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**STATE OF OKLAHOMA STATEWIDE CONTRACT NO. 1023 WITH THE  
EDMENTUM, INC.**

This State of Oklahoma Statewide Contract No. 1023 - Online Course Curriculum for K-12 Education (“Contract”) is entered into between the State of Oklahoma by and through the Office of Management and Enterprise Services (“State”) and Edmentum, Inc. (“Supplier”) and is effective as of the date of last signature to this Contract. The initial term of the Contract shall be for 1 year with six (6) one-year options to renew.

**Purpose**

The State is awarding this Contract to Supplier for the provision of online course curriculum and other digital tools to enhance K-12 education, as more particularly described in certain Contract Documents. Supplier submitted a proposal with exceptions, master terms, additional terms, and confidentiality requests. This Contract memorializes the agreement of the parties with respect to the terms of the Contract that is being awarded to Supplier.

Now, therefore, in consideration of the foregoing and the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties agree as follows:

1. The parties agree that Supplier has not yet begun performance of work under this Contract. Upon full execution of this Contract, Supplier may begin work. Issuance of a purchase order is required prior to payment to a Supplier.
2. The following Contract Documents are attached hereto and incorporated herein:
  - 2.1. Solicitation, Attachment A;
  - 2.2. General Terms, Attachment B;
  - 2.3. Statewide Contract Terms, Attachment C;
  - 2.4. Information Technology Terms, Attachment D;
  - 2.5. Additional Terms, Attachment E1;
  - 2.6. Master Terms, Attachment E2;
  - 2.7. Pricing, Attachment E3;
  - 2.8. Value Add, Attachment E4;
  - 2.9. Third Party Terms, Attachment E5; and
  - 2.10. Exceptions, Attachment F.

3. The parties additionally agree:
  - 3.1. Except for financial information and information deemed confidential by the State pursuant to applicable law, rule, regulation, or policy, the parties agree Contract terms and information are not confidential and are disclosable without further approval of or notice to Supplier.
  - 3.2. To the extent any term or condition in any Contract Document, including via a hyperlink or uniform resource locator, conflicts with an applicable Oklahoma and/or United States law or regulation, such term or condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, the State or Customer makes no representation or warranty regarding the enforceability of such term or condition and the State or Customer does not waive the applicable Oklahoma and/or United States law or regulation which conflicts with the term or condition.
  - 3.3. Any other third party product terms and conditions or clauses in an electronic license, subscription, maintenance, support or similar agreement shall be binding only upon the State's written acceptance of those additional terms.
  - 3.4. The Supplier's response to Specifications and Requirements are incorporated by reference into this Contract.
  - 3.5. To the extent any term or condition in the vendor's contract documents, Attachments E1 through E5, including any hyperlink or uniform resource locator, conflict with applicable term or condition in Attachments A through D and F the terms in Attachments A through D and F shall control. The State does not agree to any additional duties, obligations, or liabilities, other than the negotiated exceptions outlined in Attachment F.
4. Any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.

**STATE OF OKLAHOMA**  
**by and through the**  
**OFFICE OF MANAGEMENT AND**  
**ENTERPRISE SERVICES**

**EDMENTUM, INC.**

By:   
Joe McIntosh (Sep 12, 2024 15:25 CDT)

Name: Joe McIntosh

Title: CIO

Date: Sep 12, 2024

By: 

Name: Jamie Candee

Title: President / CEO

Date: 9/11/2024

**ATTACHMENT A**  
**EVENT NO. 00000425**

This Solicitation is a Contract Document and is a request for proposal in connection with the Contract awarded by the Office of Management and Enterprise Services as more particularly described below. Any defined term used herein but not defined herein shall have the meaning ascribed in the General Terms or other Contract Document.

**PURPOSE**

The Contract is awarded as a statewide contract on behalf of the Information Services Division (ISD) is seeking qualified suppliers for providing online course curriculum and other digital tools to enhance K-12 education. Oklahoma Statute 70-1-111 makes supplemental learning opportunities available to local school district students using online technology in a nontraditional classroom setting.

**Contract Term and Renewal Options**

The initial Contract term, which begins on effective date of Contract, is one year and there are Six (6) one-year options to renew the Contract to run consecutive with SW1023.

**Scope**

To have products listed with the Horizon Consortium, vendors must first be approved as supplier through the Oklahoma Management and Enterprise System (OMES). Potential vendors must respond to this Request for Proposal (RFP) and provide all required documentation according to the deadline listed in the RFP solicitation.

- 1) Bidders must agree to abide by the following:
  - a) Oklahoma Online Course Catalog
    - i) Upon execution of contract, bidder will provide to Horizon all relevant information needed to complete required fields in the Oklahoma Online Course Catalog. Entries must be verified annually.
- 2) Course review requirements
  - a) Online Course Providers must supply the following at the time of course review:
    - i) The name of the institution or organization providing the online content;
    - ii) Course title and subject code (using appropriate course title and subject code as established by the Oklahoma State Department of Education's approved Subject Codes for the appropriate academic year);
    - iii) Number of students who may be admitted to the course per instructor;

- iv) Explanation of the alignment between Oklahoma content standards and course content and assignments;
  - v) Instructor credentials and qualifications;
  - vi) Course NCAA eligibility status.
- 3) At the time of the course review, guest access to the course will be required for the reviewers. If substantive changes are made to a course since its last certification, it must be submitted for review regardless of its current status in the review cycle. Substantive changes would include altering the intended course outcomes, significantly changing instructional strategies or assessment protocols used in the course as a whole, or any revision that impacts standards alignment. Only courses certified (or pending review) by the Statewide Virtual Charter School Board will be accepted into the Oklahoma Online Course Catalog.
  - 4) Course Providers whose courses have undergone review and approval by a recognized third-party entity must provide the results of those reviews. Depending on the results of the external review, a course may be recommended for state certification with no additional review or with a modified review process (e.g. review only for alignment to state standards).
  - 5) Course Providers of Advanced Placement (AP) courses must provide the results of their College Board AP Course Audit and Authorization. No other course evaluation will be conducted for AP Courses. If a course is authorized by the College Board as an AP course, it is automatically listed as “state-certified” in the Oklahoma Online Course Catalog. Online Providers must provide evidence annually of AP Authorization Renewal.
  - 6) Course review and certification process
  - 7) All approved vendors will have the online courses they submitted published in the Oklahoma Online Course Catalog and reviewed according to the schedule adopted by HORIZON.
  - 8) Course reviews will be conducted by content experts and pedagogical experts selected by Horizon. Courses will be evaluated using rubrics to determine alignment with the current academic standards approved by the State of Oklahoma (or nationally/ internationally accepted content standards set for courses whose content is not included in state standards) and national standards for quality in online course design. Course Providers whose courses have undergone review and approval by a recognized third-party entity must provide the results of those reviews. Depending on the results of the external review, a course may be recommended for state certification with no additional review or with a modified review process (e.g. review only for alignment to state standards). Online Course Providers of Advanced Placement (AP) courses must provide the results of the AP Course Audit and Authorization. No other course evaluation will be conducted for AP Courses. Online Providers must provide evidence annually of AP Authorization Renewal.
  - 9) If results of the initial review suggest that a course will not be recommended for certification, the Course Provider will be contacted with the review results and will have fifteen (15) calendar days to revise material or provide additional information pertinent to the review. These revisions will be examined by the course reviewers and, if appropriate, the rubric scores will be modified. Once the course review is complete, results of the evaluation will be presented to the Statewide Virtual Charter School Board (SVCSB). Horizon will consider the evidence and vote whether to certify or not certify the course. The decision will be made on a simple majority vote. If Horizon votes to not certify a course, the course will be removed from the Oklahoma Online Course Catalog and the Course Provider will be notified of the reasons the course was not certified. The Course Provider may revise the course and resubmit for additional Course Review and certification consideration. Resubmitted courses will be

reviewed after all submitted courses have undergone an initial review. Courses approved will be certified for a five-year period. After which, Course Providers must apply for renewal. Certified courses will be identified as such and have their course review ratings published in the Oklahoma Online Course Catalog available on the OSOCP website. Courses pending review will be identified as such in the Oklahoma Online Course Catalog.

- 10) Certified courses remaining in good standing
- 11) To remain in good standing and have a course(s) continuously listed in the Oklahoma Online Course Catalog through the entirety of the approval period, Course Providers agree to:
- 12) Maintain their vendor status.
- 13) Notify Horizon of any additions, deletions or changes to certified courses by completing the online form located on the OSOCP website.
- 14) Serve all enrolled students, regardless of number enrolled in a section so that Receiver Districts have reliable course options for students.
- 15) Provide online instructors who are 1) certified in Oklahoma or another state to teach in the content area of the course offered; or 2) a faculty member at an accredited institution of higher education, possessing the specific content expertise necessary to teach the course. Additionally, the Course Provider shall supply certification or applicable credentialing documentation to Horizon as part of the course review process and within ten (10) working days upon the hire of any new instructors for any certified course. The Course Provider shall be responsible for such obligation regardless of whether instructors are employees of the Course Provider, independent contractors, or employees of a third-party course vendor. Course Providers shall take all steps necessary to verify the qualifications of non-employee instructors.
- 16) Notify SVCSB in writing within ten (10) working days if for any reason an online instructor no longer meets the requirements to teach a course offered. The name and credentials of the replacement instructor must also be provided at that time.
- 17) Refer only to courses currently certified and listed in the Oklahoma Online Course Catalog as “Statewide Virtual Charter School Board approved.”
- 18) Own, secure, and/or maintain licensure and copyright for all courses offered in the Oklahoma Online Course Catalog.
- 19) Course Providers of Advanced Placement (AP) courses must provide evidence annually of AP Authorization Renewal.
- 20) Refrain from significantly modifying or changing courses without prior notice and approval from Horizon. Course Providers shall provide written notice of any planned modification in sufficient detail for SVCSB Course Reviewers to determine whether the course continues to satisfy all requirements. Failure to obtain written approval may result in removal of the course from the approved catalog.
- 21) Ensure that each certified course is maintained throughout the duration that the course is offered and continues to meet the current academic standards approved by the State of Oklahoma; national standards for quality in online course design; and Oklahoma’s Information Technology Accessibility Standards.
- 22) Employ the appropriate course title and subject code as established by the Oklahoma State Department of Education’s approved Subject Codes for the appropriate academic year for the purpose of data collection.
- 23) Report aggregate student success data to the SVSCB in the requested format and by the timeline set. Horizon does not collect individual student information. By August 1 of each

year, the Course Provider will report the following aggregate student success data to Horizon:

- (1) Total number of unique Oklahoma students;
  - (2) Total number of courses taken by Oklahoma students;
  - (3) Number of students in each course (both overall number and Oklahoma students);  
and
  - (4) Successful completion rate (number and percent) of each course (i.e. X#/60% of students enrolled in X successfully completed the course). Include both overall rates and Oklahoma-specific rates.
- 24) Course providers will be notified if a course(s) is found to be noncompliant and will have fifteen (15) business days after notification to bring the course(s) into compliance. If the course(s) is still noncompliant at the end of this period, the course certification will be revoked and the course will be removed from the Oklahoma Online Course Catalog.
  - 25) Process for course certification renewal
  - 26) Courses that remain in good standing are certified for a period of five years. Course Providers may apply for renewal of their course certification six months prior to the completion of the course approval period.
  - 27) Course Providers will notify Horizon of their intent to apply for renewal by submitting all documents listed in the Course Review Requirements. Course Providers who have maintained their "good standing" status throughout the course approval period will have their courses reviewed and considered for certification following a similar procedure as their initial Course Review and Certification Process. Aggregate student success data will be considered in renewal decisions. Additionally, Horizon may survey districts to collect satisfaction data and those data may also be considered in renewal decisions.
  - 28) Course Providers who have not maintained a "good standing" status must provide documentation explaining the lapse in "good standing" status and the protocols that are in place to prevent such a lapse in the future.

## Exhibit #1

### Requirements

#### 1. Mandatory Requirements for Digital Tool Providers

- a. At the time of RFP submission, digital tool vendors must submit a list of digital resources they wish to include in the Horizon Consortium toolkit. The list should include:
  - i. The product name
  - ii. How the product interfaces with other technologies, including minimum operational requirements
  - iii. The product price. Each product offered through the Horizon Consortium must be offered at a price that does not exceed the lowest price at which the product is offered for use or sale to any state, public school, or school district in the United States. The price of any item or service must automatically be reduced to the extent that, and at the same time as, the price is reduced or offered for a lesser fee elsewhere in the United States.

#### 2. Mandatory Requirements for Online Course Providers

- a. Courses for Submission
  - i. At the time of RFP submission, course providers must submit a list of courses they wish to include in the Oklahoma Online Course Catalog. The list should include:
    - a) The course title
    - b) Whether the course delivery format is content-only, instructor-embedded, or both
    - c) The course price). Each course offered through the Oklahoma Online Course Catalog must be offered at a price that does not exceed the lowest price at which the course is offered for use or sale to any state, public school, or school district in the United States. The price of any course or item or service for the course must automatically be reduced to the extent that, and at the same time as, the price is reduced or offered for a lesser fee elsewhere in the United States. A course or item or service for the course must be provided free of charge or at a price discount to the same extent that it is provided to any state, public school, or school district anywhere in the United States.
- b. Hosted Solution Security
  - i. Course Providers acknowledge and agree to the following with their bid submission; all prospective vendors must answer the following questions in their responses:
    - a. Does the vendor or supplier have an information security policy in place? If so, please provide a copy
    - b. Does the vendor or supplier provide information security awareness training? If so, please describe the information covered and the frequency at which the training is required.

- c. Does the vendor or supplier separate physical access between their suppliers, vendors from the access that employees have?
- d. Is an inventory or register maintained with the assets associated with each information system? If so, please describe.
- e. Are the security roles and responsibilities outlined in the Organizations Information Security Policy documented? If so, please tell us what section in the document provided above.
- f. Were verification checks performed on permanent staff at the time of job applications? If so, please describe the verifications completed.
- g. Did these pre-employment checks include character reference, confirmation of academic and professional qualifications, and independent identity checks?
- h. Were employees required to sign a Confidentially or Non-disclosure Agreements as part of their initial terms and conditions of employment? Is so, please provide a copy of a blank agreement.
- i. Is there a procedure in place to report security incidents through management channels as quickly as possible? If so, please describe.
- j. What physical border security facilities (such as card control entry gates, walls, or manned reception areas) have been implemented to protect the information processing service?
- k. Have controls been adopted to minimize risk from potential threats such as theft, fire, explosives, smoke, water, dust, vibration, chemical effects, electrical supply interfaces electromagnetic radiation flood, etc.? If so, please describe.
- l. Are there policies and procedures such as back-up, equipment maintenance etc. in place? If so, please describe.
- m. Are audit logs maintained for any changes made to the productions programs?
- n. Is there a managed process in place for developing a maintained business continuity throughout the organizations? This might include organizational wide business plan, regular testing and updating of the plan, formulating documenting a business continuity strategy, etc. If so, please describe.
- o. Have all relevant statutory, regulatory, and contractual requirements been explicitly defined and documented for each information system? If so, please describe.
- p. Does the organization undergo regular risk assessments for security threats and risks as well as compliance to security and regulatory policies? If so, please describe.

c. Additional Documentation to be provided as applicable

- i. Any bid shall include, as applicable, hosting provisions, Service Level Agreements (SLA's), Billing Information, Documentation, Training Account Team/Support Provision, Escalation Process and Pricing for each service. Such provisions, SLA's and other information are subject to negotiations and

additional provisions related to hosting services and SLA's may be required prior to any award being issued.

- a. A Service Level Agreement (SLA) outlines the minimum service that a customer may expect for services, warranties, and support.
- b. Billing Information outlines what information is provided in billing and how it is delivered.
- c. Documentation outlines how detailed documents of services that are provided to entities on an on-going basis to include services by location and account information can be obtained.
- d. Training outlines the general requirements for providing training for implementing and using the solution at the End-User level and at Administrative/Operational Personnel levels.
- e. Account Team and Support Provisions outline the Suppliers capabilities of providing world class support and account service.
- f. Escalation Process outlines the predetermined levels of escalation in the event of an emergency.

## **ATTACHMENT B**

### **STATE OF OKLAHOMA GENERAL TERMS**

This State of Oklahoma General Terms (“General Terms”) is a Contract Document in connection with a Contract awarded by the Office of Management and Enterprise Services on behalf of the State of Oklahoma.

In addition to other terms contained in an applicable Contract Document, Supplier and State agree to the following General Terms:

#### **1 Scope and Contract Renewal**

- 1.1** Supplier may not add products or services to its offerings under the Contract without the State’s prior written approval. Such request may require a competitive bid of the additional products or services. If the need arises for goods or services outside the scope of the Contract, Supplier shall contact the State.
- 1.2** At no time during the performance of the Contract shall the Supplier have the authority to obligate any Customer for payment for any products or services (a) when a corresponding encumbering document is not signed or (b) over and above an awarded Contract amount. Likewise, Supplier is not entitled to compensation for a product or service provided by or on behalf of Supplier that is neither requested nor accepted as satisfactory.
- 1.3** If applicable, prior to any Contract renewal, the State shall subjectively consider the value of the Contract to the State, the Supplier’s performance under the Contract, and shall review certain other factors, including but not limited to the: a) terms and conditions of Contract Documents to determine validity with current State and other applicable statutes and rules; b) current pricing and discounts offered by Supplier; and c) current products, services and support offered by Supplier. If the State determines changes to the Contract are required as a condition precedent to renewal, the State and Supplier will cooperate in good faith to evidence such required changes in an Addendum. Further, any request for a price increase in connection with a renewal or otherwise will be conditioned on the Supplier providing appropriate documentation supporting the request.
- 1.4** The State may extend the Contract for ninety (90) days beyond a final renewal term at the Contract compensation rate for the extended period. If the State exercises such option to extend ninety (90) days, the State shall notify the

Supplier in writing prior to Contract end date. The State, at its sole option and to the extent allowable by law, may choose to exercise subsequent ninety (90) day extensions at the Contract pricing rate, to facilitate the finalization of related terms and conditions of a new award or as needed for transition to a new Supplier.

- 1.5** Supplier understands that supplier registration expires annually and, pursuant to OAC 260:115-3-3, Supplier shall maintain its supplier registration with the State as a precondition to a renewal of the Contract.

## **2 Contract Effectiveness and Order of Priority**

- 2.1** Unless specifically agreed in writing otherwise, the Contract is effective upon the date last signed by the parties. Supplier shall not commence work, commit funds, incur costs, or in any way act to obligate the State until the Contract is effective.

- 2.2** Contract Documents shall be read to be consistent and complementary. Any conflict among the Contract Documents shall be resolved by giving priority to Contract Documents in the following order of precedence:

- A.** any Addendum;
- B.** any applicable Solicitation;
- C.** any Contract-specific terms contained in a Contract Document including, without limitation, information technology terms and terms specific to a statewide Contract or a State agency Contract;
- D.** the terms contained in this Contract Document;
- E.** any successful Bid as may be amended through negotiation and to the extent the Bid does not otherwise conflict with the Solicitation or applicable law;
- F.** any statement of work, work order, or other similar ordering document as applicable; and
- G.** other mutually agreed Contract Documents.

- 2.3** If there is a conflict between the terms contained in this Contract Document or in Contract-specific terms and an agreement provided by or on behalf of Supplier including but not limited to linked or supplemental documents which alter or diminish the rights of Customer or the State, the conflicting terms provided by Supplier shall not take priority over this Contract Document or

Acquisition-specific terms. In no event will any linked document alter or override such referenced terms except as specifically agreed in an Addendum.

2.4 Any Contract Document shall be legibly written in ink or typed. All Contract transactions, and any Contract Document related thereto, may be conducted by electronic means pursuant to the Oklahoma Uniform Electronic Transactions Act.

### 3 **Modification of Contract Terms and Contract Documents**

3.1 The Contract may only be modified, amended, or expanded by an Addendum. Any change to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials made unilaterally by the Supplier, is a material breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including without limitation, any unauthorized written Contract modification, shall be void and without effect and the Supplier shall not be entitled to any claim under the Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the Contract.

3.2 Any additional terms on an ordering document provided by Supplier are of no effect and are void unless mutually executed. OMES bears no liability for performance, payment or failure thereof by the Supplier or by a Customer other than OMES in connection with an Acquisition.

### 4 **Definitions**

In addition to any defined terms set forth elsewhere in the Contract, the Oklahoma Central Purchasing Act and the Oklahoma Administrative Code, Title 260, the parties agree that, when used in the Contract, the following terms are defined as set forth below and may be used in the singular or plural form:

4.1 **Acquisition** means items, products, materials, supplies, services and equipment acquired by purchase, lease purchase, lease with option to purchase, value provided or rental under the Contract.

4.2 **Addendum** means a mutually executed, written modification to a Contract Document.

