms

Vendor acknowledges and agrees that compliance with this subsection in its entirety for the term of any resulting contract and any renewals is a material requirement and condition of the contract. By executing the contract Vendor certifies compliance with this subsection in its entirety, and is under a continuing obligation to remain in compliance and report any non-compliance.

This subsection, in its entirety, also applies to subcontractors used on this contract. Vendor shall include these Standard Certifications in any subcontract used in the performance of the contract using the Standard Subcontractor Certification form provided by the State.

If the contract extends over multiple fiscal years, including the initial term and all renewals, Vendor and its subcontractors shall confirm compliance with this section in the manner and format determined by the State by the date specified by the State and in no event later than July 1 of each year that the contract remains in effect.

If the Parties determine that any certification in this section is not applicable to the contract it may be stricken without affecting the remaining subsections.

1. As part of each certification, Vendor acknowledges and agrees that should Vendor or its subcontractors provide false information, or fail to be or remain in compliance with the Standard Certification requirements, one or more of the following sanctions will apply:
 - the contract may be void by operation of law,
 - the State may void the contract, and
 - the Vendor and its subcontractors may be subject to one or more of the following: suspension, debarment, denial of payment, civil fine, or criminal penalty.

Identifying a sanction or failing to identify a sanction in relation to any of the specific certifications does not waive imposition of other sanctions or preclude application of sanctions not specifically identified.

2. Vendor certifies it and its employees will comply with applicable provisions of the United States Civil Rights Act, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, and applicable rules in performance of this contract.
3. **This applies to individuals, sole proprietorships, partnerships and LLCs, but is otherwise not applicable.** Vendor, if an individual, sole proprietor, partner or an individual as member of a LLC, certifies he/she is not in default on an educational loan. 5 ILCS 385/3.
4. Vendor certifies that is has reviewed and will comply with the Department of Employment Security Law (20 ILCS 1005/1005-47) as applicable.
5. **This applies only to certain service contracts and does NOT include contracts for professional or artistic services.** To the extent there was a current Vendor providing the services covered by this contract and the employees of that Vendor who provided those services are covered by a collective bargaining agreement, Vendor certifies (i) that it will offer to assume the collective bargaining obligations of the prior employer, including any existing collective bargaining agreement with the bargaining representative of any existing collective bargaining unit or units performing substantially similar work to the services covered by the contract subject to its bid or offer; and (ii) that it shall offer employment to all employees currently employed in any existing bargaining unit who perform substantially similar work to the work that will be performed pursuant to this contract. This does not apply to heating, air conditioning, plumbing and electrical service contracts. 30 ILCS 500/25-80.