4.3 **Amendment** means a written change, addition, correction or revision to the Solicitation.

4.4 **Bid** means an offer a Bidder submits in response to the Solicitation.

- 4.5 **Bidder** means an individual or business entity that submits a Bid in response to the Solicitation.
- 4.6 **Contract** means the written, mutually agreed and binding legal relationship resulting from the Contract Documents and an appropriate encumbering document as may be amended from time to time, which evidences the final agreement between the parties with respect to the subject matter of the Contract.
- 4.7 **Contract Document** means this document; any master or enterprise agreement terms entered into between the parties that are mutually agreed to be applicable to the Contract; any Solicitation; any Contract-specific terms; any Supplier's Bid as may be negotiated; any statement of work, work order, or other similar mutually executed ordering document; other mutually executed documents and any Addendum.
- 4.8 **Customer** means the entity receiving goods or services contemplated by the Contract.
- 4.9 **Debarment** means action taken by a debarring official under federal or state law or regulations to exclude any business entity from inclusion on the Supplier list; bidding; offering to bid; providing a quote; receiving an award of contract with the State and may also result in cancellation of existing contracts with the State.
- 4.10 **Destination** means delivered to the receiving dock or other point specified in the applicable Contract Document.
- 4.11 **Indemnified Parties** means the State and Customer and/or its officers, directors, agents, employees, representatives, contractors, assignees and designees thereof.
- 4.12 **Inspection** means examining and testing an Acquisition (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether the Acquisition meets Contract requirements.
- 4.13 **Moral Rights** means any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.
- 4.14 **OAC** means the Oklahoma Administrative Code.
- 4.15 **OMES** means the Office of Management and Enterprise Services.

- 4.16 Solicitation** means the document inviting Bids for the Acquisition referenced in the Contract and any amendments thereto.
- 4.17 State** means the government of the state of Oklahoma, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the state of Oklahoma.
- 4.18 Supplier** means the Bidder with whom the State enters into the Contract awarded pursuant to the Solicitation or the business entity or individual that is a party to the Contract with the State.
- 4.19 Suspension** means action taken by a suspending official under federal or state law or regulations to suspend a Supplier from inclusion on the Supplier list; be eligible to submit Bids to State agencies and be awarded a contract by a State agency subject to the Central Purchasing Act.
- 4.20 Supplier Confidential Information** means certain confidential and proprietary information of Supplier that is clearly marked as confidential and agreed by the State Purchasing Director or Customer, as applicable, but does not include information excluded from confidentiality in provisions of the Contract or the Oklahoma Open Records Act.
- 4.21 Work Product** means any and all deliverables produced by Supplier under a statement of work or similar Contract Document issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the Contract effective date including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided by or on behalf of Supplier under the Contract and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created,

prepared, developed, invented or conceived for the use of benefit of Customer in connection with this Contract or with funds appropriated by or for Customer or Customer's benefit (a) by any Supplier personnel or Customer personnel or (b) any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

## **5 Pricing**

- 5.1** Pursuant to 68 O.S. §§ 1352, 1356, and 1404, State agencies are exempt from the assessment of State sales, use, and excise taxes. Further, State agencies and political subdivisions of the State are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Any taxes of any nature whatsoever payable by the Supplier shall not be reimbursed.
- 5.2** Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price.
- 5.3** The price of a product offered under the Contract shall include and Supplier shall prepay all shipping, packaging, delivery and handling fees. All product deliveries will be free on board Customer's Destination. No additional fees shall be charged by Supplier for standard shipping and handling. If Customer requests expedited or special delivery, Customer may be responsible for any charges for expedited or special delivery.

## **6 Ordering, Inspection, and Acceptance**

- 6.1** Any product or service furnished under the Contract shall be ordered by issuance of a valid purchase order or other appropriate payment mechanism, including a pre-encumbrance, or by use of a valid Purchase Card. All orders and transactions are governed by the terms and conditions of the Contract. Any purchase order or other applicable payment mechanism dated prior to termination or expiration of the Contract shall be performed unless mutually agreed in writing otherwise.
- 6.2** Services will be performed in accordance with industry best practices and are subject to acceptance by the Customer. Notwithstanding any other provision in the Contract, deemed acceptance of a service or associated deliverable shall not apply automatically upon receipt of a deliverable or upon provision of a service.

Supplier warrants and represents that a product or deliverable furnished by or through the Supplier shall individually, and where specified by Supplier to perform as a system, be substantially uninterrupted and error-free in operation and guaranteed against faulty material and workmanship for a warranty period of the greater of ninety (90) days from the date of acceptance or the maximum allowed by the manufacturer. A defect in a product or deliverable furnished by or through the Supplier shall be repaired or replaced by Supplier at no additional cost or expense to the Customer if such defect occurs during the warranty period.

Any product to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the Customer at Destination. The Customer assumes no responsibility for a product until accepted by the Customer. Title and risk of loss or damage to a product shall be the responsibility of the Supplier until accepted. The Supplier shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.

Pursuant to OAC 260:115-9-5, payment for an Acquisition does not constitute final acceptance of the Acquisition. If subsequent inspection affirms that the Acquisition does not meet or exceed the specifications of the order or that the Acquisition has a latent defect, the Supplier shall be notified as soon as is reasonably practicable. The Supplier shall retrieve and replace the Acquisition at Supplier's expense or, if unable to replace, shall issue a refund to Customer. Refund under this section shall not be an exclusive remedy.

- 6.3** Supplier shall deliver products and services on or before the required date specified in a Contract Document. Failure to deliver timely may result in liquidated damages as set forth in the applicable Contract Document. Deviations, substitutions, or changes in a product or service, including changes of personnel directly providing services, shall not be made unless expressly authorized in writing by the Customer. Any substitution of personnel directly providing services shall be a person of comparable or greater skills, education and experience for performing the services as the person being replaced. Additionally, Supplier shall provide staff sufficiently experienced and able to perform with respect to any transitional services provided by Supplier in connection with termination or expiration of the Contract.
- 6.4** Product warranty and return policies and terms provided under any Contract Document will not be more restrictive or more costly than warranty and return policies and terms for other similarly situated customers for a like product.

## **7 Invoices and Payment**

**7.1** Supplier shall be paid upon submission of a proper invoice(s) at the prices stipulated in the Contract in accordance with 74 O.S. §85.44B which requires that payment be made only after products have been provided and accepted or services rendered and accepted.

The following terms additionally apply:

- A.** An invoice shall contain the purchase order number, description of products or services provided and the dates of such provision.
- B.** Failure to provide a timely and proper invoice may result in delay of processing the invoice for payment. Proper invoice is defined at OAC 260:10-1-2.
- C.** Payment of all fees under the Contract shall be due NET 45 days. Payment and interest on late payments are governed by 62 O.S. §34.72. Such interest is the sole and exclusive remedy for late payments by a State agency and no other late fees are authorized to be assessed pursuant to Oklahoma law.
- D.** The date from which an applicable early payment discount time is calculated shall be from the receipt date of a proper invoice. There is no obligation, however, to utilize an early payment discount.
- E.** If an overpayment or underpayment has been made to Supplier any subsequent payments to Supplier under the Contract may be adjusted to correct the account. A written explanation of the adjustment will be issued to Supplier.
- F.** Supplier shall have no right of setoff.
- G.** Because funds are typically dedicated to a particular fiscal year, an invoice will be paid only when timely submitted, which shall in no instance be later than six (6) months after the end of the fiscal year in which the goods are provided or services performed.
- H.** The Supplier shall accept payment by Purchase Card as allowed by Oklahoma law.

## **8 Maintenance of Insurance, Payment of Taxes, and Workers' Compensation**

**8.1** As a condition of this Contract, Supplier shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set

forth below and any approved subcontractor of Supplier shall procure and provide proof of the same coverage. The required insurance shall be underwritten by an insurance carrier with an A.M. Best rating of A- or better.

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a thirty (30) day notice of cancellation and name the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:

- A.** Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- B.** Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$5,000,000 per occurrence;
- C.** Automobile Liability Insurance with limits of liability of not less than \$5,000,000 combined single limit each accident;
- D.** Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per occurrence;
- E.** Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- F.** Additional coverage required in writing in connection with a particular Acquisition.

- 8.2** Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or its employees, agents and subcontractors of whatever kind, in connection with the Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.
- 8.3** Supplier agrees to indemnify Customer, the State, and its employees, agents, representatives, contractors, and assignees for any and all liability, actions, claims, demands, or suits, and all related costs and expenses (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) relating to tax liability, unemployment insurance and/or Workers' Compensation in connection with its performance under the Contract.

## **9 Compliance with Applicable Laws**

- 9.1** As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:
- A.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
  - B.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;
  - C.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
  - D.** 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
  - E.** Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93;

- F. Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
  - G. Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
  - H. Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify);
  - I. Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
  - J. Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.
- 9.2 The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at <https://oklahoma.gov/omes/services/information-services/policy-standards-publications.html>. Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.
- 9.3 At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.
- 9.4 In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory

contract provisions required in connection with the receipt of federal funds or other funding source.

- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.
- 9.10** If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant, Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such communication and any associated support documents in an alternate format

usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

## **10 Audits and Records Clause**

- 10.1** As used in this clause and pursuant to 67 O.S. §203, “record” includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.
- 10.2** The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.
- 10.3** Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

## **11 Confidentiality**

- 11.1** The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or any other persons or entities without Customer’s prior express written

permission. Supplier shall instruct all such persons and entities that the confidential information shall not be disclosed or used without the Customer's prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven system in effect designed to protect all confidential information.

- 11.2** Supplier shall establish, maintain and enforce agreements with all such persons and entities that have access to State and citizen data and records to fulfill Supplier's duties and obligations under the Contract and to specifically prohibit any sale, assignment, conveyance, provision, release, dissemination or other disclosure of any State or citizen data or records except as required by law or allowed by written prior approval of the Customer.
- 11.3** Supplier shall immediately report to the Customer any and all unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State or citizen data or records of which it or its parent company, subsidiaries, affiliates, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors is aware or have knowledge or reasonable should have knowledge. The Supplier shall also promptly furnish to Customer full details of the unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination, or attempt thereof, and use its best efforts to assist the Customer in investigating or preventing the reoccurrence of such event in the future. The Supplier shall cooperate with the Customer in connection with any litigation and investigation deemed necessary by the Customer to protect any State or citizen data and records and shall bear all costs associated with the investigation, response and recovery in connection with any breach of State or citizen data or records including but not limited to credit monitoring services with a term of at least three (3) years, all notice-related costs and toll free telephone call center services.
- 11.4** Supplier further agrees to promptly prevent a reoccurrence of any unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of State or citizen data and records.
- 11.5** Supplier acknowledges that any improper use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State data or records to others may cause immediate and irreparable harm to the Customer and certain beneficiaries and may violate state or federal laws and regulations. If the Supplier or its affiliates, parent company, subsidiaries, employees, officers, directors, assignees, agents,

representatives, independent contractors, and subcontractors improperly use, appropriate, sell, assign, convey, provide, release, access, acquire, disclose or otherwise disseminate such confidential information to any person or entity in violation of the Contract, the Customer will immediately be entitled to injunctive relief and/or any other rights or remedies available under this Contract, at equity or pursuant to applicable statutory, regulatory, and common law without a cure period.

**11.6** The Supplier shall immediately forward to the State Purchasing Director, and any other applicable person listed in the Notices section(s) of the Contract, any request by a third party for data or records in the possession of the Supplier or any subcontractor or to which the Supplier or subcontractor has access and Supplier shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.

**11.7** Customer may be provided access to Supplier Confidential Information. State agencies are subject to the Oklahoma Open Records Act and Supplier acknowledges information marked confidential information will be disclosed to the extent permitted under the Open Records Act and in accordance with this section. Nothing herein is intended to waive the State Purchasing Director's authority under OAC 260:115-3-9 in connection with Bid information requested to be held confidential by a Bidder. Notwithstanding the foregoing, Supplier Confidential Information shall not include information that: (i) is or becomes generally known or available by public disclosure, commercial use or otherwise and is not in contravention of this Contract; (ii) is known and has been reduced to tangible form by the receiving party before the time of disclosure for the first time under this Contract and without other obligations of confidentiality; (iii) is independently developed without the use of any of Supplier Confidential Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

## **12 Conflict of Interest**

In addition to any requirement of law or of a professional code of ethics or conduct, the Supplier, its employees, agents and subcontractors are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Prompt disclosure is required under this section if the activity or interest is

related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Further, as long as the Supplier has an obligation under the Contract, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State. Any conflict of interest shall, at the sole discretion of the State, be grounds for partial or whole termination of the Contract.

### **13 Assignment and Permitted Subcontractors**

**13.1** Supplier's obligations under the Contract may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Supplier assign its rights to payment, in whole or in part, under the Contract, Supplier shall provide the State and all affected Customers with written notice of the assignment. Such written notice shall be delivered timely and contain details sufficient for affected Customers to perform payment obligations without any delay caused by the assignment.

**13.2** Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.

**13.3** If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to

the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

**13.4** All payments under the Contract shall be made directly to the Supplier, except as provided in subsection A above regarding the Supplier's assignment of payment. No payment shall be made to the Supplier for performance by unapproved or disapproved employees of the Supplier or a subcontractor.

**13.5** Rights and obligations of the State or a Customer under the terms of this Contract may be assigned or transferred, at no additional cost, to other Customer entities.

#### **14 Background Checks and Criminal History Investigations**

Prior to the commencement of any services, background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required and, if so, the required information shall be provided to the State in a timely manner. Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State. The costs of additional background checks beyond Supplier's normal hiring practices shall be the responsibility of the Customer unless such additional background checks are required solely because Supplier will not provide results of its otherwise acceptable normal background checks; in such an instance, Supplier shall pay for the additional background checks. Supplier will coordinate with the State and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Supplier who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, the Customer may require replacement of the employee or subcontractor in question and, if no suitable replacement is made within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

#### **15 Patents and Copyrights**

Without exception, a product or deliverable price shall include all royalties or costs owed by the Supplier to any third party arising from the use of a patent, intellectual property, copyright or other property right held by such third party. Should any third party threaten or make a claim that any portion of a product or service provided by Supplier under the Contract infringes that party's patent, intellectual property,

copyright or other property right, Supplier shall enable each affected Customer to legally continue to use, or modify for use, the portion of the product or service at issue or replace such potentially infringing product, or re-perform or redeliver in the case of a service, with at least a functional non-infringing equivalent. Supplier's duty under this section shall extend to include any other product or service rendered materially unusable as intended due to replacement or modification of the product or service at issue. If the Supplier determines that none of these alternatives are reasonably available, the State shall return such portion of the product or deliverable at issue to the Supplier, upon written request, in exchange for a refund of the price paid for such returned goods as well as a refund or reimbursement, if applicable, of the cost of any other product or deliverable rendered materially unusable as intended due to removal of the portion of product or deliverable at issue. Any remedy provided under this section is not an exclusive remedy and is not intended to operate as a waiver of legal or equitable remedies because of acceptance of relief provided by Supplier.

## **16 Indemnification**

### **16.1 Acts or Omissions**

- A.** Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.
  
- B.** To the extent Supplier is found liable for loss, damage, or destruction of any property of Customer due to negligence, misconduct, wrongful act, or omission on the part of the Supplier, its employees, agents, representatives, or subcontractors, the Supplier and Customer shall use best efforts to mutually negotiate an equitable settlement amount to repair or replace the property unless such loss, damage or destruction is of such a magnitude that repair or replacement is not a reasonable option. Such amount shall be invoiced to, and is payable by, Supplier sixty (60) calendar days after the date of Supplier's receipt of an invoice for the negotiated settlement amount.

### **16.2 Infringement**

Supplier shall indemnify the Indemnified Parties, as applicable, for all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising from or in connection with Supplier's breach of its representations and warranties in the Contract or alleged infringement of any patent, intellectual property, copyright or other property right in connection with a product or service provided under the Contract. Supplier's duty under this section is reduced to the extent a claimed infringement results from: (a) a Customer's or user's content; (b) modifications by Customer or third party to a product delivered under the Contract or combinations of the product with any non-Supplier-provided services or products unless Supplier recommended or participated in such modification or combination; (c) use of a product or service by Customer in violation of the Contract unless done so at the direction of Supplier, or (d) a non-Supplier product that has not been provided to the State by, through or on behalf of Supplier as opposed to its combination with products Supplier provides to or develops for the State or a Customer as a system.

### **16.3 Notice and Cooperation**

In connection with indemnification obligations under the Contract, the parties agree to furnish prompt written notice to each other of any third-party claim. Any Customer affected by the claim will reasonably cooperate with Supplier and defense of the claim to the extent its interests are aligned with Supplier. Supplier shall use counsel reasonably experienced in the subject matter at issue and will not settle a claim without the written consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required to settle a claim against Indemnified Parties that are not a State agency, where relief against the Indemnified Parties is limited to monetary damages that are paid by the defending party under indemnification provisions of the Contract.

### **16.4 Coordination of Defense**

In connection with indemnification obligations under the Contract, when a State agency is a named defendant in any filed or threatened lawsuit, the defense of the State agency shall be coordinated by the Attorney General of Oklahoma, or the Attorney General may authorize the Supplier to control the defense and any related settlement negotiations; provided, however, Supplier shall not agree to any settlement of claims against the State without obtaining advance written concurrence from the Attorney General. If the Attorney General does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall have authorization to equally

participate in any proceeding related to the indemnity obligation under the Contract and shall remain responsible to indemnify the applicable Indemnified Parties.

## **16.5 Limitation of Liability**

- A.** With respect to any claim or cause of action arising under or related to the Contract, neither the State nor any Customer shall be liable to Supplier for lost profits, lost sales or business expenditures, investments, or commitments in connection with any business, loss of any goodwill, or for any other indirect, incidental, punitive, special or consequential damages, even if advised of the possibility of such damages.
- B.** Notwithstanding anything to the contrary in the Contract, no provision shall limit damages, expenses, costs, actions, claims, and liabilities arising from or related to property damage, bodily injury or death caused by Supplier or its employees, agents or subcontractors; indemnity, security or confidentiality obligations under the Contract; the bad faith, negligence, intentional misconduct or other acts for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors.
- C.** The limitation of liability and disclaimers set forth in the Contract will apply regardless of whether Customer has accepted a product or service. The parties agree that Supplier has set its fees and entered into the Contract in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties and form an essential basis of the bargain between the parties. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.

## **17 Termination for Funding Insufficiency**

- 17.1** Notwithstanding anything to the contrary in any Contract Document, the State may terminate the Contract in whole or in part if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. In the event of such insufficiency, Supplier will be provided at least fifteen (15) calendar days' written notice of termination. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated. The determination by the State of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.

**17.2** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contractor certain obligations are terminated shall be refunded.

**17.3** The State's exercise of its right to terminate the Contract under this section shall not be considered a default or breach under the Contract or relieve the Supplier of any liability for claims arising under the Contract.

## **18 Termination for Cause**

**18.1** Supplier may terminate the Contract if (i) it has provided the State with written notice of material breach and (ii) the State fails to cure such material breach within thirty (30) days of receipt of written notice. If there is more than one Customer, material breach by a Customer does not give rise to a claim of material breach as grounds for termination by Supplier of the Contract as a whole. The State may terminate the Contract in whole or in part if (i) it has provided Supplier with written notice of material breach, and (ii) Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.

**18.2** The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Supplier if (i) Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract; (ii) Supplier's material breach is reasonably determined to be an impediment to the function of the State and detrimental to the State or to cause a condition precluding the thirty (30) day notice or (iii) when the State determines that an administrative error in connection with award of the Contract occurred prior to Contract performance.

**18.3** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence

of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination is not an exclusive remedy but is in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

**18.4** The Supplier's repeated failure to provide an acceptable product or service; Supplier's unilateral revision of linked or supplemental terms that have a materially adverse impact on a Customer's rights or obligations under the Contract (except as required by a governmental authority); actual or anticipated failure of Supplier to perform its obligations under the Contract; Supplier's inability to pay its debts when due; assignment for the benefit of Supplier's creditors; or voluntary or involuntary appointment of a receiver or filing of bankruptcy of Supplier shall constitute a material breach of the Supplier's obligations, which may result in partial or whole termination of the Contract. This subsection is not intended as an exhaustive list of material breach conditions. Termination may also result from other instances of failure to adhere to the Contract provisions and for other reasons provided for by applicable law, rules or regulations; without limitation, OAC 260:115-9-9 is an example.

## **19 Termination for Convenience**

**19.1** The State may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in the State's best interest. In the event of a termination for convenience, Supplier will be provided at least thirty (30) days' written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.

**19.2** Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but

there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

## **20 Suspension of Supplier**

**20.1** Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.

**20.2** Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.

**20.3** Such Suspension may be removed, or suspended activity may resume, at the earlier of such time as a formal notice is issued that authorizes the resumption of performance under the Contract or at such time as a purchase order or other appropriate encumbrance document is issued. This subsection is not intended to operate as an affirmative statement that such resumption will occur.

## **21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

The certification made by Supplier with respect to Debarment, Suspension, certain indictments, convictions, civil judgments and terminated public contracts is a material representation of fact upon which reliance was placed when entering into the Contract.

A determination that Supplier knowingly rendered an erroneous certification, in addition to other available remedies, may result in whole or partial termination of the Contract for Supplier's default. Additionally, Supplier shall promptly provide written notice to the State Purchasing Director if the certification becomes erroneous due to changed circumstances.

## **22 Certification Regarding State Employees Prohibition From Fulfilling Services**

Pursuant to 74 O.S. § 85.42, the Supplier certifies that no person involved in any manner in development of the Contract employed by the State shall be employed to fulfill any services provided under the Contract.

## **23 Force Majeure**

**23.1** Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other similar casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event. If a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans to take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable.

**23.2** Subject to the conditions set forth above, non-performance as a result of a force majeure event shall not be deemed a default. However, a purchase order or other payment mechanism may be terminated if Supplier cannot cause delivery of a product or service in a timely manner to meet the business needs of Customer. Supplier is not entitled to payment for products or services not received and, therefore, amounts payable to Supplier during the force majeure event shall be equitably adjusted downward.

**23.3** Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier's system or any of Supplier's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Supplier's systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay

or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses Supplier's obligations related to confidentiality, indemnification, data security or breach notification obligations set forth herein.

## **24 Security of Property and Personnel**

In connection with Supplier's performance under the Contract, Supplier may have access to Customer personnel, premises, data, records, equipment and other property. Supplier shall use commercially reasonable best efforts to preserve the safety and security of such personnel, premises, data, records, equipment, and other property of Customer. Supplier shall be responsible for damage to such property to the extent such damage is caused by its employees or subcontractors and shall be responsible for loss of Customer property in its possession, regardless of cause. If Supplier fails to comply with Customer's security requirements, Supplier is subject to immediate suspension of work as well as termination of the associated purchase order or other payment mechanism.

## **25 Notices**

All notices, approvals or requests allowed or required by the terms of any Contract Document shall be in writing, reference the Contract with specificity and deemed delivered upon receipt or upon refusal of the intended party to accept receipt of the notice. In addition to other notice requirements in the Contract and the designated Supplier contact provided in a successful Bid, notices shall be sent to the State at the physical address set forth below. Notice information may be updated in writing to the other party as necessary. Notwithstanding any other provision of the Contract, confidentiality, breach and termination-related notices shall not be delivered solely via e-mail.

### **If sent to the State:**

State Purchasing Director  
2401 N. Lincoln Blvd., Suite 116  
Oklahoma City, Oklahoma 73105

### **With a copy, which shall not constitute notice, to:**

Purchasing Division Deputy General Counsel  
2401 N. Lincoln Blvd., Suite 116  
Oklahoma City, Oklahoma 73105

## **26 Miscellaneous**

### **26.1 Choice of Law and Venue**

Any claim, dispute, or litigation relating to the Contract Documents, in the singular or in the aggregate, shall be governed by the laws of the State without regard to application of choice of law principles. Pursuant to 74 O.S. §85.14, where federal granted funds are involved, applicable federal laws, rules and regulations shall govern to the extent necessary to insure benefit of such federal funds to the State. Venue for any action, claim, dispute, or litigation relating in any way to the Contract Documents, shall be in Oklahoma County, Oklahoma.

## **26.2 No Guarantee of Products or Services Required**

The State shall not guarantee any minimum or maximum amount of Supplier products or services required under the Contract.

## **26.3 Employment Relationship**

The Contract does not create an employment relationship. Individuals providing products or performing services pursuant to the Contract are not employees of the State or Customer and, accordingly are not eligible for any rights or benefits whatsoever accruing to such employees.

## **26.4 Transition Services**

If transition services are needed at the time of Contract expiration or termination, Supplier shall provide such services on a month-to-month basis, at the contract rate or other mutually agreed rate. Supplier shall provide a proposed transition plan, upon request, and cooperate with any successor supplier and with establishing a mutually agreeable transition plan. Failure to cooperate may be documented as poor performance of Supplier.

## **26.5 Publicity**

The existence of the Contract or any Acquisition is in no way an endorsement of Supplier, the products or services and shall not be so construed by Supplier in any advertising or publicity materials. Supplier agrees to submit to the State all advertising, sales, promotion, and other publicity matters relating to the Contract wherein the name of the State or any Customer is mentioned or language used from which, in the State's judgment, an endorsement may be inferred or implied. Supplier further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the Contract or any Acquisition hereunder without obtaining the prior written approval of the State.

## **26.6 Open Records Act**

Supplier acknowledges that all State agencies and certain other Customers are subject to the Oklahoma Open Records Act set forth at 51 O.S. §24A-1 *et seq.* Supplier also acknowledges that compliance with the Oklahoma Open Records Act and all opinions of the Oklahoma Attorney General concerning the Act is required.

## **26.7 Failure to Enforce**

Failure by the State or a Customer at any time to enforce a provision of, or exercise a right under, the Contract shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract Document, or any part thereof, or the right of the State or a Customer to enforce any provision of, or exercise any right under, the Contract at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract Document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Contract.

## **26.8 Mutual Responsibilities**

- A.** No party to the Contract grants the other the right to use any trademarks, trade names, other designations in any promotion or publication without the express written consent by the other party.
- B.** The Contract is a non-exclusive contract and each party is free to enter into similar agreements with others.
- C.** The Customer and Supplier each grant the other only the licenses and rights specified in the Contract and all other rights and interests are expressly reserved.
- D.** The Customer and Supplier shall reasonably cooperate with each other and any Supplier to which the provision of a product and/or service under the Contract may be transitioned after termination or expiration of the Contract.
- E.** Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by a party is required under the Contract, such action shall not be unreasonably delayed or withheld.

## **26.9 Invalid Term or Condition**

To the extent any term or condition in the Contract conflicts with a compulsory applicable State or United States law or regulation, such Contract term or

condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, no representation or warranty is made regarding the enforceability of such term or condition. Likewise, any applicable State or federal law or regulation which conflicts with the Contract or any non-conflicting applicable State or federal law or regulation is not waived.

#### **26.10 Severability**

If any provision of a Contract Document, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

#### **26.11 Section Headings**

The headings used in any Contract Document are for convenience only and do not constitute terms of the Contract.

#### **26.12 Sovereign Immunity**

Notwithstanding any provision in the Contract, the Contract is entered into subject to the State's Constitution, statutes, common law, regulations, and the doctrine of sovereign immunity, none of which are waived by the State nor any other right or defense available to the State.

#### **26.13 Survival**

As applicable, performance under all license, subscription, service agreements, statements of work, transition plans and other similar Contract Documents entered into between the parties under the terms of the Contract shall survive Contract expiration. Additionally, rights and obligations under the Contract which by their nature should survive including, without limitation, certain payment obligations invoiced prior to expiration or termination; confidentiality obligations; security incident and data breach obligations and indemnification obligations, remain in effect after expiration or termination of the Contract.

#### **26.14 Entire Agreement**

The Contract Documents taken together as a whole constitute the entire agreement between the parties. No statement, promise, condition,

understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid. The Supplier's representations and certifications, including any completed electronically, are incorporated by reference into the Contract.

#### **26.15 Gratuities**

The Contract may be immediately terminated, in whole or in part, by written notice if it is determined that the Supplier, its employee, agent, or another representative violated any federal, State or local law, rule or ordinance by offering or giving a gratuity to any State employee directly involved in the Contract. In addition, Suspension or Debarment of the Supplier may result from such a violation.

#### **26.16 Import/Export Controls**

Neither party will use, distribute, transfer or transmit any equipment, services, software or technical information provided under the Contract (even if incorporated into other products) except in compliance with all applicable import and export laws, conventions and regulations.

## **ATTACHMENT C**

### **OKLAHOMA STATEWIDE CONTRACT TERMS**

#### **1. Statewide Contract Type**

- 1.1** The Contract is a non-mandatory statewide contract for use by State agencies. Additionally, the Contract may be used by any governmental entity specified as a political subdivision of the State pursuant to the Governmental Tort Claims Act including any associated institution, instrumentality, board, commission, committee, department or other entity designated to act on behalf of the political subdivision; a state, county or local governmental entity in its state of origin; and entities authorized to utilize contracts by the State via a multistate or multigovernmental contract.
- 1.2** The Contract is a firm, fixed price contract for indefinite delivery and quantity for the Acquisitions available under the Contract.

#### **2. Orders and Addendums**

- 2.1** Unless mutually agreed in writing otherwise, orders shall be placed directly with the Supplier by issuance of written purchase orders or by Purchase Card by state agencies and other authorized entities. All orders are subject to the Contract terms and any order dated prior to Contract expiration shall be performed. Delivery to multiple destinations may be required.
- 2.2** Any ordering document shall be effective between Supplier and the Customer only and shall not be an Addendum to the Contract in its entirety or apply to any Acquisition by another Customer.
- 2.3** Additional terms added to a Contract Document by a Customer shall be effective if the additional terms do not conflict with the General Terms and are acceptable to Supplier. However, an Addendum to the Contract shall be signed by the State Purchasing Director or designee. Regarding information technology and telecommunications contracts, pursuant to 62 O.S., §34.11.1, the Chief Information Officer acts as the Information Technology and Telecommunications Purchasing Director.

#### **3. Termination for Funding Insufficiency**

In addition to Contract terms relating to termination due to insufficient funding, a Customer may terminate any purchase order or other payment mechanism if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. The determination by the Customer of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.

#### **4. Termination for Cause**

In addition to Contract terms relating to termination for cause, a customer may terminate its obligations, in whole or in part, to Supplier if it has provided Supplier with written notice of material breach and Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. The Customer may also terminate a purchase order or other payment mechanism or Supplier's activities under the Contract immediately without a thirty (30) day written notice to Supplier, if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements if such non-compliance relates or may relate to Supplier provision of products or services to the Customer or if Supplier's material breach is reasonably determined (i) to be an impediment to the function of the Customer and detrimental to the Customer, or (ii) when conditions preclude the thirty (30) day notice.

#### **5. Termination for Convenience**

In addition to any termination for convenience provisions in the Contract, a Customer may terminate a purchase order or other payment mechanism for convenience if it is determined that termination is in the Customer's best interest. Supplier will be provided at least thirty (30) days' written notice of termination.

#### **6. Contract Management Fee and Usage Report**

**6.1** Pursuant to 74 O.S. § 85.33A, the State assesses a contract management fee on all transactions under a statewide contract. The payment of such fee will be calculated for all transactions, net of returns and the Supplier has no right of setoff against such fee regardless of the payment status of any Customer or any aggregate accounts receivable percentage. Supplier acknowledges and agrees that all prices quoted under any statewide contract shall include the contract management fee and the contract management fee shall not be reflected as a separate line item in Supplier's billing. The State reserves the

right to change this fee upward or downward upon sixty (60) calendar days' written notice to Supplier without further requirement for an Addendum.

**6.2** While Supplier is the awardee of a statewide contract, transactions that occur under the terms of the statewide contract are subject to a one percent (1%) contract management fee to be paid by Supplier. Supplier shall submit a Contract Usage Report on a quarterly basis for each contract using a form provided by the State and such report shall include applicable information for each transaction. Reports shall include usage of the statewide contract by every Customer during the applicable quarter. A singular report provided late will not be considered a breach of the statewide contract; provided, however, repeated failure to submit accurate quarterly usage reports and submit timely payments may result in suspension or termination, in whole or in part, of the Contract.

**6.3** All Contract Usage Reports shall meet the following criteria:

- i.** Electronic submission in Microsoft Excel format to [strategic.sourcing@omes.ok.gov](mailto:strategic.sourcing@omes.ok.gov);
- ii.** Quarterly submission regardless of whether there were transactions under the Contract during the applicable quarterly reporting period;
- iii.** Submission no later than forty-five (45) days following the end of each calendar quarter;
- iv.** Contract quarterly reporting periods shall be as follows:
  - a.** January 01 through March 31;
  - b.** April 01 through June 30;
  - c.** July 01 through September 30; and
  - d.** October 01 through December 31.
- v.** Reports must include the following information:
  - a.** Procuring entity;
  - b.** Order date;

- c. Purchase Order number or note that the transaction was paid by Purchase Card;
- d. City in which products or services were received or specific office or subdivision title;
- e. Product manufacturer or type of service;
- f. Manufacturer item number, if applicable;
- g. Product description;
- h. General product category, if applicable;
- i. Quantity;
- j. Unit list price or MSRP, as applicable;
- k. Unit price charged to the purchasing entity; and
- l. Other Contract usage information requested by the State.

**6.4** Payment of the contract management fee shall be delivered to the following address within forty-five (45) calendar days after the end of each quarterly reporting period:

State of Oklahoma  
Office of Management and Enterprise Services, Central Purchasing  
2401 North Lincoln Boulevard, Suite 116  
Oklahoma City, Oklahoma 73105

To ensure payment is properly accounted for, Supplier shall provide the following information with payment: (i) reference to the applicable Contract Usage Report and quarterly reporting period and (ii) the applicable statewide contract number(s) and the amount of the contract management fee being paid for each contract number.

## ATTACHMENT D

### STATE OF OKLAHOMA INFORMATION TECHNOLOGY TERMS

The parties further agree to the following terms (“Information Technology Terms”), as applicable, for any Acquisition of products or services with an information technology or telecommunication component. Pursuant to the Oklahoma Information Technology Consolidation and Coordination Act (“The Act” or “Act”), OMES- Information Services (“OMES-IS”) is designated to purchase information technology and telecommunication products and services on behalf of the State. The Act directs OMES-IS to acquire necessary hardware, software and services and to authorize the use by other State agencies. OMES, as the owner of information technology and telecommunication assets and contracts on behalf of the State, allows other State agencies to use the assets while retaining ownership and the right to reassign the assets, at no additional cost, upon written notification to Supplier. OMES-IS is the data custodian for State agency data; however, such data is owned by the respective State agency.

#### 1 DEFINITIONS

- 1.1 **Customer Data** means all data supplied by or on behalf of a Customer in connection with the Contract, excluding any confidential information of Supplier. Customer Data includes both Non-Public Data and Personal Data.
- 1.2 **Data Breach** means the unauthorized access or the reasonable suspicion of unauthorized access, by an unauthorized person that results in the use, destruction, loss, alteration, disclosure, or theft of Customer Data.
- 1.3 **Host** includes the terms Hosted or Hosting and means the accessing, processing or storing of Customer Data.
- 1.4 **Intellectual Property Rights** means the worldwide legal rights or interests evidenced by or embodied in any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery or improvement including any patents, trade secrets and know-how; any work of authorship including any copyrights, Moral Rights or neighboring rights; any trademark, service mark, trade dress, trade name or other indicia of source or origin; domain name registrations; and any other proprietary or similar rights. Intellectual Property Rights of a party also includes all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.
- 1.5 **Non-Public Data** means Customer Data, other than Personal Data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by Customer because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information. Non-Public Data includes any data deemed confidential pursuant to the Contract, otherwise identified by Customer as Non-Public Data, or that a reasonable person would deem confidential.
- 1.6 **Personal Data** means Customer Data that contains 1) any combination of an individual’s name, social security numbers, driver’s license, state/federal identification number,

account number, credit or debit card number and/or 2) data subject to protection under a federal, state or local law, rule, regulation or ordinance.

- 1.7 Security Incident** means the attempted or successful unauthorized access, use, disclosure, modification, loss, theft, or destruction of information or interference with the Hosted environment used to perform the services.
- 1.8 Supplier** means the Bidder with whom the State enters into the Contract awarded pursuant to the Solicitation or the business entity or individual that is a party to the Contract with the State. A Supplier with whom the State enters into an awarded Contract shall also be known as a Contractor.
- 1.9 Supplier Intellectual Property** means all tangible or intangible items or things, including the Intellectual Property Rights therein, created or developed by Supplier and identified in writing as such (a) prior to providing any services or Work Product to Customer and prior to receiving any documents, materials, information or funding from or on behalf of a Customer relating to the services or Work Product, or (b) after the effective date of the Contract if such tangible or intangible items or things were independently developed by Supplier outside Supplier's provision of services or Work Product for Customer under the Contract and were not created, prepared, developed, invented or conceived by any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.
- 1.10 Third Party Intellectual Property** means the Intellectual Property Rights of any third party that is not a party to the Contract, and that is not directly or indirectly providing any goods or services to a Customer under the Contract.

## **2 TERMINATION OF MAINTENANCE AND SUPPORT SERVICES**

Customer may terminate maintenance or support services without an adjustment charge, provided any of the following circumstances occur:

- 2.1** Customer removes the product for which the services are provided, from productive use; or,
- 2.2** The location at which the services are provided is no longer controlled by Customer (for example, because of statutory or regulatory changes or the sale or closing of a facility).
- 2.3** If Customer chooses to renew maintenance or support after maintenance has lapsed, Customer may choose to pay the additional fee, if any, associated with renewing a license after such maintenance or support has lapsed, or to purchase a new license. Any amount paid to Supplier in the form of prepaid fees that are unused when services under the Contract or purchase order are terminated shall be refunded to Customer.

## **3 COMPLIANCE AND ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY**

- 3.1** State procurement of information technology is subject to certain federal and State laws, rules and regulations related to information technology accessibility, including but not limited to Oklahoma Information Technology Accessibility Standards (“Standards”) set forth at <https://oklahoma.gov/omes/services/information-services/is/policies-and-standards/accessibility-standards.html>. Supplier shall provide a Voluntary Product Accessibility Template (“VPAT”) describing accessibility compliance via a URL linking to the VPAT and shall update the VPAT as necessary in order to allow a Customer to obtain current VPAT information as required by State law. If products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Supplier. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum.

All representations contained in the VPAT provided will be relied upon by the State or a Customer, as applicable, for accessibility compliance purposes.

#### **4 MEDIA OWNERSHIP (Disk Drive and/or Memory Chip Ownership)**

- 4.1** Any disk drives and memory cards purchased with or included for use in leased or purchased products under the Contract remain the sole and exclusive property of the Customer.
- 4.2** Personal information may be retained within electronic media devices and components; therefore, electronic media shall not be released either between Customers or for the resale, of refurbished equipment that has been in use by a Customer, by the Supplier to the general public or other entities. This provision applies to replacement devices and components, whether purchased or leased, supplied by Supplier, its agents or subcontractors during the downtime (repair) of products purchased or leased through the Contract. If a device is removed from a location for repairs, the Customer shall have sole discretion, prior to removal, to determine and implement sufficient safeguards (such as a record of hard drive serial numbers) to protect personal information that may be stored within the hard drive or memory of the device.

#### **5 OFFSHORE SERVICES**

No offshore services are provided for under the Contract. State data shall not be used or accessed internationally for troubleshooting or any other use not specifically provided for herein without the prior written permission, which may be withheld in the State’s sole discretion, from the appropriate authorized representative of the State. Notwithstanding the above, back office administrative functions of the Supplier may be located offshore and the follow-the-sun support model may be used by the Supplier to the extent allowed by law applicable to any Customer data being accessed or used.

#### **6 COMPLIANCE WITH TECHNOLOGY POLICIES**

- 6.1** The Supplier agrees to adhere to the State of Oklahoma “Information Security Policy, Procedures, and Guidelines” available at <https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf>.

Supplier’s employees and subcontractors shall adhere to the applicable State IT

Standards, policies, procedures and architectures as set forth at <https://oklahoma.gov/omes/services/information-services.html> or as otherwise provided by the State.

- 6.2** Supplier shall comply with applicable Federal Information Processing Standards including, without limitation, FIPS 200, FIPS 140-2 or successor standards and all recommendations from the National Institute of Standards and Technology. The confidentiality of Customer Data shall be protected and maintained in accordance with these standards as well as other applicable Customer standards.

## **7 EMERGING TECHNOLOGIES**

The State reserves the right to enter into an Addendum to the Contract at any time to allow for emerging technologies not identified elsewhere in the Contract Documents if there are repeated requests for such emerging technology or the State determines it is warranted to add such technology.

## **8 EXTENSION RIGHT**

In addition to extension rights of the State set forth in the Contract, the State Chief Information Officer reserves the right to extend any Contract at his or her sole option if the State Chief Information Officer determine such extension to be in the best interest of the State.