6. Vendor certifies it has neither been convicted of bribing or attempting to bribe an officer or employee of the State of Illinois or any other State, nor made an admission of guilt of such conduct that is a matter of record. 30 ILCS 500/50-5.
7. If Vendor has been convicted of a felony, Vendor certifies at least five years have passed after the date of completion of the sentence for such felony, unless no person held responsible by a prosecutor's office for the facts upon which the conviction was based continues to have any involvement with the business. 30 ILCS 500/50-10.
8. If Vendor or any officer, director, partner, or other managerial agent of Vendor has been convicted of a felony under the Sarbanes-Oxley Act of 2002, or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953, Vendor certifies at least five years have passed since the date of the conviction. Vendor further certifies that it is not barred from being awarded a contract. 30 ILCS 500/50-10.5.
9. Vendor certifies it is not barred from having a contract with the State based upon violating the prohibitions related to either submitting/writing specifications or providing assistance to an employee of the State of Illinois by reviewing, drafting, directing, or preparing any invitation for bids, a request for proposal, or request of information, or similar assistance (except as part of a public request for such information). 30 ILCS 500/50-10.5(e).
10. Vendor certifies that it and its affiliates are not delinquent in the payment of any debt to the State (or if delinquent have entered into a deferred payment plan to pay the debt). 30 ILCS 500/50-11, 50-60.
11. Vendor certifies that it and all affiliates shall collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with provisions of the Illinois Use Tax Act. 30 ILCS 500/50-12.
12. Vendor certifies that it has not been found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Environmental Protection Act within the last five years, and is therefore not barred from being awarded a contract. 30 ILCS 500/50-14.
13. Vendor certifies it has neither paid any money or valuable thing to induce any person to refrain from bidding on a State contract, nor accepted any money or other valuable thing, or acted upon the promise of same, for not bidding on a State contract. 30 ILCS 500/50-25.
14. Vendor certifies it has read, understands and is not knowingly in violation of the "Revolving Door" provisions of the Illinois Procurement Code. 30 ILCS 500/50-30.
15. Vendor certifies that if it hires a person required to register under the Lobbyist Registration Act to assist in obtaining any State contract, that none of the lobbyist's costs, fees, compensation, reimbursements or other remuneration will be billed to the State. 30 ILCS 500/50-38.
16. Vendor certifies that it will not retain a person or entity to attempt to influence the outcome of a procurement decision for compensation contingent in whole or in part upon the decision or procurement. 30 ILCS 500/50-38.
17. Vendor certifies it will report to the Illinois Attorney General and the Chief Procurement Officer any suspected collusion or other anti-competitive practice among any bidders, offerors, contractors, proposers, or employees of the State. 30 ILCS 500/50-40, 50-45, 50-50.
18. Vendor certifies that if it is awarded a contract through the use of the preference required by the Procurement of Domestic Products Act, then it shall provide products pursuant to the contract or subcontract that are manufactured in the United States. 30 ILCS 517.
19. Vendor certifies steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless the executive head of the procuring Agency/University grants an exception. 30 ILCS 565.
20. Drug Free Workplace
 - 20.1 If Vendor employs 25 or more employees and this contract is worth more than \$5,000, Vendor certifies it will provide a drug free workplace pursuant to the Drug Free Workplace Act

20.2 If Vendor is an individual and this contract is worth more than \$5000, Vendor certifies it shall not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance during the performance of the contract. 30 ILCS 580.

21. Vendor certifies that neither Vendor nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or the applicable regulations of the United States Department of Commerce. 30 ILCS 582. Vendor certifies that no foreign-made equipment, materials, or supplies furnished to the State under the contract have been or will be produced in whole or in part by forced labor or indentured labor under penal sanction. 30 ILCS 583.
22. Vendor certifies that no foreign-made equipment, materials, or supplies furnished to the State under the contract have been produced in whole or in part by the labor of any child under the age of 12. 30 ILCS 584.
23. This applies to information technology contracts and is otherwise not applicable. Vendor certifies that information technology, including electronic information, software, systems and equipment, developed or provided under this contract comply with the applicable requirements of the Illinois Information Technology Accessibility Act Standards as published at (www.dhs.state.il.us/iitaa). 30 ILCS 587.
24. **This only applies to vendors who own residential buildings but is otherwise not applicable.** Vendor certifies, if it owns residential buildings, that any violation of the Lead Poisoning Prevention Act has been mitigated. 410 ILCS 45.
25. Vendor certifies it has not been convicted of the offense of bid rigging or bid rotating or any similar offense of any state or of the United States. 720 ILCS 5/33 E-3, E-4.
26. Vendor certifies it complies with the Illinois Department of Human Rights Act and rules applicable to public contracts, which include providing equal employment opportunity, refraining from unlawful discrimination, and having written sexual harassment policies. 775 ILCS 5/2-105.
27. Vendor certifies it does not pay dues to or reimburse or subsidize payments by its employees for any dues or fees to any "discriminatory club." 775 ILCS 25/2.
28. Vendor warrants and certifies that it and, to the best of its knowledge, its subcontractors have and will comply with Executive Order No. 1 (2007). The Order generally prohibits Vendors and subcontractors from hiring the then-serving Governor's family members to lobby procurement activities of the State, or any other unit of government in Illinois including local governments if that procurement may result in a contract valued at over \$25,000. This prohibition also applies to hiring for that same purpose any former State employee who had procurement authority at any time during the one-year period preceding the procurement lobbying activity.
29. Vendor certifies that if an individual, sole proprietor, partner or an individual as a member of a LLC, he/she has not received an early retirement incentive prior to 1993 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code or an early retirement incentive on or after 2002 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code. 30 ILCS 105/15a; 40 ILCS 5/14-108.3; 40 ILCS 5/16-133.
30. Vendor certifies that it has read, understands, and is in compliance with the registration requirements of the Elections Code (10 ILCS 5/9-35) and the restrictions on making political contributions and related requirements of the Illinois Procurement Code. Vendor will not make a political contribution that will violate these requirements. 30 ILCS 500/20-160 and 50-37.
31. A person (other than an individual acting as a sole proprietor) must be a duly constituted legal entity and authorized to transact business or conduct affairs in Illinois prior to submitting a bid or offer. If you do not meet these criteria, then your bid or offer will be disqualified. 30 ILCS 500/20-43.