## **9 SOURCE CODE ESCROW**

Pursuant to 62 O.S. § 34.31, if customized computer software is developed or modified exclusively for a State agency, the Supplier has a continuing obligation to comply with such law and place the source code for such software and any modifications thereto into escrow with an independent third-party escrow agent. Supplier shall pay all fees charged by the escrow agent and enter into an escrow agreement, the terms of which are subject to the prior written approval of the State, including terms that provide the State receives ownership of all escrowed source code upon the occurrence of any of the following:

- 9.1** A bona fide material default of the obligations of the Supplier under the agreement with the applicable Customer;
- 9.2** An assignment by the Supplier for the benefit of its creditors;
- 9.3** A failure by the Supplier to pay, or an admission by the Supplier of its inability to pay, its debts as they mature;
- 9.4** The filing of a petition in bankruptcy by or against the Supplier when such petition is not dismissed within sixty (60) days of the filing date;
- 9.5** The appointment of a receiver, liquidator or trustee appointed for any substantial part of the Supplier's property;
- 9.6** The inability or unwillingness of the Supplier to provide the maintenance and support services in accordance with the agreement with the agency;
- 9.7** Supplier's ceasing of maintenance and support of the software; or

**9.8** Such other condition as may be statutorily imposed by the future amendment or enactment of applicable Oklahoma law.

## **10 COMMERCIAL OFF THE SHELF SOFTWARE OR SUPPLIER TERMS**

If Supplier specifies terms and conditions or clauses in an electronic license, subscription, maintenance, support or similar agreement, including via a hyperlink or uniform resource locator address to a site on the internet, that conflict with the terms of this Contract, the additional terms and conditions or conflicting clauses shall not be binding on the State and the provisions of this Contract shall prevail. Further, no such terms and conditions or clauses shall expand the State's or Customer's liability or reduce the rights of Customer or the State.

## **11 OWNERSHIP RIGHTS**

Any software developed, modified, or customized by the Supplier in accordance with a mutually negotiated statement of work pursuant to this Contract is for the sole and exclusive use of the State including but not limited to the right to use, reproduce, re-use, alter, modify, edit, or change the software as it sees fit and for any purpose. The parties mutually agree the State as a licensee of the Supplier does not make a claim of ownership to the existing Intellectual Property of Supplier. Moreover, except with regard to any deliverable based on Supplier Intellectual Property, the State shall be deemed the sole and exclusive owner of all right, title, and interest therein, including but not limited to all source data, information and materials furnished to the State, together with all plans, system analysis, and design specifications and drawings, completed programs and documentation thereof, reports and listing, all data and test procedures and all other items pertaining to the work and services to be performed pursuant to this Contract including all copyright and proprietary rights relating thereto. With respect to Supplier Intellectual Property, the Supplier grants the State, for no additional consideration, a perpetual, irrevocable, royalty-free license, solely for the internal business use of the State, to use, copy, modify, display, perform, transmit and prepare derivative works of Supplier Intellectual Property embodied in or delivered to the State in conjunction with the products.

Except for any Supplier Intellectual Property, all work performed by the Supplier of developing, modifying or customizing software and any related supporting documentation shall be considered as Work for Hire (as defined under the U.S. copyright laws) and, as such, shall be owned by and for the benefit of State.

In the event that it should be determined that any portion of such software or related supporting documentation does not qualify as "Work for Hire", Supplier hereby irrevocably grants to the State, for no additional consideration, a non-exclusive, irrevocable, royalty-free license to use, copy, modify, display, perform, transmit and prepare derivative works of any such software and any Supplier Intellectual Property embodied in or delivered to the State in conjunction with the products.

Supplier shall assist the State and its agents, upon request, in preparing U.S. and foreign copyright, trademark, and/or patent applications covering software developed, modified or customized for the State when made in accordance with a mutually negotiated statement of work pursuant to this Contract. Supplier shall sign any such applications, upon request, and deliver them to the State. The State shall bear all expenses that incurred in connection with such copyright, trademark, and/or patent applications.

If any Acquisition pursuant to this Contract is funded wholly or in part with federal funds, the source code and all associated software and related documentation owned by the State may be shared with other publicly funded agencies at the discretion of the State without permission from or additional compensation to the Supplier.

## **12 INTELLECTUAL PROPERTY OWNERSHIP TO WORK PRODUCT**

The following terms apply to ownership and rights related to Intellectual Property:

- 12.1** As to the Intellectual Property Rights to Work Product between Supplier and Customer, Customer shall be the exclusive owner and not Supplier. Supplier specifically agrees that the Work Product shall be considered “works made for hire” and that the Work Product shall, upon creation, be owned exclusively by Customer. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Supplier agrees that all right, title and interest in and to all ownership rights and all Intellectual Property Rights in the Work Product is effectively transferred, granted, conveyed, assigned, and relinquished exclusively to Customer, without the necessity of any further consideration, and Customer shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Supplier acknowledges that Supplier and Customer do not intend Supplier to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. Customer shall have access, during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.) and upon reasonable prior notice to Supplier, to all Supplier materials, premises and computer files containing the Work Product. Supplier and Customer, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted under the Contract to any Third-Party Intellectual Property, except as may be incorporated in the Work Product by Supplier.
- 12.2** Supplier, upon request and without further consideration, shall perform any acts that may be deemed reasonably necessary or desirable by Customer to evidence more fully the transfer of ownership and/or registration of all Intellectual Property Rights in all Work Product to Customer to the fullest extent possible including, but not limited to, the execution, acknowledgement and delivery of such further documents in a form determined by Customer. In the event Customer shall be unable to obtain Supplier’s signature due to the dissolution of Supplier or Supplier’s failure to respond to Customer’s repeated requests for such signature on any document reasonably necessary for any purpose set forth in the foregoing sentence, Supplier hereby irrevocably designates and appoints Customer and its duly authorized officers and agents as Supplier’s agent and Supplier’s attorney-in-fact to act for and in Supplier’s behalf and stead to execute and file any such document and to do all other lawfully permitted acts to further any such purpose with the same force and effect as if executed and delivered by Supplier, provided however that no such grant of right to Customer is applicable if Supplier fails to execute any document due to a good faith dispute by Supplier with respect to such document. It is understood that such power is coupled with an interest and is therefore irrevocable. Customer shall have the full and sole power to prosecute such applications and to take all other action concerning the Work Product, and Supplier shall cooperate, at Customer’s sole expense, in the preparation and prosecution of all such applications and in any legal actions and proceedings concerning the Work Product.

- 12.3** Supplier hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Work Product which Supplier may now have or which may accrue to Supplier's benefit under U.S. or foreign copyright or other laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. Supplier acknowledges the receipt of equitable compensation for its assignment and waiver of such Moral Rights.
- 12.4** All documents, information and materials forwarded to Supplier by Customer for use in and preparation of the Work Product shall be deemed the confidential information of Customer, subject to the license granted by Customer to Supplier hereunder. Supplier shall not otherwise use, disclose, or permit any third party to use or obtain the Work Product, or any portion thereof, in any manner without the prior written approval of Customer.
- 12.5** These provisions are intended to protect Customer's proprietary rights pertaining to the Work Product and the Intellectual Property Rights therein and any misuse of such rights would cause substantial and irreparable harm to Customer's business. Therefore, Supplier acknowledges and stipulates that a court of competent jurisdiction may immediately enjoin a material breach of the Supplier's obligations with respect to confidentiality provisions of the Contract and the Work Product and a Customer's Intellectual Property Rights, upon a request by Customer, without requiring proof of irreparable injury, as same is presumed.
- 12.6** Upon the request of Customer, but in any event upon termination or expiration of this Contract or a statement of work, Supplier shall surrender to Customer all documents and things pertaining to the Work Product, generated or developed by Supplier or furnished by Customer to Supplier, including all materials embodying the Work Product, any Customer confidential information and Intellectual Property Rights in such Work Product, regardless of whether complete or incomplete. This section is intended to apply to all Work Product as well as to all documents and things furnished to Supplier by Customer or by anyone else that pertains to the Work Product.
- 12.7** Customer hereby grants to Supplier a non-transferable, non-exclusive, royalty-free, fully paid license to use any Work Product solely as necessary to provide services to Customer. Except as provided in this section, neither Supplier nor any subcontractor shall have the right to use the Work Product in connection with the provision of services to its other customers without the prior written consent of Customer, which consent may be withheld in Customer's sole discretion.
- 12.8** To the extent that any Third Party Intellectual Property is embodied or reflected in the Work Product or is necessary to provide services, Supplier shall obtain from the applicable third party for the Customer's benefit, an irrevocable, perpetual, non-exclusive, worldwide, royalty-free license, solely for Customer's internal business purposes; likewise, with respect to any Supplier Intellectual Property embodied or reflected in the Work Product or necessary to provide services, Supplier grants to Customer an irrevocable, perpetual, non-exclusive, worldwide, royalty-free license, solely for the Customer's internal business purposes. Each such license shall allow the applicable Customer to (i) use, copy, modify, display, perform (by any means), transmit and prepare derivative works of any Third Party Intellectual Property or Supplier Intellectual Property embodied in or delivered to Customer in conjunction with the Work

Product and (ii) authorize others to do any or all of the foregoing. Supplier agrees to notify Customer on delivery of the Work Product or services if such materials include any Third Party Intellectual Property. The foregoing license includes the right to sublicense third parties, solely for the purpose of engaging such third parties to assist or carry out Customer's internal business use of the Work Product. Except for the preceding license, all rights in Supplier Intellectual Property remain in Supplier. On request, Supplier shall provide Customer with documentation indicating a third party's written approval for Supplier to use any Third Party Intellectual Property that may be embodied or reflected in the Work Product.

- 12.9** Supplier agrees that it shall have written agreement(s) that are consistent with the provisions hereof related to Work Product and Intellectual Property Rights with any employees, agents, consultants, contractors or subcontractors providing services or Work Product pursuant to the Contract, prior to the provision of such services or Work Product and that it shall maintain such written agreements at all times during performance of this Contract which are sufficient to support all performance and grants of rights by Supplier. Copies of such agreements shall be provided to the Customer promptly upon request.
- 12.10** To the extent not inconsistent with Customer's rights in the Work Product or other provisions, nothing in this Contract shall preclude Supplier from developing for itself, or for others, materials which are competitive with those produced as a result of the services provided under the Contract, provided that no Work Product is utilized, and no Intellectual Property Rights of Customer therein are infringed by such competitive materials. To the extent that Supplier wishes to use the Work Product or acquire licensed rights in certain Intellectual Property Rights of Customer therein in order to offer competitive goods or services to third parties, Supplier and Customer agree to negotiate in good faith regarding an appropriate license and royalty agreement to allow for such.
- 12.11** If any Acquisition pursuant to the Contract is funded wholly or in part with federal funds, the source code and all associated software and related documentation and materials owned by a Customer may be shared with other publicly funded agencies at the discretion of such Customer without permission from or additional compensation to the Supplier.

## **13 HOSTING SERVICES**

A Supplier shall be responsible for the obligations set forth in in this Contract, including those obligations related to breach reporting and associated costs when a Supplier Hosting Customer Data or providing products or services pursuant to an Acquisition, contributes to, or directly causes a Data Breach or a Security Incident. Likewise, Supplier shall be responsible for the obligations set forth in in this Contract, including those obligations related to breach reporting and associated costs when a Supplier's affiliate or subcontractor contributes to, or directly causes a Data Breach or a Security Incident.

## **14 CHANGE MANAGEMENT**

When a scheduled change is made to products or services provided to a Customer that impacts the Customer's system related to such product or service, Supplier shall provide two (2) weeks' prior written notice of such change. When the change is an emergency change, Supplier shall provide twenty-four (24) hours' prior written notice of the change. Repeated failure to provide such notice may be an evaluation factor (as indicative of Supplier's past performance) upon

renewal or if future bids submitted by Supplier are evaluated by the State.

## **15 SERVICE LEVEL DEFICIENCY**

In addition to other terms of the Contract, in instances of the Supplier's repeated failure to provide an acceptable level of service or meet service level agreement metrics, service credits shall be provided by Supplier and may be used as an offset to payment due.

## **16 OWNERSHIP OF IT AND TELECOMMUNICATION ASSETS**

Notwithstanding any other provision in the Contract and pursuant to the Oklahoma Information Technology Consolidation and Coordination Act, all information technology and telecommunication assets and contracts on behalf of appropriated agencies of the State belong to OMES-IS. OMES-IS allows other State agencies to use the assets while retaining ownership and the right to reassign the assets, at no additional cost, upon written notification to Supplier.

## **17 CUSTOMER DATA**

**17.1** The parties agree to the following provisions in connection with any Customer Data accessed, processed transmitted, or stored by or on behalf of the Supplier and the obligations, representations and warranties set forth below shall continue as long as the Supplier has an obligation under the Contract.

**17.2** Customer will be responsible for the accuracy and completeness of all Customer Data provided to Supplier by Customer. Customer shall retain exclusive ownership of rights, title, and interest in Customer Data. Non-Public Data and Personal Data shall be deemed to be Customer's confidential information. Supplier shall restrict access to Customer Data to their employees with a need to know (and advise such employees of the confidentiality and non-disclosure obligations assumed herein).

**17.3** Supplier shall promptly notify the Customer upon receipt of any requests from unauthorized third parties which in any way might reasonably require access to Customer Data or Customer's use of the Hosted environment. Supplier shall notify the Customer by the fastest means available and also in writing pursuant to Contract notice provisions and the notice provision herein. Except to the extent required by law, Supplier shall not respond to subpoenas, service or process, Freedom of Information Act or other open records requests, and other legal request related to Customer without first notifying the Customer and obtaining the Customer's prior approval, which shall not be unreasonably withheld, of Supplier's proposed responses. Supplier agrees to provide its completed responses to the Customer with adequate time for Customer review, revision and approval.

**17.4** Supplier will use commercially reasonable efforts to prevent the loss of or damage to Customer Data in its possession and will maintain commercially reasonable back-up procedures and copies to facilitate the reconstruction of any Customer Data that may be lost or damaged by Supplier. Supplier will promptly notify Customer of any loss, damage to, or unauthorized access of Customer Data. Supplier will use commercially reasonable efforts to reconstruct any Customer Data that has been lost or damaged by Supplier as a result of its negligence or willful misconduct. If Customer Data is lost or damaged for reasons other than as a result of Supplier's negligence or willful misconduct, Supplier, at

the Customer's expense, will, at the request of the State, use commercially reasonable efforts to reconstruct any Customer Data lost or damaged.

## **18 DATA SECURITY**

- 18.1** Supplier will use commercially reasonable efforts, consistent with industry standards, to provide security for the Hosted environment and Customer Data and to protect against both unauthorized access to the Hosting environment, and unauthorized communications between the Hosting environment and the Customer's browser. Supplier shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and Non-Public Data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind.
- 18.2** All Personal Data and Non-public Data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of Personal Data. All Personal Data and Non-Public Data shall be subject to controlled access. Any stipulation of responsibilities shall be included in a Statement of Work and will identify specific roles and responsibilities.
- 18.3** Supplier represents and warrants to the Customer that the Hosting equipment and environment will be routinely checked with a commercially available, industry standard software application with up-to-date virus definitions. Supplier will regularly update the virus definitions to ensure that the definitions are as up-to-date as is commercially reasonable. Supplier will promptly purge all viruses discovered during virus checks. If there is a reasonable basis to believe that a virus may have been transmitted to Customer by Supplier, Supplier will promptly notify Customer of such possibility in a writing that states the nature of the virus, the date on which transmission may have occurred, and the means Supplier has used to remediate the virus. Should the virus propagate to Customer's IT infrastructure, Supplier is responsible for costs incurred by Customer for Customer to remediate the virus.
- 18.4** At no time shall any Customer Data or processes – that either belong to or are intended for the use of the State - be copied, disclosed, or retained by Supplier or any party related to Supplier for subsequent use in any transaction that does not include the State unless otherwise agreed to by the State.
- 18.5** Supplier shall provide its services to Customer and its users solely from data centers in the U.S. Storage of Customer Data at rest shall be located solely in data centers in the U.S. Supplier shall not allow its personnel or contractors to store Customer Data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. Supplier shall permit its personnel and contractors to access Customer Data remotely only as required to fulfill Supplier's obligations under the Contract.
- 18.6** Supplier shall allow the Customer to audit conformance to the Contract terms. The Customer may perform this audit or contract with a third party at its discretion and at Customer's expense.

- 18.7** Supplier shall perform an independent audit of its data centers at least annually at its expense and provide a redacted version of the audit report upon request. Supplier may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit.
- 18.8** Any remedies provided are not exclusive and are in addition to other rights and remedies available under the terms of the Contract, at law or in equity.

## **19 SECURITY ASSESSMENT**

- 19.1** The State requires any entity or third-party Supplier Hosting Oklahoma Customer Data to submit to a State Certification and Accreditation Review process to assess initial security risk. Supplier submitted to the review and met the State's minimum security standards at time the Contract was executed. Failure to maintain the State's minimum security standards during the term of the contract, including renewals, constitutes a material breach. Upon request, the Supplier shall provide updated data security information in connection with a potential renewal. If information provided in the security risk assessment changes, Supplier shall promptly notify the State and include in such notification the updated information; provided, however, Supplier shall make no change that results in lessened data protection or increased data security risk. Failure to provide the notice required by this section or maintain the level of security required in the Contract constitutes a material breach by Supplier and may result in a whole or partial termination of the Contract.
- 19.2** Any Hosting entity change must be approved in writing prior to such change. To the extent Supplier requests a different sub-contractor than the third-party Hosting Supplier already approved by the State, the different sub-contractor is subject to the State's approval. Supplier agrees not to migrate State's data or otherwise utilize the different third-party Hosting Supplier in connection with key business functions that are Supplier's obligations under the contract until the State approves the third-party Hosting Supplier's State Certification and Accreditation Review, which approval shall not be unreasonably withheld or delayed. In the event the third-party Hosting Supplier does not meet the State's requirements under the State Certification and Accreditation Review, Supplier acknowledges and agrees it will not utilize the third-party Supplier in connection with key business functions that are Supplier's obligations under the contract, until such third party meets such requirements.

## **20 SECURITY INCIDENT OR DATA BREACH NOTIFICATION**

- 20.1** Supplier shall inform Customer of any Security Incident or Data Breach.
- 20.2** Supplier may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. If a Security Incident involves Customer Data, Supplier will coordinate with Customer prior to any such communication.
- 20.3** Supplier shall report a Security Incident to the Customer identified contact set forth herein within five (5) days of discovery of the Security Incident or within a shorter notice

period required by applicable law or regulation (i.e., HIPAA requires notice to be provided within 24 hours).

- 20.4** Supplier shall maintain processes and procedures to identify, respond to and analyze Security Incidents; (ii) make summary information regarding such procedures available to Customer at Customer's request, (iii) mitigate, to the extent practicable, harmful effects of Security Incidents that are known to Vendor; and (iv) documents all Security Incidents and their outcomes.
- 20.5** If Supplier has reasonable belief or actual knowledge of a Data Breach, Supplier shall (1) promptly notify the appropriate Customer identified contact set forth herein within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the Data Breach in a timely manner.

## **21 DATA BREACH NOTIFICATION AND RESPONSIBILITIES**

This section only applies when a Data Breach occurs with respect to Personal Data or Non-Public Data within the possession or control of Supplier.

- 21.1** Supplier shall (1) cooperate with Customer as reasonably requested by Customer to investigate and resolve the Data Breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
- 21.2** Unless otherwise stipulated, if a Data Breach is a direct result of Supplier's breach of its obligation to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Supplier shall bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by state law; (3) credit monitoring services required by state or federal law; (4) a website or toll-free numbers and call center for affected individuals required by state law – all not to exceed the agency per record per person cost calculated for data breaches in the United States on the most recent Cost of Data breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by Supplier based on root cause.
- 21.3** If a Data Breach is a direct result of Supplier's breach of its obligations to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Supplier shall indemnify and hold harmless the Customer against all penalties assessed to Indemnified Parties by governmental authorities in connection with the Data Breach.

## **22 SUPPLIER REPRESENTATIONS AND WARRANTIES**

Supplier represents and warrants the following:

- 22.1** The product and services provided in connection with Hosting services do not infringe a third party's patent or copyright or other intellectual property rights.
- 22.2** Supplier will protect Customer's Non-Public Data and Personal Data from unauthorized dissemination and use with the same degree of care that each such party uses to protect

its own confidential information and, in any event, will use no less than a reasonable degree of care in protecting such confidential information.

**22.3** The execution, delivery and performance of the Contract and any ancillary documents and the consummation of the transactions contemplated by the Contract or any ancillary documents by Supplier will not violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third parties retained or utilized by Supplier to provide goods or services for the benefit of the Customer.

**22.4** Supplier shall not knowingly upload, store, post, e-mail or otherwise transmit, distribute, publish or disseminate to or through the Hosting environment any material that contains software viruses, malware or other surreptitious code designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or circumvent any “copy-protected” devices, or any other harmful or disruptive program.

## **23 INDEMNITY**

Supplier agrees to defend, indemnify and hold the State, its officers, directors, employees, and agents harmless from all liabilities, claims, damages, losses, costs, expenses, demands, suits and actions (including without limitation reasonable attorneys’ fees and costs required to establish the right to indemnification), excluding damages that are the sole fault of Customer, arising from or in connection with Supplier’s breach of its express representations and warranties in these Information Technology Terms and the Contract. If a third party claims that any portion of the products or services provided by Supplier under the terms of another Contract Document or these Information Technology Terms infringes that party’s patent or copyright, Supplier shall defend, indemnify and hold harmless the State and Customer against the claim at Supplier’s expense and pay all related costs, damages, and attorney’s fees incurred by or assessed to, the State and/or Customer. The State and/or Customer shall promptly notify Supplier of any third-party claims and to the extent authorized by the Attorney General of the State, allow Supplier to control the defense and any related settlement negotiations. If the Attorney General of the State does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall be granted authorization to equally participate in any proceeding related to this section, but Supplier shall remain responsible to indemnify Customer and the State for all associated costs, damages and fees incurred by or assessed to the State and/or Customer. Should the software become, or in Supplier’s opinion, be likely to become the subject of a claim or an injunction preventing its use as contemplated in connection with Hosting services, Supplier may, at its option (i) procure for the State the right to continue using the software or (ii) replace or modify the software with a like or similar product so that it becomes non-infringing.

## **24 TERMINATION, EXPIRATION AND SUSPENSION OF SERVICE**

**24.1** During any period of service suspension, Supplier shall not take any action to intentionally disclose, alter or erase any Customer Data.

**24.2** In the event of a termination or expiration of the Contract, the parties further agree:

Supplier shall implement an orderly return of Customer Data in a format specified by the Customer and, as determined by the Customer:

- a. return the Customer Data to Customer at no additional cost, at a time agreed to by the parties and the subsequent secure disposal of State Data;
- b. transitioned to a different Supplier at a mutually agreed cost and in accordance with a mutually agreed data transition plan and the subsequent secure disposal of State Data or
- c. a combination of the two immediately preceding options.

**24.3** Supplier shall not take any action to intentionally erase any Customer Data for a period of:

- a. 10 days after the effective date of termination, if the termination is in accordance with the contract period;
- b. 30 days after the effective date of termination, if the termination is for convenience; or
- c. 60 days after the effective date of termination if the termination is for cause.

After such period, Supplier shall, unless legally prohibited or otherwise stipulated, delete all Customer Data in its systems or otherwise in its possession or under its control.

**24.4** The State shall be entitled to any post termination or expiration assistance generally made available with respect to the services.

**24.5** Disposal by Supplier of Customer Data in all of its forms, such as disk, CD/DVD, backup tape and paper, when requested by the Customer, shall be performed in a secure manner. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to Customer within thirty (30) calendar day of its request for disposal of data.

## **25 GENERAL INFORMATION SECURITY REQUIREMENTS**

**25.1** No employee of Contractor or its subcontractors will be granted access to State of Oklahoma agency information systems without the prior completion and approval of applicable logon authorization and acceptable use requests.

**25.2** Contractor or its subcontractors will notify applicable State of Oklahoma agencies when employees who have access to agency information systems are terminated.

**25.3** Contractor or its subcontractors will disclose to Client any suspected breach of the security of the information system or the data contained therein in the most expedient time possible and without unreasonable delay and will cooperate with Client during the investigation of any such incident.

- 25.4 Contractor or its subcontractors agree to adhere to the State of Oklahoma “Information Security Policy, Procedures, and Guidelines” available at: <https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf>

## 26 HIPAA REQUIREMENTS

26.1 Contractor shall agree to use and disclose Protected Health Information in its possession or control in compliance with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) (45 C.F.R. Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The definitions set forth in the Privacy Rule are incorporated by reference into this Contract (45 C.F.R. §§ 160.103 and 164.501).

26.2 If applicable, Contractor will sign and adhere to a Business Associate Agreement (BAA). The Business Associate Agreement provides for satisfactory assurances that Contractor will use the information only for the purposes for which it was engaged. Contractor agrees it will safeguard the information from misuse and will comply with HIPAA as it pertains to the duties stated within the contract. Failure to comply with the requirements of this standard may result in funding being withheld from Contractor, and/or full audit and inspection of Contractor’s security compliance as it pertains to this contract.

### 26.3 Business Associate Terms Definitions:

- a. Unless otherwise defined in this BAA, all capitalized terms used in this BAA have the meanings ascribed in the HIPAA Regulations, provided; however, that “PHI” and “ePHI” shall mean Protected Health Information and Electronic Protected Health Information, respectively, as defined in 45 C.F.R. § 160.103, limited to the information Business Associate received from or created or received on behalf of the applicable State of Oklahoma agency as a Business Associate. “Administrative Safeguards” shall have the same meaning as the term “administrative safeguards in 45 C.F.R. § 164.304, with the exception that it shall apply to the management of the conduct of Business Associate’s workforce, not the State of Oklahoma agency workforce, in relation to the protection of that information.
- b. Business Associate. “Business Associate” shall generally have the same meaning as the term “Business Associate” at 45 C.F.R. 160.103, and in reference to the party to this agreement, shall mean the entity whose name appears below.
- c. Covered Entity. “Covered Entity” shall generally have the same meaning as the term “Covered Entity” at 45 C.F.R. 160.103.
- d. HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Part 160 and Part 164, all as may be amended.
- e. The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of

Privacy Practices, Protected Health Information, required by law, Secretary, Security Incident, Sub-Contractor, Unsecured PHI, and Use.

**26.4** Obligations of Business Associate: Business Associate may use Electronic PHI and PHI (collectively, “PHI”) solely to perform its duties and responsibilities under this Agreement and only as provided in this Agreement. Business Associate acknowledges and agrees that PHI is confidential and shall not be used or disclosed, in whole or in part, except as provided in this Agreement or as required by law. Specifically, Business Associate agrees it will, as applicable:

- a. use or further disclose PHI only as permitted in this Agreement or as Required by Law, including, but not limited to the Privacy and Security Rule;
- b. use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- c. implement and document appropriate administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of PHI that it creates, receives, maintains, or transmits for or on behalf of Covered Entity in accordance with 45 C.F.R. 164;
- d. implement and document administrative safeguards to prevent, detect, contain, and correct security violations in accordance with 45 C.F.R. 164;
- e. make its applicable policies and procedures required by the Security Rule available to Covered Entity solely for purposes of verifying BA’s compliance and the Secretary of the Department of Health and Human Services (HHS);
- f. not receive remuneration from a third party in exchange for disclosing PHI received from or on behalf of Covered Entity;
- g. in accordance with 45 C.F.R. 164.502(e)(1) and 164.308(b), if applicable, require that any Sub-Contractors that create, receive, maintain or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information; this shall be in the form of a written HIPAA Business Associate Contract and a fully executed copy will be provided to the Contract Monitor;
- h. report to Covered Entity in writing any use or disclosure of PHI that is not permitted under this Agreement as soon as reasonably practicable but in no event later than five calendar days from becoming aware of it and mitigate, to the extent practicable and in cooperation with Covered Entity, any harmful effects known to it of a use or disclosure made in violation of this Agreement;
- i. promptly report to Covered Entity in writing and without unreasonable delay and in no case later than five calendar days any successful Security Incident, as defined in the Security Rule, with respect to Electronic PHI;
- j. with the exception of law enforcement delays that satisfy the requirements of 45 C.F.R. 164.412, notify Covered Entity promptly, in writing and without

unreasonable delay and in no case later than five calendar days, upon the discovery of a breach of Unsecured PHI. Such notice shall include, to the extent possible, the name of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach. Business Associate shall also, to the extent possible, furnish Covered Entity with any other available information that Covered Entity is required to include in its notification to Individuals under 45 C.F.R. § 164.404(c) at the time of Business Associate's notification to Covered Entity or promptly thereafter as such information becomes available. As used in this Section, "breach" shall have the meaning given such term at 45 C.F.R. 164.402;

- k. to the extent allowed by law, indemnify and hold Covered Entity harmless from all claims, liabilities costs, and damages arising out of or in any manner related to the unauthorized disclosure by Business Associate of any PHI resulting from the negligent acts or omissions of Business Associate or to the breach by Business Associate of any applicable obligation related to PHI;
- l. provide access to PHI it maintains in a Designated Record Set to Covered Entity, or if directed by Covered Entity to an Individual in order to meet the requirements of 45 C.F.R. 164.524. In the event that any Individual requests access to PHI directly from Business Associate, Business Associate shall forward such request to Covered Entity within five working days of receiving a request. This shall be in the form of a written HIPAA Business Associate Contract and a fully executed copy will be provided to the Contract Monitor. Any denials of access to the PHI requested shall be the responsibility of Covered Entity;
- m. make PHI it maintains in a Designated Record Set available to Covered Entity for amendment and incorporate any amendments to PHI in accordance with 45 C.F.R. 164.526;
- n. document disclosure of PHI it maintains in a Designated Record Set and information related to such disclosure as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI, in accordance with 45 C.F.R. 164.528, and within five working days of receiving a request from Covered Entity, make such disclosure documentation and information available to Covered Entity. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall forward within five working days of receiving a request such request to Covered Entity;
- o. make its internal practices, books, and records related to the use and disclosure of PHI received from or created or received by Business Associate on behalf of Covered Entity available to the Secretary of the Department of HHS, authorized governmental officials, and Covered entity for the purpose of determining Business Associate's compliance with the Privacy Rule. Business Associate shall give Covered Entity advance written notice of requests from HHS or government officials and provide Covered Entity with a copy of all documents made available; and

- p. require that all of its Sub-Contractors, vendors, and agents to whom it provides PHI or who create, receive, use, disclose, maintain, or have access to Covered Entity's PHI shall agree in writing to requirements, restrictions, and conditions at least as stringent as those that apply to Business Associate under this Agreement, including but not limited to implementing reasonable and appropriate safeguards to protect PHI, and shall require that its Sub-Contractors, vendors, and agents agree to indemnify and hold harmless Covered Entity for their failure to comply with each of the provisions of this Agreement.

**26.5** Permitted Uses and Disclosures of PHI by Business Associate: Except as otherwise provided in this Agreement, Business Associate may use or disclose PHI on behalf of or to provide services to Covered Entity for the purposes specified in this Agreement, if such use or disclosure of PHI would not violate the Privacy Rule if done by Covered Entity. Unless otherwise limited herein, Business Associate may:

- a. use PHI for its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate;
- b. disclose PHI for its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that; (i) the disclosures required by law; or (ii) Business Associate obtains reasonable assurances from any person to whom the PHI is disclosed that such PHI will be kept confidential and will be used or further disclosed only as Required by Law or for the purpose(s) for which it was disclosed to the person, and the person commits to notifying Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached;
- c. disclose PHI to report violations of law to appropriate federal and state authorities; or
- d. aggregate the PHI with other data in its possession for purposes of Covered Entity's Health Care Operations;
- e. make uses and disclosures and requests for protected health information consistent with Covered Entity's minimum necessary policies and procedures;
- f. de-identify any and all PHI obtained by Business Associate under this BAA, and use such de-identified data, all in accordance with the de-identification requirements of the Privacy Rule [45 C.F.R. § 164.514(d)(1)].

**26.6** Obligations of Covered Entity

- a. Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- b. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 C.F.R. 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of protected health information.

- c. Covered Entity shall not request Business Associate use or disclose PHI in any manner that would violate the Privacy Rule if done by Covered Entity.
- d. Covered Entity agrees to timely notify Business Associate, in writing, of any arrangements between Covered Entity and the Individual that is the subject of PHI that may impact in any manner the use and/or disclosure of the PHI by Business Associate under this BAA.
- e. Covered Entity shall provide the minimum necessary PHI to Business Associate.

**26.7** Term and Termination:

- a. Obligations of Business Associate upon Termination. Upon termination of this Agreement for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall as applicable:
  - i. retain only that PHI that is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
  - ii. return to Covered Entity (or, if agreed to by Covered Entity, destroy) the remaining PHI that the Business Associate still maintains in any form;
  - iii. continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
  - iv. not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at above under “Permitted Uses and Disclosures By Business Associate” that applied prior to termination; and
  - v. return to Covered Entity (or, if agreed to by Covered Entity, destroy) the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- b. All other applicable obligations of Business Associate under this Agreement shall survive termination.
- c. Should the applicable State of Oklahoma agency become aware of a pattern of activity or practice that constitutes a material breach of a material term of this BAA by Business Associate, the agency shall provide Business Associate with written notice of such a breach in sufficient detail to enable Contractor to understand the specific nature of the breach. The Client shall be entitled to terminate the Underlying Contract associated with such breach if, after the applicable State of Oklahoma agency provides the notice to Business Associate, Business Associate fails to cure the breach within a reasonable time period not less than thirty (30) days specified in such notice; provided, however, that such

time period specified shall be based on the nature of the breach involved per 45 C.F.R. §§ 164.504(e)(1)(ii)(A),(B) & 164.314 (a)(2)(i)(D).

## **26.8** Miscellaneous Provisions:

- a. No Third-Party Beneficiaries: Nothing in this Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- b. Business Associate recognizes that any material breach of this Business Associate Terms section or breach of confidentiality or misuse of PHI may result in the termination of this Agreement and/or legal action. Said termination may be immediate and need not comply with any termination provision in the parties' underlying agreement, if any.
- c. The parties agree to amend this Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the Privacy Rule and related laws and regulations.
- d. The applicable State of Oklahoma agency shall make available its Notice of Privacy Practices.
- e. Any ambiguity in this Agreement shall be resolved in a manner that causes this Agreement to comply with HIPAA.
- f. If Business Associate maintains a designated record set in an electronic format on behalf of Covered Entity, then Business Associate agrees that within 30 calendar days of expiration or termination of the parties' agreement, Business Associate shall provide to Covered Entity a complete report of all disclosures of and access to the designated record set covering the three years immediately preceding the termination or expiration. The report shall include patient name, date and time of disclosures/access, description of what was disclosed/accessed, purpose of disclosure/access, name of individual who received or accessed the information, and, if available, what action was taken within the designated record set.
- g. Amendment: To the extent that any relevant provision of the HIPAA Regulations is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to these revised obligations. The parties agree to amend this Agreement from time to time as is necessary for Covered Entity or to comply with the requirements of the Privacy Rule and related laws and regulations.

## **27** **42 C.F.R. PART 2 RELATED PROVISIONS**

- 27.1** Confidentiality of Information. Contractor's employees and agents shall have access to private data to the extent necessary to carry out the responsibilities, limited by the terms of this Agreement. Contractor accepts the responsibilities for providing adequate administrative supervision and training to their employees and agents to ensure

compliance with relevant confidentiality, privacy laws, regulations and contractual provisions. No private or confidential data collected, maintained, or used shall be disseminated except as authorized by statute and by terms of this Agreement, whether during the period of the Agreement or thereafter. Furthermore, Contractor:

- 27.2** Acknowledges that in receiving, transmitting, transporting, storing, processing, or otherwise dealing with any information received pursuant to this agreement that identifies or otherwise relates to the individuals under the care of or in the custody of a State of Oklahoma agency, it is fully bound by the provisions of the federal regulations governing the confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2 and the HIPAA, 45 C.F.R. 45 Parts 142, 160, and 164, Title 43 A § 1-109 of Oklahoma Statutes, and may not use or disclose the information except as permitted or required by this Agreement or by law;
- 27.3** Acknowledges that pursuant to 43A O.S. §1-109, all mental health and drug or alcohol treatment information and all communications between physician or psychotherapist and patient are both privileged and confidential and that such information is available only to persons actively engaged in treatment of the client or consumer or in related administrative work. Contractor agrees that such protected information shall not be available or accessible to staff in general and shall not be used for punishment or prosecution of any kind;
- 27.4** Agrees to resist any efforts in judicial proceedings to obtain access to the protected information except as expressly provided for in the regulations governing the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2;
- 27.5** Agrees to, when applicable and to the extent within Contractor's control, use appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the State of Oklahoma agency and to use appropriate safeguards to prevent the unauthorized use or disclosure of the protected health information, and agrees that protected information will not be placed in the Child Protective Services (CPS) record of any individual involved with the Oklahoma Department of Human Services (DHS).
- 27.6** Agrees to report to the State of Oklahoma agency any use or disclosure or any security incident involving protected information not provided for by this Agreement. Such a report shall be made immediately when an employee becomes aware of such a disclosure, use, or security incident.
- 27.7** Agrees to provide access to the protected information at the request of the State of Oklahoma agency or to an authorized individual as directed by the State of Oklahoma agency, in order to meet the requirement of 45 C.F.R. §164.524 which provides clients with the right to access and copy their own protected information;
- 27.8** Agrees to make any amendments to the protected information as directed or agreed to by the State of Oklahoma agency, pursuant to 45 C.F.R. §164.526;
- 27.9** Agrees to make available its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of protected information received from the

State of Oklahoma agency or created or received by the Contractor on behalf of the State of Oklahoma agency, to the State of Oklahoma agency and to the Secretary of the Department of Health and Human Services for purpose of the Secretary determining the giving party's compliance with HIPAA;

- 27.10** Agrees to provide the State of Oklahoma agency, or an authorized individual, information to permit the State of Oklahoma agency to respond to a request by an individual for an accounting of disclosures in accordance with 45 C.F.R. §164.528.

## **28 DATA SECURITY**

The Contractor agrees to, when applicable and to the extent within Contractor's control, maintain the data in a secure manner compatible with the content and use. The Contractor will, when applicable to the extent within Contractor's control, control access to the data in Contractor's possession or control compliance with the terms of this Agreement. Only the Contractor's personnel whose duties require the use of such information, will have regular access to the data. The Contractor's employees will be allowed access to the data only for the purpose set forth in this Agreement.

- 28.1** Data Destruction. Contractor agrees to, when applicable and to the extent within Contractor's control, follow State of Oklahoma agency policies regarding secure data destruction.

- 28.2** Use of Information. Contractor agrees that the information received or accessed through this Agreement shall not be used to the detriment of any individual nor for any purpose other than those stated in this Agreement.

- 28.3** Redislosure of Data. The Contractor agrees not to redisclose any information to a third party not covered by the Agreement unless written permission by the State of Oklahoma agency is received and redislosure is permitted under applicable law.

## **29 FEDERAL TAX INFORMATION REQUIREMENTS IRS PUBLICATION 1075**

- 29.1** PERFORMANCE: If Contractor takes possession or control of Federal Tax Information in performance of this contract, the Contractor agrees to, when applicable and to the extent within Contractor's control, comply with and assume responsibility for compliance by officers or employees with the following requirements:

- 29.2** All work will be performed under the supervision of the State of Oklahoma.

- 29.3** The contractor and contractor's officers or employees to be authorized access to FTI must meet background check requirements defined in IRS Publication 1075. The contractor will maintain a list of officers or employees authorized access to FTI. Such list will be provided to the agency and, upon request, to the IRS.

- 29.4** FTI in hardcopy or electronic format shall be used only for the purpose of carrying out the provisions of this contract. FTI in any format shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection or disclosure of FTI to anyone other than the contractor or the contractor's officers or employees authorized is prohibited.

- 29.5** FTI will be accounted for upon receipt and properly stored before, during, and after processing. In addition, any related output and products require the same level of protection as required for the source material.
- 29.6** The contractor will certify that FTI processed during the performance of this contract will be completely purged from all physical and electronic data storage with no output to be retained by the contractor at the time the work is completed. If immediate purging of physical and electronic data storage is not possible, the contractor will certify that any FTI in physical or electronic storage will remain safeguarded to prevent unauthorized disclosures.
- 29.7** Any spoilage or any intermediate hard copy printout that may result during the processing of FTI will be given to the agency. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts and will provide the agency with a statement containing the date of destruction, description of material destroyed, and the destruction method.
- 29.8** All Contractor computer systems receiving, processing, storing, or transmitting FTI must meet the requirements in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to FTI.
- 29.9** No work involving FTI furnished under this contract will be subcontracted without the prior written approval of the IRS.
- 29.10** Contractor will ensure that the terms of FTI safeguards described herein are included, without modification, in any approved subcontract for work involving FTI.
- 29.11** To the extent the terms, provisions, duties, requirements, and obligations of this contract apply to performing services with FTI, the contractor shall assume toward the subcontractor all obligations, duties and responsibilities that the agency under this contract assumes toward the contractor, and the subcontractor shall assume toward the contractor all the same obligations, duties and responsibilities which the contractor assumes toward the agency under this contract.
- 29.12** In addition to the subcontractor's obligations and duties under an approved subcontract, the terms and conditions of this contract apply to the subcontractor, and the subcontractor is bound and obligated to the contractor hereunder by the same terms and conditions by which the contractor is bound and obligated to the agency under this contract.
- 29.13** For purposes of this contract, the term "contractor" includes any officer or employee of the contractor with access to or who uses FTI, and the term "subcontractor" includes any officer or employee of the subcontractor with access to or who uses FTI.
- 29.14** The agency will have the right to void the contract if the contractor fails to meet the terms of FTI safeguards described herein.