Additional Terms:

Assignment and Subcontracting: (30 ILCS 500/20-120) Any contract may not be assigned or transferred in whole or in part by Vendor without the prior written consent of the University. For purposes of this section, subcontractors are those specifically hired by the Vendor to perform all or part of the work covered by the contract. Vendor shall describe the names and addresses of all subcontractors to be utilized by Vendor in the performance of the resulting contract, together with a description of the work to be performed by the subcontractor and the anticipated amount of money that each subcontractor is expected to receive pursuant to a subsequent contract. Vendor shall notify the University in writing of any additional or substitute subcontractors hired during the term of a resulting contract, and shall supply the names and addresses and the expected amount of money that each new or replaced subcontractor will receive pursuant to the Contract. All subcontracts must include the same certifications and disclosures that Vendor must make as a condition of their contract.

Audit / Retention of Records: (30 ILCS 500/20-65) Vendor and its subcontractors shall maintain books and records relating to the performance of the resulting contract or subcontract and necessary to support amounts charged to the University. Books and records, including information stored electronically, shall be maintained by the Vendor for a period of three years from the later of the date of final payment under the contract or completion of the contract, and by the subcontractor for a period of three years from the later of final payment under the term or completion of the subcontract. If federal funds are used to pay contract costs, the Vendor and its subcontractors must retain its records for a minimum of five years after completion of work. Books and records required to be maintained under this section shall be available for review or audit by representatives of: the University, the Auditor General, the Executive Inspector General, the Chief Procurement Officer, State of Illinois internal auditors or other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. Vendor and its subcontractors shall cooperate fully with any such audit and with any investigation conducted by any of these entities. Failure to maintain books and records required by this section shall establish a presumption in favor of the University for the recovery of any funds paid by the University under the contract for which adequate books and records are not available to support the purported disbursement. The Vendor or subcontractors shall not impose a charge for audit or examination of the Vendor's books and records.

Availability of Appropriation (30 ILCS 500/20-60): Any resulting contract is contingent upon and subject to the availability of funds. The University, at its sole option, may terminate or suspend this contract, in whole or in part, without penalty or further payment being required, if the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay such obligation. If funds needed are insufficient for any reason, the University has discretion on which contracts will be funded.

Transportation Sustainability Procurement Program Act (30 ILCS 530/10 (b): All contracts for freight, small package delivery, and any transportation of cargo require providers to report the amount of energy the service provider consumed to provide those services to the State and the amount of associated greenhouse gas emissions, including energy use and greenhouse gases emitted as a result of the provider's use of electricity in its facilities and the energy use and greenhouse gas emissions by the service provider's subcontractors in the performance of those services.

Expatriated Entity: For purposes of this provision, an expatriated entity is an entity that meets the definition outlined in 30 ILCS 500/1-15.120. Per 30 ILCS 500/50-17, no business or member of a unitary business group, as defined in the Illinois Income Tax Act, shall enter into a contract with a State agency under this Code if that business or any member of the unitary business group is an expatriated entity unless the Chief Procurement Officer:

- a) Has determined the contract is awarded as a sole source; or
- b) the purchase is of pharmaceutical products, drugs, biologics, vaccines, medical supplies, or devices used to provide medical and health care or treat disease or used in medical or research diagnostic tests, and medical nutritionals regulated by the Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act.

Sexual Harassment Policy: Per 30 ILCS 500/50-80, Vendor agrees that it has a sexual harassment policy that meets the requirements of or is otherwise in accordance with Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105). Vendor agrees to provide a copy of the policy to the University upon request.