## **30 CRIMINAL/CIVIL SANCTIONS**

- 30.1** Each officer or employee of a contractor to whom FTI is or may be disclosed shall be notified in writing that FTI disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any FTI for a purpose not authorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution.
- 30.2** Each officer or employee of a contractor to whom FTI is or may be accessible shall be notified in writing that FTI accessible to such officer or employee may be accessed only for a purpose and to the extent authorized herein, and that access/inspection of FTI without an official need-to-know for a purpose not authorized herein constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.
- 30.3** Each officer or employee of a contractor to whom FTI is or may be disclosed shall be notified in writing that any such unauthorized access, inspection or disclosure of FTI may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each unauthorized access, inspection, or disclosure, or the sum of actual damages sustained as a result of such unauthorized access, inspection, or disclosure, plus in the case of a willful unauthorized access, inspection, or disclosure or an unauthorized access/inspection or disclosure which is the result of gross negligence, punitive damages, plus the cost of the action. These penalties are prescribed by IRC sections 7213, 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.
- 30.4** Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- 30.5** Granting a contractor access to FTI must be preceded by certifying that each officer or employee understands the agency's security policy and procedures for safeguarding FTI. A contractor and each officer or employee must maintain their authorization to access FTI through annual recertification of their understanding of the agency's security policy and procedures for safeguarding FTI. The initial certification and recertifications must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, a contractor and each officer or employee must be advised of the provisions of IRC sections 7213, 7213A, and 7431 (see IRS Publication 1075, Exhibit 4, Sanctions for Unauthorized Disclosure, and IRS Publication 1075, Exhibit 5, Civil Damages for Unauthorized Disclosure). The training on the agency's security policy and procedures provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. For the initial certification and the annual recertifications, the contractor and each officer or employee must sign, either with ink or

electronic signature, a confidentiality statement certifying their understanding of the security requirements.

## **31 INSPECTION**

The IRS and the Agency, with 24-hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. Based on the inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with FTI safeguard requirements.

## **32 SSA REQUIREMENTS**

- 32.1** PERFORMANCE: If Contractor takes possession or control of in SSA provided information in the performance of this contract, the contractor agrees to, where applicable and to the extent within Contractor's control comply with and assume responsibility for compliance by his or her employees with the following requirements:
- 32.2** All work will be done under the supervision of the State of Oklahoma.
- 32.3** Any SSA provided information made available shall be used only for carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the Contractor is prohibited.
- 32.4** All SSA provided information shall be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.
- 32.5** No work involving SSA provided information furnished under this contract shall be subcontracted without prior written approval by the applicable State of Oklahoma agency and the SSA.
- 32.6** The Contractor shall maintain a list of employees authorized access. Such list shall be provided upon request to the applicable State of Oklahoma agency or the SSA.
- 32.7** Contractor or agents may not legally process, transmit, or store SSA-provided information in a cloud environment without explicit permission from SSA's Chief Information Officer. Proof of this authorization shall be provided to the Contractor by the applicable State of Oklahoma agency prior to accessing SSA provided information.
- 32.8** Contractor shall provide security awareness training to all employees, contractors, and agents who access SSA-provided information. The training should be annual, mandatory, and certified by the personnel who receive the training. Contractor is also required to certify that each employee, contractor, and agent who views SSA-provided information certify that they understand the potential criminal, civil, and administrative sanctions or penalties for unlawful access and/or disclosure.

- 32.9** Contractor shall require employees, contractors, and agents to sign a non-disclosure agreement, attest to their receipt of Security Awareness Training, and acknowledge the rules of behavior concerning proper use and security in systems that process SSA-provided information. Contractor shall retain non-disclosure attestations for at least five (5) to seven (7) years for each employee who processes, views, or encounters SSA-provided information as part of their duties.
- 32.10** The applicable State of Oklahoma agency shall provide the Contractor a copy of the SSA exchange agreement and all related attachments before initial disclosure of SSA data. Contractor is required to follow the terms of the applicable State of Oklahoma agency's data exchange agreement with the SSA. Prior to signing this Agreement, and thereafter at SSA's request, the applicable State of Oklahoma agency shall obtain from the Contractor a current list of the employees of such Contractor with access to SSA data and provide such list to the SSA.
- 32.11** Where the Contractor processes, handles, or transmits information provided to the applicable State of Oklahoma agency by SSA or has authority to perform on the agency's behalf, the applicable State of Oklahoma agency shall clearly state the specific roles and functions of the Contractor within the Agreement.
- 32.12** SSA requires all parties subject to this Agreement to exercise due diligence to avoid hindering legal actions, warrants, subpoenas, court actions, court judgments, state or Federal investigations, and SSA special inquiries for matters pertaining to SSA-provided information.
- 32.13** SSA requires all parties subject to this Agreement to agree that any Client-owned or subcontracted facility involved in the receipt, processing, storage, or disposal of SSA-provided information operate as a "de facto" extension of the Client and is subject to onsite inspection and review by the Client or SSA with prior notice.
- 32.14** If the Contractor must send a Contractor computer, hard drive, or other computing or storage device offsite for repair, the Contractor must have a non-disclosure clause in their contract with the vendor. If the Contractor used the item in a business process that involved SSA-provided information and the vendor will retrieve or may view SSA-provided information during servicing, SSA reserves the right to inspect the Contractor's vendor contract. The Contractor must remove SSA-provided information from electronic devices before sending it to an external vendor for service. SSA expects the Contractor to render SSA-provided information unrecoverable or destroy the electronic device if they do not need to recover the information. The same applies to excessed, donated, or sold equipment placed into the custody of another organization.
- 32.15** In the event of a suspected or verified data breach involving SSA provided information, the Contractor shall notify the Client immediately.
- 32.16** The Client shall have the right to void the contract if the contractor fails to provide the safeguards described above.

### **33 CRIMINAL/CIVIL SANCTIONS**

The Act specifically provides civil remedies, 5 U.S.C. Sec. 552a(g), including damages, and criminal penalties, 5 U.S.C. Sec. 552a(i), for violations of the Act. The civil action provisions are premised violations of the Act committed by parties subject to this Agreement or regulations promulgated thereunder. An individual claiming such a violation by parties subject to this Agreement may bring civil action in a federal district court. If the individual substantially prevails, the court may assess reasonable attorney fees and other litigation costs. In addition, the court may direct the parties subject to this Agreement to grant the plaintiff access to his/her records, and when appropriate direct an amendment or correction of records subject to the Act. Actual damages may be awarded to the plaintiff for intentional or willful refusal by parties subject to this Agreement to comply with the Act.

### **33.1 Civil Remedies**

- a. In any suit brought under the provisions of 5 U.S.C. § 552a(g)(1)(C) or (D) in which the court determines that the parties subject to this Agreement acted in a manner which was intentional or willful, shall be liable in an amount equal to the sum of
- b. actual damages sustained by the individual because of the refusal or failure, but in no case, shall a person entitled to recovery receive less than the sum of \$1,000; and
- c. the costs of the action together with reasonable attorney fees as determined by the court.
- d. An action to enforce any liability created under 5 U.S.C. § 552a may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where parties subject to this Agreement have materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under 5 U.S.C. § 552a, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action because of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

### **33.2 Criminal Penalties**

- a. Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. See 5 U.S.C. § 552a(i)(1).

- b. Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000. See 5 U.S.C. § 552a(i)(2).
- c. Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000. See 5 U.S.C. § 552a(i)(3).

## **34 CHILD SUPPORT FPLS REQUIREMENTS**

- 34.1** Contractor, when applicable and to the extent within Contractor's control, and the applicable State of Oklahoma agency must comply with the security requirements established by the Social Security Act, the Privacy Act of 1974, the Federal Information Security Management Act of 2002 (FISMA), 42 United States Code (USC) 654(26), 42 UCS 654a(d)(1)-(5), the U.S. Department of Health and Human Services (HHS), the U.S. Department of Health and Human Services Administration of Children and Families Office of Child Support Enforcement Security Agreement and the Automated Systems for Child Support Enforcement: A Guide for States Section H Security and Privacy. Contractor and applicable State of Oklahoma agency also agree to use Federal Parent Locator Service (FPLS) information and Child Support (CS) program information solely for the authorized purposes in accordance with the terms in this agreement. The information exchanged between state Child Support agencies and all other state program information must be used for authorized purposes and protected against unauthorized access to reduce fraudulent activities and protect the privacy rights of individuals against unauthorized disclosure of confidential information.
- 34.2** This is applicable to the personnel, facilities, documentation, data, electronic and physical records and other machine-readable information systems of the applicable State of Oklahoma agency and Contractor, including, but not limited to, state employees and contractors working with FPLS information and CS program information and state CS agency data centers, statewide centralized data centers, contractor data centers, state Health and Human Services' data centers, comprehensive tribal agencies, data centers serving comprehensive tribes, and any other individual or entity collecting, storing, transmitting or processing FPLS information and CS program information. This is applicable to all FPLS information, which consists of the National Directory of New Hires (NDNH), Debtor File, and the Federal Case Registry (FCR). The NDNH, Debtor File and FCR are components of an automated national information system.
- 34.3** This is also applicable to all CS program information, which includes the state CS program information, other state and tribal program information, and confidential information. Confidential information means any information relating to a specified individual or an individual who can be identified by reference to one or more factors specific to him or her, including but not limited to the individual's Social Security number, residential and mailing addresses, employment information, and financial information. Ref. 45 Code of Federal Regulations (CFR) 303.21(a).

## **35 FERPA REQUIREMENTS**

**35.1** If Contractor takes possession or control of Information covered by FERPA in performance of this Agreement, Contractor agrees to, when applicable and to the extent within Contractor's control comply with and assume responsibility for compliance by its employees with the Family Educational Rights and Privacy Act; (20 U.S.C. § 1232g; 34 CFR Part 99) ("FERPA") and the Oklahoma Student Data Accessibility, Transparency, and Accountability Act of 2013; (70 O.S. § 3-168), where personally identifiable student education data is exchanged.

## **36 CJIS REQUIREMENTS**

**36.1** INTRODUCTION - This section shall be applicable to the extent that Contractor takes possession or control of CJIS data. The use and maintenance of all items of software or equipment offered for purchase herein must be in compliance with the most current version of the U.S. Department of Justice, Federal Bureau of Investigation ("FBI"), Criminal Justice Information Services (CJIS) Division's CJIS Security Policy ("CJIS Security Policy" or "Security Policy" herein).

**36.2** The Entity or Affiliate acquiring the data or system is hereby ultimately responsible for compliance with the CJIS Security Policy and will be subject to an audit by the State of Oklahoma CJIS Systems Officer ("CSO") and the FBI CJIS Division's Audit Staff.

**36.3** CJIS SECURITY POLICY REQUIREMENTS GENERALLY - The CJIS Security Policy outlines a number of administrative, procedural, and technical controls agencies must have in place to protect Criminal Justice Information ("CJI"). Our experience is that agencies will generally have many of the administrative and procedural controls in place but will need to implement additional technical safeguards in order to be in complete compliance with the mandate. A Criminal Justice Agency ("CJA") and certain other governmental agencies procuring technology equipment and services that could be used in hosting or connecting or transmitting or receiving CJI data may need to use the check list herein to make sure that the software, equipment, location, security, and persons having the ability to access CJI will meet the CJIS requirements per the then current CJIS Security Policy. A completed Appendix H to said Security Policy will need to be signed by Vendor or a 3rd party if it has access to CJI, such as incident to the maintenance or support of the purchased hardware or software within which resides CJI. Per Appendix "A" to said Security Policy, "access to CJI is the physical or logical (electronic) ability, right or privilege to view, modify or make use of CJI."

**36.4** DIRECTIVE CONCERNING ACCESS TO CRIMINAL JUSTICE INFORMATION AND TO HARDWARE OR SOFTWARE WHICH INTERACTS WITH CJI AND CERTIFICATION- The FBI CJIS Division provides state-of-the-art identification and information services to the local, state, tribal, federal, and international criminal justice communities for criminal justice purposes, as well as the noncriminal justice communities for noncriminal justice purposes.

**36.5** This Directive primarily concerns access to CJI and access to hardware and software in the use, retention, transmission, reception, and hosting of CJI for criminal justice purposes and not for noncriminal justice purposes. In that regard, this Directive is not only applicable to such data, but also to the hardware and software interacting with such data, their location(s), and persons having the ability to access such data. The CJIS data applicable to the Security Policy is the data described as such in said Policy plus all data

transmitted over the Oklahoma Law Enforcement Telecommunications System (“OLETS”) which is operated by DPS.

**36.6** In order to have access to CJI or to the aforesaid hardware or software, the vendor must be familiar with the FBI CJIS Security Policy, including but not limited to the following portions of said Security Policy:

- a. the Definitions and Acronyms in §3 & Appendices “A” & “B”;
- b. the general policies in §4;
- c. the Policies in §5;
- d. the appropriate forms in Appendices “D”, “E”, “F” & “H”; and
- e. the Supplemental Guidance in Appendices “J”.

**36.7** This FBI Security Policy is located and may be downloaded at:

- a. [https://le.fbi.gov/file-repository/cjis\\_security\\_policy\\_v5-9-2\\_20221207-5.pdf](https://le.fbi.gov/file-repository/cjis_security_policy_v5-9-2_20221207-5.pdf)
- b. By executing the Contract to which this Directive is attached, the vendor hereby CERTIFIES that the foregoing directive has and will be followed, including but not limited to full compliance with the FBI CJIS Security Policy, as amended and as applicable.

## **37 NOTICES**

**37.1** In addition to notice requirements under the terms of the Contract otherwise, the following individuals shall also be provided the request, approval or notice, as applicable:

Chief Information Officer  
3115 N. Lincoln Blvd  
Oklahoma City, OK 73105

**With a copy, which shall not constitute notice, to:**

OMES Deputy General Counsel  
3115 North Lincoln Blvd  
Oklahoma City, Oklahoma 73105

# ATTACHMENT E1

## ADDITIONAL TERMS – ORDER FORM TEMPLATE

The Edmentum Order Form Template is hereby amended as set forth below and supersedes all prior documents submitted by Edmentum, Inc. or discussed by the parties. The parties agree to use this Edmentum Order Form Template or a document substantially similar in the form of this Edmentum Order Form Template.



Date:  
Order Number:  
Revision:  
Order Form Expiration Date:

1

### ORDER FORM

#### Customer and Billing Address

Customer No.:  
Customer Name:  
Billing Address:

#### Products and Services

Products	Qty	License Start Date	License End Date	License Term (Months)

Subtotal:

Total US Funds:

This Order shall have an effective date ("Effective Date") which is the earlier of (a) the date we accept your signed Order Form or (b) the earliest of the License Start Dates applicable to the products listed above

To the extent the products listed above include "EdOptions Academy" and "ALVS" enrollment products, they are governed by the terms and conditions listed in Appendix A. For all other products, unless otherwise specified in the products table of this Order Form above, the Start Date for your software subscription license(s) will be the date on which we have accepted your order and have issued log-in credentials. In the case of a purchase for multiple successive subscription licenses, the Start Date for each successive subscription will be the day immediately following the License Term expiration of the preceding license subscription.

#### Terms and Conditions

For the purposes of this Order Form, "you" and "your" refer to Customer, and "we", "us" and "our" refer to Edmentum Inc. and affiliates. This Order Form and Statewide No. 1023 between Edmentum, Inc. and the State of Oklahoma form the entire agreement between you





and us ("Agreement"). You acknowledge that any terms and conditions in your purchase order or any other documents you provide that

Edmentum | P.O. Box 776725 | Chicago, IL 60677-6725 | [www.edmentum.com](http://www.edmentum.com)





Date: 02/14/2024  
 Order Number: Q-615164  
 Revision: 1  
 Order Form Expiration Date: 04/14/2024

ORDER FORM

Orders Under \$25,000.00 may pay by Credit Card:  
 Call 214.294.9901 or e-mail creditcardprocessing@edmentum.com

enhance our obligations or restrictions or contradict the Agreement do not have force and effect.

**Purchase Order**

Your order will not be scheduled for delivery until you have submitted a purchase order referencing and conforming to this Order Form.

**Acceptance**

This offer will expire on the Order Form Expiration Date noted above unless we earlier withdraw or extend the offer in writing.

I represent that I have read the terms and conditions included in this Agreement, that I am authorized to accept this offer and the Agreement's terms and conditions on behalf of the customer identified above and that I do accept this offer on behalf of the customer who agrees to adhere to the Agreement's terms and conditions. To the extent that either parties process does not require that I execute this Order Form, I accept, acknowledge and agree to the terms and conditions identified in and referenced in this Agreement as signified by my receipt, use or access of the products and/or services identified.

**Invoice Contact Information – Please Provide Your Finance Dept Contact Information**

First Name:

Last Name:

Email Address:

**Customer Signature**

Name (Printed or Typed)

Title

Date



# ATTACHMENT E2

## MASTER TERMS



### STANDARD SERVICE PURCHASE AND SOFTWARE LICENSE TERMS

The Terms and Conditions contained in this Attachment E-2 (the "Terms") apply to any transaction made pursuant to **Statewide Contract No. 1023 between Edmentum, Inc. and the State of Oklahoma**. For the purposes of this Attachment E-2, "you" and "your" refer to Customer (as defined in the Contract), and "we", "us" and "our" refer to Edmentum Inc. and affiliates.

**1.0 SOFTWARE:** The following terms and conditions will apply to your transaction with us as described in more detail on the Order Form:

**1.1 General License Terms.** All Software license rights that we grant you are specifically subject to the following general terms and conditions:

**1.1.1** All licenses are non-exclusive, non-transferable and non-assignable.

**1.1.2** We either own or have licensed from third parties all rights necessary to grant the licenses being granted you in the Software. We or our licensors own and retain all rights, title and interest in and to the Software and all ideas, concepts, methodologies, formats, specifications, and other know-how furnished by us or our licensors in connection with this Agreement, as well as all related intellectual property rights.

**1.1.3** All access and use of Software under this Agreement will be subject to our Privacy Policy, which can be found at <http://www.edmentum.com/Privacy> which is expressly made a part of this Agreement.

**1.1.4** Licenses granted under this Agreement will be automatically revoked if this Agreement is terminated and automatically terminate on the license expiration date as identified on the Order Form. We reserve the right to suspend or revoke any license granted under this Agreement if you breach this Agreement.

**1.1.5** We reserve the right to terminate access to any Software to the extent we end of life or similar the Software. If we exercise this right we will transition you to an appropriate alternative Software product that we own or license.

**1.2 Restrictions.** You and your Users will use the Software solely for the purposes stated in the applicable license grants and will not: (i) modify, copy or create derivative works based on the Software; (ii) frame or mirror any content forming part of the Software, other than for your own internal educational or training purposes during the license term and not in violation of any use or User restrictions; (iii) reverse engineer, decompile or disassemble the Software; (iv) access or allow others to access the Software in order to build, market or offer a competitive product or service, or copy any ideas, features, functions, answers, questions, contents or graphics of the Software; (v) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Software available to any third party, other than to Users as contemplated by this Agreement; (vi) send spam or otherwise unsolicited messages in violation of applicable laws; (vii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to children or violates third party privacy rights; (viii) intentionally send or store any viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, agents or programs; (ix) interfere with or disrupt the integrity or performance of the Software or the data contained therein; (x) attempt to gain unauthorized access to the Software or its related systems or networks; or (xi) publicly display or publicly perform the Software without our prior written permission.

**1.3 Software Operability:**

**1.3.1 Maintenance and Access.** During the Subscription Period, we will use commercially reasonable efforts to make the Software available (subject to routine maintenance windows and unavailability not caused by us) to you and your Users via the Internet 24 hours a day, 7 days a week. All access rights for you and your Users will be via the worldwide web using a browser and Internet connection compliant with the System Requirements (described in section 1.4).

**1.3.2 Outage Periods.** The term "Outage Period" means a period of more than 48 consecutive hours in which your Users are prevented from accessing the Software due to factors completely within our control during a period that you are not in breach of these Terms. Outage Periods exclude (a) planned downtime and (b) any Force Majeure event. If you experience an Outage Period, then upon your written request we will issue you a credit for the pro-rated share of fees you have paid for usage during the month during which the Outage Period occurs. Your request for this credit must be made within 30 days after the end of the Outage Period. Your sole and exclusive remedy for an Outage Period will be the above credit.

**1.4 System Requirements.** Our System Requirements document (found at <http://www.edmentum.com/support>) ("System Requirements") details the necessary hardware, software, system configuration, network infrastructure, bandwidth and other operational requirements necessary for you to successfully operate and use the Software. The System Requirements are subject to periodic change. You acknowledge that you are responsible for the cost, operation and availability of, and you and your Users compliance with, all elements of the System Requirements.

**1.5 Responsibility for User Activity.** You are responsible for all activities that occur in User accounts and for compliance by your Users with these Terms. You will: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (ii) use commercially reasonable efforts to prevent unauthorized access to, disclosure of or use of the Software, and notify us promptly of any such unauthorized access or use; and (iii) in connection with this Agreement, comply (and ensure compliance by your Users) with all applicable local, state and federal laws, rules and regulations.

## 1.6 Intellectual Property

**1.6.1 Reservation of Rights.** The Software we are providing is licensed to you, not sold. Subject to the limited rights expressly granted to you and your Users herein, we reserve all rights, title and interest in and to the Software and any Materials we provide, including all related intellectual property rights (except for those owned by our third-party vendors and licensors, which are reserved to them). No other rights are granted to you or your Users.

**1.6.2 Rights to Customer Data.** As between you and us, you own all rights, title and interest in and to all Customer Data. You hereby grant us a non-exclusive, royalty free license to perpetually use, modify, distribute and work with the Customer Data to the extent that we do so in compliance with applicable law and our Online Learning Programs Privacy Policy.

**1.6.3 Suggestions.** We will have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Software any suggestions, enhancement requests, recommendations or other feedback provided by you or your Users relating to the Software.

### 1.6.4 Custom Learning Paths

**a. Rights to Custom Learning Paths.** Certain Software allows you to customize the instructional content of the Software to suit your instructional needs. “**Your Learning Paths**” refers to the custom learning paths you create using this feature of the Software. We make no warranties or commitments related to your ability to access or use Your Learning Paths during the term of your licenses or at the expiration or termination of your licenses.

**b. Our Use of Your Learning Paths.** We may use or modify Your Learning Paths and may provide them to our other customers.

**c. Customer Created, Modified or Stored Content.** Certain Software enables you to create, customize or store content, documentation or otherwise. If you do, you accept, agree and acknowledge that (i) we can use and disseminate such items, (ii) at the expiration or termination of your licenses, we will not be returning these items to you and you have no rights in such items and (iii) you are responsible for ensuring that all laws, regulations and judicial precedence is followed in such creation, customization, disclosure or storage, including but not limited to intellectual property laws and you will indemnify us and our affiliates, successors and assigns in the event you fail to do so.

**1.7 Limited Warranty for Software.** Subject to the “Warranty Disclaimer” Section below, we warrant that the Software will perform in substantial accordance with the applicable Documentation during the Subscription Period. This warranty is contingent on your use of the Software in accordance with this Agreement and the applicable Documentation. If we breach this express warranty, and you promptly inform us of such in writing, we will at our option and expense: (a) modify the affected Software to generally conform with the applicable Documentation, or (b) provide a replacement for the affected Software which generally conforms with that Documentation, or (c) refund you the portion of your license price related to the applicable Software that is attributable to the remaining Subscription Period. This will be our sole obligation, and your sole remedy, with respect to any breach of this warranty. EXCEPT FOR THE EXPRESS WARRANTY PROVIDED IN Attachments A through D of this Contract (“Statewide Contract No. 1023”), THE SOFTWARE IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITHOUT ANY ADDITIONAL WARRANTIES OF ANY KIND. WE DO NOT WARRANT THAT THE SOFTWARE WILL PERFORM UNINTERRUPTED OR BE ERROR- FREE OR THAT THE SOFTWARE WILL MEET YOUR PARTICULAR REQUIREMENTS.

**2.0 THIRD PARTY SOFTWARE AND SERVICES.** The following terms and conditions will apply to all Third-Party Software and Third Party Services.

**2.1 Subject to Third Party’s Warranties and Terms.** Third Party Software and Third Party Services are distributed by us as a licensor, distributor or reseller. These products and services are provided subject to the separate license and sale terms, conditions and restrictions required by the third party. The third party sale terms, conditions, and restrictions shall be agreed to in writing by the State at the ordering level. Specifically the State will review to align the 3rd party terms, conditions, and restrictions to this Contract and ensure compliance with applicable laws, rules, and regulations. WE DO NOT PROVIDE, AND WE EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, ON ANY THIRD-PARTY SOFTWARE AND SERVICES WE SUPPLY OR MAKE AVAILABLE TO YOU. IN ADDITION, WE DO NOT GUARANTEE THE AVAILABILITY OF SUCH THIRD-PARTY SOFTWARE OR SERVICES AND SUCH SOFTWARE OR SERVICES MAY BE MODIFIED OR REMOVED AT ANY TIME.

**2.2 Warranty Claims.** We will use reasonable commercial endeavors to facilitate warranty claims you may make against the third party supplying such products or services. **This is our sole obligation relative to these products or services.**

**3.0 PROFESSIONAL SERVICES.** Professional Services listed on the Order Form will be provided subject to the following terms and conditions:

**3.1 Mutual Cooperation.** You and we mutually agree to cooperate with each other in a professional and courteous manner in the performance of our respective duties in the delivery of Professional Services.

**3.2 Scheduling Changes Caused by You.** You agree to notify us at least 5 business days in advance of your intention to reschedule previously confirmed on-site Professional Services sessions.

**3.3 Scheduling Changes Caused by Us.** If we are required to reschedule (except for reasons caused in whole or in part by you or that are outside our reasonable control) a previously confirmed on-site Professional Services delivery session, we will use all reasonable efforts to provide you at least 5 business days’ notice. If we do not provide such notice, and you incur reasonable direct, non-refundable expenses which you have made good faith efforts to avoid, we will upon your written request (which must include documentation of these expenses) provide you a credit for such expenses. In no case, however, will the amount of credit exceed \$750.

**3.4 Acceptance of Services and Warranty.**

**3.5 Compliance with Workplace Rules.** We will have the person or persons we assign to perform the Professional Services comply with those of your lawful workplace rules you have provided to us and them in writing in advance.

#### **4.0 GENERAL TERMS**

**Acceptance** The acceptance period will begin on the Subscription Period start date and continue for a duration of 15 business days ("Acceptance Period"), during which you are responsible for evaluating the products or services and reporting any deficiencies, issues, or non-compliance with agreed-upon specifications in writing to us ("Deficiency Report"). If we do not receive any notification of deficiencies from you by the end of the Acceptance Period, the products or services shall be deemed accepted by you. Upon receiving the Deficiency Report, we will use commercially reasonable efforts to address and resolve the reported issues within a reasonable timeframe. You will provide written confirmation of the resolution of the Deficiency Report. If no confirmation is received within 10 business days after our notice of resolution, the issues will be considered resolved, and acceptance will be deemed. This deemed acceptance will not apply in cases where you can demonstrate that you made reasonable attempts to communicate deficiencies to us within the Acceptance Period but encountered unavoidable delays or issues beyond your control.

#### 4.0.1

**4.0.2 Conditions.** The above indemnities will be conditioned on the party seeking indemnity: (a) promptly providing the other with a written notice of the Claim;

**4.0.3 Warranty Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN ATTACHMENTS A THROUGH D OF THIS CONTRACT . WE MAKE NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND WE SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

**4.1 U.S. Governmental Users.** The Software and Documentation are "Commercial Items," as defined at 48 C.F.R. §2.101, and are licensed subject to Restricted Rights applicable to Commercial Items and only with those rights expressly granted under this Agreement. The U.S. Government will not be entitled to technical information that is not customarily provided to the public or to use, modify, reproduce, release, perform, display, or disclose the Software or Documentation except as allowed under this Agreement.

#### 4.2 RESERVED

**4.3 Student/Parent Consents and Communication.** You are responsible for obtaining any necessary or legally required consents from students, parents and/or guardians related to your Users access and use of the Software. To the extent that your license includes our providing a virtual instructor associated with the licensed content, you accept and acknowledge that such virtual instructor may periodically be communicating with students and their parents and/or guardians.

**4.4 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

**4.5 Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be subject to modification by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement will remain in effect.

**4.6 Waiver.** No failure or delay by either party to exercise a right under this Agreement will be a waiver of that right.

## 5.0 DEFINITIONS

- **“Concurrent License”** means a Software license that may be accessed during the Subscription Period by any User, but may only be accessed by one individual User at a time.
- **“Course Enrollment”** shall mean a Consumable License plus the non-exclusive services of a virtual instructor qualified to provide online teaching services associated with the Consumable License.
- **“Consumable License”** means a Software license to a single course assigned to a single, Named User. Within thirty days of the date in which a Consumable License is made available to a Named User, you may remove that Named User and reassign the Consumable License to a different Named User for future use although such reassignment shall not extend the original Subscription Period. The Subscription Period for a Consumable License begins upon the earlier of (i) when the course content is first accessed by any Named User or (ii) sixty days following the date that access is first made available to a Named User, and ends one year later.
- **“Documentation”** means the technical specifications and/or functionality particulars regarding the Software that we provide you with the Order Form, if any.
- **“Materials”** means those materials that we provide you, if any, in connection with your Software license and/or Professional Services purchases that your Users can use solely for their internal educational purposes during the applicable Subscription Period.
- **“Named User”** means a specific Student User identified by name and designated as the sole Student User of the specific license.
- **“Order Form”** means the Order Form prepared and offered by us and returned to us by you indicating your acceptance of the terms and conditions of this Agreement. To the extent that you fail to execute and return the applicable Order Form to us, you accept and acknowledge that by using the Software (or any of your Users using the Software), you agree to the terms and conditions of this Agreement.
- **“Reusable License”** means a Software license whereby only one Named User is designated to use the license at a time, but may be reassigned to another Named User during the Subscription Period. While a Reusable License is assigned to a specific Named User, it may not be used by any other Student User at any time until reassigned to another Named User.
- **“Software”** means the online educational software that is identified on the Order Form that we make available to your Users via our Internet-based learning management system. The term “Software” includes both our Software and Third Party Software.
- **“Professional Services”** means the services identified on the Order Form that we agree to provide to you to assist in your implementation and/or on-going use of the Software.
- **“Students”** means those of your students that are provided access to the Software.
- **“Site License”** means a Software License that may be accessed during the Subscription Term by all authorized Users located in the specific physical site identified on the Order Form.
- **“Program License”** means a Software License that may be accessed during the Subscription Term by the authorized number of Users identified on the Order Form.
- **“Subscription Period”** means the period of time during which you will have access to the Software you license under the Agreement. This period will begin with the start date identified in the applicable Order Form or upon processing of your PO in the event that dates are not identified upon the Order Form, and (unless earlier terminated, suspended or revoked in accordance with the Agreement) will last for the duration of your Software license access identified on the Order Form.
- **“Third Party Software”** means software or content that we license from a third party for license to our customers under licensing terms and conditions specified by the producer.
- **“Third Party Services”** means the services that you purchase from us that are identified on the Order Form and that are performed by an entity or individual other than our employees and independent contractors.
- **“Users”** means those Students that you supply (or authorize us to supply) user identifications and passwords to and for which you've purchased an adequate quantity of the applicable Software licenses for. Users may include one or more Students.
- **“We”, “Us” or “Our”**, whether or not capitalized, refer to the entity or entities identified on the first page of the Order Form (Edmentum, Inc.).

# ATTACHMENT E3 PRICING

Oklahoma SW1023 Online Curriculum K-12  
SW1023 Price Template  
State of Oklahoma - Cisco Products and Services

Course Number	Course Title	Unit of Measure	Rate (Instructor-Embedded)	Rate (Content-Only)
<b>Math Courses</b>				
4615	AP* Calculus A/B	Per Semester, Per Student	\$300	\$35.00
4700	AP* Statistics	Per Semester, Per Student	\$300	\$35.00
N/A	Accelerator to Algebra 1	Per Semester, Per Student	Not available	\$35.00
N/A	Accelerator to Algebra 2	Per Semester, Per Student	Not available	\$35.00
N/A	Accelerator to Geometry	Per Semester, Per Student	Not available	\$35.00
N/A	Accelerator to Oklahoma Algebra I	Per Semester, Per Student	Not available	\$35.00
N/A	Accelerator to Oklahoma Algebra II	Per Semester, Per Student	Not available	\$35.00
N/A	Accelerator to Oklahoma Geometry	Per Semester, Per Student	Not available	\$35.00
4811	Algebra 1 A/B Honors	Per Semester, Per Student	\$275	\$35.00
4427	Algebra 2 A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Algebra 2 A/B Honors	Per Semester, Per Student	\$275	\$35.00
4622	Calculus A/B	Per Semester, Per Student	\$275	\$35.00
4620	Consumer Mathematics	Per Semester, Per Student	\$275	\$35.00
4614	Financial Mathematics A/B	Per Semester, Per Student	\$275	\$35.00
4626	Geometry A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Geometry A/B Honors	Per Semester, Per Student	\$275	\$35.00
2204	Math 6 A/B	Per Semester, Per Student	\$275	\$35.00
2204	Math 7 A/B	Per Semester, Per Student	\$275	\$35.00
2204	Math 8 A/B	Per Semester, Per Student	\$275	\$35.00
2204	Mathematics 1 A/B	Per Semester, Per Student	\$275	\$35.00
2204	Mathematics 2 A/B	Per Semester, Per Student	\$275	\$35.00
2204	Mathematics 3 A/B	Per Semester, Per Student	\$275	\$35.00
4411	Oklahoma Algebra I A/B	Per Semester, Per Student	\$275	\$35.00
4412	Oklahoma Algebra II A/B	Per Semester, Per Student	\$275	\$35.00
4420	Oklahoma Geometry A/B	Per Semester, Per Student	\$275	\$35.00
4614	Precalculus A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Precalculus A/B Honors	Per Semester, Per Student	\$275	\$35.00
4760	Probability & Statistics	Per Semester, Per Student	\$275	\$35.00
<b>English Language Arts Courses</b>				
4052	AP* English Language and Composition A/B	Per Semester, Per Student	\$300	\$35.00
4030	AP* English Literature and Composition A/B	Per Semester, Per Student	\$300	\$35.00
N/A	Accelerator to English 09	Per Semester, Per Student	Not available	\$35.00
N/A	Accelerator to English 10	Per Semester, Per Student	Not available	\$35.00
N/A	Accelerator to English 14	Per Semester, Per Student	Not available	\$35.00
N/A	Accelerator to English 18	Per Semester, Per Student	Not available	\$35.00
N/A	Accelerator to Oklahoma English I	Per Semester, Per Student	Not available	\$35.00
N/A	Accelerator to Oklahoma English II	Per Semester, Per Student	Not available	\$35.00
N/A	Accelerator to Oklahoma English III	Per Semester, Per Student	Not available	\$35.00
N/A	Accelerator to Oklahoma English IV	Per Semester, Per Student	Not available	\$35.00
3409	Business English A/B	Per Semester, Per Student	\$275	\$35.00
1144	English 06 A/B	Per Semester, Per Student	\$275	\$35.00
1144	English 07 A/B	Per Semester, Per Student	\$275	\$35.00
1144	English 08 A/B	Per Semester, Per Student	\$275	\$35.00
N/A	English 09 A/B	Per Semester, Per Student	\$275	\$35.00
N/A	English 09 A/B Honors	Per Semester, Per Student	\$275	\$35.00
N/A	English 10 A/B	Per Semester, Per Student	\$275	\$35.00
N/A	English 10 A/B Honors	Per Semester, Per Student	\$275	\$35.00
N/A	English 11 A/B	Per Semester, Per Student	\$275	\$35.00
N/A	English 11 A/B Honors	Per Semester, Per Student	\$275	\$35.00
N/A	English 12 A/B	Per Semester, Per Student	\$275	\$35.00
N/A	English 12 A/B Honors	Per Semester, Per Student	\$275	\$35.00
4045	Oklahoma English I A/B	Per Semester, Per Student	\$275	\$35.00
4048	Oklahoma English II A/B	Per Semester, Per Student	\$275	\$35.00
4051	Oklahoma English III A/B	Per Semester, Per Student	\$275	\$35.00
4054	Oklahoma English IV A/B	Per Semester, Per Student	\$275	\$35.00
<b>Science Courses</b>				
5095	AP* Biology A/B	Per Semester, Per Student	\$300	\$35.00
5055	AP* Chemistry A/B	Per Semester, Per Student	\$300	\$35.00
5231	AP* Environmental Science A/B	Per Semester, Per Student	\$300	\$35.00
5031	Biology A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Biology with Virtual Labs A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Biology with Virtual Labs A/B Honors	Per Semester, Per Student	\$275	\$35.00
5051	Chemistry A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Chemistry A/B Honors	Per Semester, Per Student	\$275	\$35.00
5065	High School Earth & Space Science A/B	Per Semester, Per Student	\$275	\$35.00
N/A	High School Earth & Space Science A/B Honors	Per Semester, Per Student	\$275	\$35.00
N/A	Integrated Physics & Chemistry A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Integrated Physics & Chemistry A/B Honors	Per Semester, Per Student	\$275	\$35.00
N/A	Middle School Earth & Space Science A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Middle School Life Science A/B	Per Semester, Per Student	\$275	\$35.00
2286	Middle School Physical Science A/B	Per Semester, Per Student	\$275	\$35.00
1460	Physical Science A/B	Per Semester, Per Student	\$275	\$35.00
5211	Physics A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Physics A/B Honors	Per Semester, Per Student	\$275	\$35.00
2266	Science 6 A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Science 6 with Virtual Labs A/B	Per Semester, Per Student	\$275	\$35.00
2276	Science 7 A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Science 7 with Virtual Labs A/B	Per Semester, Per Student	\$275	\$35.00
2286	Science 8 A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Science 8 with Virtual Labs A/B	Per Semester, Per Student	\$275	\$35.00
<b>Social Studies Courses</b>				
5624	AP* Macroeconomics	Per Semester, Per Student	\$300	\$35.00
5296	AP* Microeconomics	Per Semester, Per Student	\$300	\$35.00
5645	AP* Psychology	Per Semester, Per Student	\$300	\$35.00
5444	AP* U.S. History A/B	Per Semester, Per Student	\$300	\$35.00
N/A	Contemporary World History A/B	Per Semester, Per Student	\$275	\$35.00
5671	Economics	Per Semester, Per Student	\$275	\$35.00
N/A	Ethnic Studies	Per Semester, Per Student	\$275	\$35.00
5450	High School Civics	Per Semester, Per Student	\$275	\$35.00
5731	High School World History A/B	Per Semester, Per Student	\$275	\$35.00
N/A	High School World History A/B Honors	Per Semester, Per Student	\$275	\$35.00
N/A	MT Contemporary World History A/B	Per Semester, Per Student	\$275	\$35.00
3203	Middle School Civics A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Middle School U.S. History A/B	Per Semester, Per Student	\$275	\$35.00
N/A	Middle School World History A/B	Per Semester, Per Student	\$275	\$35.00
5653	Oklahoma State History & Government	Per Semester, Per Student	\$275	\$35.00
5641	U.S. Government	Per Semester, Per Student	\$275	\$35.00
5640	U.S. History A/B	Per Semester, Per Student	\$275	\$35.00
N/A	World Geography A/B	Per Semester, Per Student	\$275	\$35.00
N/A	World History Survey A/B	Per Semester, Per Student	\$275	\$35.00
<b>World Languages Courses</b>				
8116	AP* French A/B	Per Semester, Per Student	\$300	N/A
8164	AP* Spanish A/B	Per Semester, Per Student	\$300	\$35.00
8186	Chinese 1 A/B	Per Semester, Per Student	\$300	N/A
8186	Chinese 2 A/B	Per Semester, Per Student	\$300	N/A
8111	French 1 A/B	Per Semester, Per Student	\$300	\$35.00
8112	French 2 A/B	Per Semester, Per Student	\$300	\$35.00
8113	French 3 A/B	Per Semester, Per Student	\$300	N/A
8121	German 1 A/B	Per Semester, Per Student	\$300	\$35.00
8122	German 2 A/B	Per Semester, Per Student	\$300	\$35.00
8161	Spanish 1 A/B	Per Semester, Per Student	\$300	\$35.00
8162	Spanish 2 A/B	Per Semester, Per Student	\$300	\$35.00
8163	Spanish 3 A/B	Per Semester, Per Student	\$300	\$35.00
<b>Elective Courses</b>				
2770	Academic Success	Per Semester, Per Student	\$275	\$65.00
2817	Art History and Appreciation	Per Semester, Per Student	\$275	\$65.00
2814	Artificial Intelligence	Per Semester, Per Student	\$275	\$65.00
2415	Business and Information Technology A/B	Per Semester, Per Student	\$275	\$65.00
N/A	College and Career Preparation I	Per Semester, Per Student	\$275	\$65.00
N/A	College and Career Preparation II	Per Semester, Per Student	\$275	\$65.00
N/A	Communications Applications	Per Semester, Per Student	\$275	\$65.00
4801	Creative Writing	Per Semester, Per Student	\$275	\$65.00
N/A	Digital Citizenship A/B	Per Semester, Per Student	\$275	\$65.00
N/A	Engineering and Technology A/B	Per Semester, Per Student	\$275	\$65.00
4200	Environmental Science A/B	Per Semester, Per Student	\$275	\$65.00
N/A	Exploring Agriculture and Business A/B	Per Semester, Per Student	\$275	\$65.00
N/A	Exploring Coding and Careers A/B	Per Semester, Per Student	\$275	\$65.00
8531	Exploring Health Sciences A/B	Per Semester, Per Student	\$275	\$65.00
N/A	Gothic Literature	Per Semester, Per Student	\$275	\$65.00
N/A	Introduction to Anthropology	Per Semester, Per Student	\$275	\$65.00
5732	Introduction to Anthropology	Per Semester, Per Student	\$275	\$65.00
N/A	Introduction to Archaeology	Per Semester, Per Student	\$275	\$65.00
5760	Introduction to Philosophy	Per Semester, Per Student	\$275	\$65.00
2818	Introduction to Visual Arts	Per Semester, Per Student	\$275	\$65.00
3783	Introduction to World Religions	Per Semester, Per Student	\$275	\$65.00
3063	Music Appreciation	Per Semester, Per Student	\$275	\$65.00
4866	Mythology and Folklore	Per Semester, Per Student	\$275	\$65.00
N/A	Structures of Writing	Per Semester, Per Student	\$275	\$65.00
N/A	Women's Studies	Per Semester, Per Student	\$275	\$65.00
<b>Health, Fitness &amp; Physical Education Courses</b>				
N/A	Advanced Physical Education	Per Semester, Per Student	\$275	\$50.00
N/A	Advanced Physical Education 1	Per Semester, Per Student	\$275	\$50.00
N/A	Advanced Physical Education 2	Per Semester, Per Student	\$275	\$50.00
5331	Anatomy	Per Semester, Per Student	\$275	\$50.00
3320	Comprehensive Physical Education	Per Semester, Per Student	\$275	\$50.00
N/A	Drugs & Alcohol	Per Semester, Per Student	\$275	\$50.00
8558	Exercise Science	Per Semester, Per Student	\$275	\$50.00
8621	Family & Consumer Science	Per Semester, Per Student	\$275	\$50.00
8407	Family Unit & Healthy Relationships	Per Semester, Per Student	\$275	\$50.00
N/A	First Aid & Safety	Per Semester, Per Student	\$275	\$50.00
N/A	Fitness Basics 1	Per Semester, Per Student	\$275	\$50.00
N/A	Fitness Basics 2	Per Semester, Per Student	\$275	\$50.00
N/A	Flexibility Training	Per Semester, Per Student	\$275	\$50.00
8330	Group Sports	Per Semester, Per Student	\$275	\$50.00
N/A	HOPE (Health Opportunities through Physical Education) 1	Per Semester, Per Student	\$275	\$50.00
N/A	HOPE (Health Opportunities through Physical Education) 2	Per Semester, Per Student	\$275	\$50.00
8330	Health	Per Semester, Per Student	\$275	\$50.00
3330	Health & Personal Wellness	Per Semester, Per Student	\$275	\$50.00
N/A	Health 2	Per Semester, Per Student	\$275	\$50.00
8551	Health Careers	Per Semester, Per Student	\$275	\$50.00
N/A	Health Extended	Per Semester, Per Student	\$275	\$50.00
N/A	Intro to Coaching	Per Semester, Per Student	\$275	\$50.00
N/A	Intro to Group Sports 1	Per Semester, Per Student	\$275	\$50.00
N/A	Intro to Group Sports 2	Per Semester, Per Student	\$275	\$50.00
N/A	Intro to Individual Sports 1	Per Semester, Per Student	\$275	\$50.00
N/A	Intro to Individual Sports 2	Per Semester, Per Student	\$275	\$50.00
N/A	Intro to Nursing 1	Per Semester, Per Student	\$275	\$50.00
N/A	Intro to Nursing 2	Per Semester, Per Student	\$275	\$50.00
2760	Life Skills	Per Semester, Per Student	\$275	\$50.00
N/A	Lifestyle & Leisure Sports	Per Semester, Per Student	\$275	\$50.00
N/A	Medical Terminology	Per Semester, Per Student	\$275	\$50.00
1343	Medical School Health	Per Semester, Per Student	\$275	\$50.00
N/A	Outdoor Sports	Per Semester, Per Student	\$275	\$50.00
N/A	Personal Health & Fitness	Per Semester, Per Student	\$275	\$50.00

Item	Unit of Measure	Rate
Secondary Full Year Full Time Student	Per Student, Per Year	\$2,400.00
Elementary Full Year Full Time Student	Per Student, Per Year	\$1,200.00
Secondary Semester Full Time Student	Per Student, Per Semester	\$1,200.00
Elementary Semester Full Time Student	Per Student, Per Semester	\$1,200.00

Additional discounts may be available based on volume purchased.

Item	Unit of Measure	Rate
Fact Psh	Per Student, Annually	\$42.00
Study Island	Per Student, Annually	\$17.00
World Language Library	Per Year, Per Student	\$18.00
Health and Fitness Library	Per Year, Per Student	\$50.00
College and Career Readiness Library	Per Year, Per Student	\$49.50
Comprehensive Library	Per Year, Per Student	\$140.00
Targeted Small Group Instruction	1 Day/Week for 6 Weeks	\$75.00
	2 Day/Week for 6 Weeks	\$1,320.00
	3 Day/Week for 6 Weeks	\$1,890.00
	4 Day/Week for 6 Weeks	\$2,460.00
	5 Day/Week for 6 Weeks	\$3,030.00
FEV Tutor	Per Student, Per Session	\$36.00
Copyrights	Flat Fee for up to 1,679 students	\$1,130.00
	One-Time Set Up Cost	\$500.00

Additional discounts may be available based on volume purchased.

N/A	Personal Training Career Prep	Per Semester, Per Student	\$275	\$500
N/A	Personal Training Concepts	Per Semester, Per Student	\$275	\$500
N/A	Physical Education	Per Semester, Per Student	\$275	\$500
1335	Physiology	Per Semester, Per Student	\$275	\$500
N/A	Running	Per Semester, Per Student	\$275	\$500
N/A	Sports Officiating	Per Semester, Per Student	\$275	\$500
N/A	Strength Training	Per Semester, Per Student	\$275	\$500
N/A	Weightlifting	Per Semester, Per Student	\$275	\$500
<b>Career &amp; Technical Education Courses</b>				
2401	Accounting A/B	Per Semester, Per Student	\$275	\$650
2401	Accounting I A/B	Per Semester, Per Student	\$275	\$650
2402	Accounting II A/B	Per Semester, Per Student	\$275	\$650
N/A	Allied Health Careers A/B	Per Semester, Per Student	\$275	\$650
1333	Anatomy and Physiology A/B	Per Semester, Per Student	\$275	\$650
N/A	Applied Medical Terminology A/B	Per Semester, Per Student	\$275	\$650
2151	Audio/Video Production 1 A/B	Per Semester, Per Student	\$275	\$650
2152	Audio/Video Production 2 A/B	Per Semester, Per Student	\$275	\$650
N/A	Audio/Video Production 3 A/B	Per Semester, Per Student	\$275	\$650
8292	Biotechnology A/B	Per Semester, Per Student	\$275	\$650
2403	Business Applications	Per Semester, Per Student	\$275	\$650
8103	Business Information Management A/B	Per Semester, Per Student	\$275	\$650
2410	Career Explorations	Per Semester, Per Student	\$275	\$650
N/A	Career and Life Skills A/B	Per Semester, Per Student	\$275	\$650
N/A	Certified Nurse Aide A/B	Per Semester, Per Student	\$275	\$650
8403	Child Development and Parenting A/B	Per Semester, Per Student	\$275	\$650
N/A	ComptaX Ax 200-2001	Per Semester, Per Student	\$275	\$650
N/A	ComptaX Ax 200-2002	Per Semester, Per Student	\$275	\$650
N/A	ComptaX Cloud Essentials Certification	Per Semester, Per Student	\$275	\$650
N/A	ComptaX Cloud Certification A/B	Per Semester, Per Student	\$275	\$650
N/A	ComptaX Network Certification (N10-0071) A/B	Per Semester, Per Student	\$275	\$650
N/A	ComptaX Security Certification (SC9-001) A/B	Per Semester, Per Student	\$275	\$650
N/A	Computer Application	Per Semester, Per Student	\$275	\$650
8222	Computer Programming I A/B	Per Semester, Per Student	\$275	\$650
8952	Computer Science Essentials	Per Semester, Per Student	\$275	\$650
2551	Computing for College and Careers A/B	Per Semester, Per Student	\$275	\$650
8226	Culinary Arts A/B	Per Semester, Per Student	\$275	\$650
8150	Digital and Interactive Media A/B	Per Semester, Per Student	\$275	\$650
8905	Drafting and Design A/B	Per Semester, Per Student	\$275	\$650
7750	Electronic Communication Skills	Per Semester, Per Student	\$275	\$650
8635	Entrepreneurship A/B	Per Semester, Per Student	\$275	\$650
8101	Essential Career Skills	Per Semester, Per Student	\$275	\$650
8158	Exercise Science A/B	Per Semester, Per Student	\$275	\$650
N/A	Food Handler and Food Manager Certifications	Per Semester, Per Student	\$275	\$650
N/A	Forestry and Wildlife Management A/B	Per Semester, Per Student	\$275	\$650
N/A	General Office and Energy A/B	Per Semester, Per Student	\$275	\$650
8245	Game Development	Per Semester, Per Student	\$275	\$650
8248	Graphic Design and Illustration A/B	Per Semester, Per Student	\$275	\$650
N/A	Health Information Management A/B	Per Semester, Per Student	\$275	\$650
8553	Health Science A/B	Per Semester, Per Student	\$275	\$650
8552	Health Science 2 A/B	Per Semester, Per Student	\$275	\$650
8478	Hospitality Management A/B	Per Semester, Per Student	\$275	\$650
8114	Human Resources Principles A/B	Per Semester, Per Student	\$275	\$650
N/A	Information Technology Applications	Per Semester, Per Student	\$275	\$650
8618	International Business	Per Semester, Per Student	\$275	\$650
8238	Introduction to Android Mobile App Development	Per Semester, Per Student	\$275	\$650
8020	Introduction to Astronomy	Per Semester, Per Student	\$275	\$650
N/A	Introduction to Business and Technology A/B	Per Semester, Per Student	\$275	\$650
8256	Introduction to Cosmology	Per Semester, Per Student	\$275	\$650
8630	Introduction to Cybersecurity	Per Semester, Per Student	\$275	\$650
8122	Introduction to Fashion Design	Per Semester, Per Student	\$275	\$650
8180	Introduction to Finance	Per Semester, Per Student	\$275	\$650
1314	Introduction to Forensic Science	Per Semester, Per Student	\$275	\$650
N/A	Introduction to Marine Biology	Per Semester, Per Student	\$275	\$650
N/A	Introduction to Military Careers	Per Semester, Per Student	\$275	\$650
N/A	Introduction to Social Media	Per Semester, Per Student	\$275	\$650
8012	Introduction to Veterinary Science	Per Semester, Per Student	\$275	\$650
8241	Introduction to iOS Mobile App Development	Per Semester, Per Student	\$275	\$650
8251	Lead Enhancement and Facilities A/B	Per Semester, Per Student	\$275	\$650
N/A	Management Fundamentals A/B	Per Semester, Per Student	\$275	\$650
8602	Marketing, Advertising, and Sales	Per Semester, Per Student	\$275	\$650
N/A	Medical Coding and Billing A/B	Per Semester, Per Student	\$275	\$650
N/A	Medical Therapeutics A/B	Per Semester, Per Student	\$275	\$650
8676	Natural Resources A/B	Per Semester, Per Student	\$275	\$650
N/A	Network Fundamentals A/B	Per Semester, Per Student	\$275	\$650
8405	Nutrition and Wellness	Per Semester, Per Student	\$275	\$650
8178	Personal Finance	Per Semester, Per Student	\$275	\$650
1451	Personal Financial Literacy	Per Semester, Per Student	\$275	\$650
8954	Principles of Agriculture, Food, and Natural Resources A/B	Per Semester, Per Student	\$275	\$650
8955	Principles of Architecture and Construction A/B	Per Semester, Per Student	\$275	\$650
8956	Principles of Arts, Audio/Video Technology, and Communications A/B	Per Semester, Per Student	\$275	\$650
N/A	Principles of Business Management A/B	Per Semester, Per Student	\$275	\$650
8614	Principles of Business, Marketing, and Finance A/B	Per Semester, Per Student	\$275	\$650
8459	Principles of Education and Training A/B	Per Semester, Per Student	\$275	\$650
1710	Principles of Engineering and Technology A/B	Per Semester, Per Student	\$275	\$650
N/A	Principles of Government and Public Administration A/B	Per Semester, Per Student	\$275	\$650
8434	Principles of Health Science A/B	Per Semester, Per Student	\$275	\$650
8448	Principles of Hospitality and Tourism A/B	Per Semester, Per Student	\$275	\$650
8469	Principles of Human Services A/B	Per Semester, Per Student	\$275	\$650
8957	Principles of Information Technology A/B	Per Semester, Per Student	\$275	\$650
8958	Principles of Law, Public Safety, Corrections, and Security A/B	Per Semester, Per Student	\$275	\$650
8959	Principles of Manufacturing A/B	Per Semester, Per Student	\$275	\$650
8960	Principles of Transportation, Distribution, and Logistics A/B	Per Semester, Per Student	\$275	\$650
8177	Professional Communications	Per Semester, Per Student	\$275	\$650
8181	Professional Photography A/B	Per Semester, Per Student	\$275	\$650
8441	Psychology A/B	Per Semester, Per Student	\$275	\$650
N/A	Rehabilitation Careers A/B	Per Semester, Per Student	\$275	\$650
N/A	Relationships and Emotions A/B	Per Semester, Per Student	\$275	\$650
N/A	Revolutionary Ideas in Science	Per Semester, Per Student	\$275	\$650
8493	Robotics I A/B	Per Semester, Per Student	\$275	\$650
N/A	Security Fundamentals A/B	Per Semester, Per Student	\$275	\$650
1720	Sociology	Per Semester, Per Student	\$275	\$650
N/A	Sports and Entertainment Marketing	Per Semester, Per Student	\$275	\$650
N/A	Theater, Covers, and Film Production	Per Semester, Per Student	\$275	\$650
8153	Web Technologies A/B	Per Semester, Per Student	\$275	\$650
<b>College &amp; Career Readiness Courses</b>				
2740	ACT* English	Per Semester, Per Student	\$275	\$490
2740	ACT* Mathematics	Per Semester, Per Student	\$275	\$490
2740	ACT* Reading	Per Semester, Per Student	\$275	\$490
2740	ACT* Science Reasoning	Per Semester, Per Student	\$275	\$490
N/A	ACT* Writing	Per Semester, Per Student	\$275	\$490
8194	AP* Computer Science A	Per Semester, Per Student	\$100	\$490
N/A	ASAB Mathematics	Per Semester, Per Student	\$275	\$490
N/A	ASAB Technology & General Science, Part 1	Per Semester, Per Student	\$275	\$490
N/A	ASAB Technology & General Science, Part 2	Per Semester, Per Student	\$275	\$490
N/A	ASAB Word Knowledge & Paragraph Comprehension	Per Semester, Per Student	\$275	\$490
N/A	Accuplacer* Mathematics	Per Semester, Per Student	\$275	\$490
N/A	Accuplacer* Reading	Per Semester, Per Student	\$275	\$490
N/A	Accuplacer* Writing	Per Semester, Per Student	\$275	\$490
N/A	HIST* Preparation - Language Arts - Reading Part 1	Per Semester, Per Student	\$275	\$490
N/A	HIST* Preparation - Language Arts - Reading Part 2	Per Semester, Per Student	\$275	\$490
N/A	HIST* Preparation - Language Arts - Writing Part 1	Per Semester, Per Student	\$275	\$490
N/A	HIST* Preparation - Language Arts - Writing Part 2	Per Semester, Per Student	\$275	\$490
N/A	HIST* Preparation - Mathematics Part 1	Per Semester, Per Student	\$275	\$490
N/A	HIST* Preparation - Mathematics Part 2	Per Semester, Per Student	\$275	\$490
N/A	HIST* Preparation - Science Part 1	Per Semester, Per Student	\$275	\$490
N/A	HIST* Preparation - Science Part 2	Per Semester, Per Student	\$275	\$490
N/A	HIST* Preparation - Social Studies Part 1	Per Semester, Per Student	\$275	\$490
N/A	HIST* Preparation - Social Studies Part 2	Per Semester, Per Student	\$275	\$490
N/A	Preparation for the GED® Test - Math	Per Semester, Per Student	\$275	\$490
N/A	Preparation for the GED® Test - Reading Language Arts (RLA)	Per Semester, Per Student	\$275	\$490
N/A	Preparation for the GED® Test - Science	Per Semester, Per Student	\$275	\$490
N/A	Preparation for the GED® Test - Social Studies	Per Semester, Per Student	\$275	\$490
2740	SAT* Mathematics	Per Semester, Per Student	\$275	\$490
2740	SAT* Reading	Per Semester, Per Student	\$275	\$490
2740	SAT* Writing and Language	Per Semester, Per Student	\$275	\$490
N/A	TASC Preparation - Language Arts Reading Part 1	Per Semester, Per Student	\$275	\$490
N/A	TASC Preparation - Language Arts Reading Part 2	Per Semester, Per Student	\$275	\$490
N/A	TASC Preparation - Language Arts Writing Part 1	Per Semester, Per Student	\$275	\$490
N/A	TASC Preparation - Language Arts Writing Part 2	Per Semester, Per Student	\$275	\$490
N/A	TASC Preparation - Mathematics Part 1	Per Semester, Per Student	\$275	\$490
N/A	TASC Preparation - Mathematics Part 2	Per Semester, Per Student	\$275	\$490
N/A	TASC Preparation - Science Part 1	Per Semester, Per Student	\$275	\$490
N/A	TASC Preparation - Science Part 2	Per Semester, Per Student	\$275	\$490
N/A	TASC Preparation - Social Studies Part 1	Per Semester, Per Student	\$275	\$490
N/A	TASC Preparation - Social Studies Part 2	Per Semester, Per Student	\$275	\$490
<b>English Language Acquisition Courses</b>				
4063	ELL Foundations: Level 1	Per Semester, Per Student	Not available	\$26.00
4063	ELL Foundations: Newcomer	Per Semester, Per Student	Not available	\$35.00
<b>Calvert Learning Courses</b>				
<b>Math Courses</b>				
2204	Calvert Grade 1 Math	Per Semester, Per Student	Courses not sold individually	\$160.00
2204	Calvert Grade 2 Math	Per Semester, Per Student	Courses not sold individually	\$160.00
2204	Calvert Grade 3 Math	Per Semester, Per Student	Courses not sold individually	\$160.00
2204	Calvert Grade 4 Math	Per Semester, Per Student	Courses not sold individually	\$160.00
2204	Calvert Grade 5 Math	Per Semester, Per Student	Courses not sold individually	\$160.00
2204	Calvert Kindergarten Math	Per Semester, Per Student	Courses not sold individually	\$160.00
<b>English Language Arts Courses</b>				
1114	Calvert Grade 1 English Language Arts	Per Semester, Per Student	Courses not sold individually	\$160.00
1114	Calvert Grade 2 English Language Arts	Per Semester, Per Student	Courses not sold individually	\$160.00
1114	Calvert Grade 3 English Language Arts	Per Semester, Per Student	Courses not sold individually	\$160.00
1114	Calvert Grade 4 English Language Arts	Per Semester, Per Student	Courses not sold individually	\$160.00
1114	Calvert Grade 5 English Language Arts	Per Semester, Per Student	Courses not sold individually	\$160.00
1114	Calvert Kindergarten English Language Arts	Per Semester, Per Student	Courses not sold individually	\$160.00
<b>Science Courses</b>				
2254	Calvert Grade 1 Science	Per Semester, Per Student	Courses not sold individually	\$160.00
2254	Calvert Grade 2 Science	Per Semester, Per Student	Courses not sold individually	\$160.00
2254	Calvert Grade 3 Science	Per Semester, Per Student	Courses not sold individually	\$160.00
2254	Calvert Grade 4 Science	Per Semester, Per Student	Courses not sold individually	\$160.00
2254	Calvert Grade 5 Science	Per Semester, Per Student	Courses not sold individually	\$160.00
2254	Calvert Kindergarten Science	Per Semester, Per Student	Courses not sold individually	\$160.00
<b>Social Studies Courses</b>				
2305	Calvert Grade 1 Social Studies	Per Semester, Per Student	Courses not sold individually	\$160.00
2305	Calvert Grade 2 Social Studies	Per Semester, Per Student	Courses not sold individually	\$160.00
2305	Calvert Grade 3 Social Studies	Per Semester, Per Student	Courses not sold individually	\$160.00
2305	Calvert Grade 4 Social Studies	Per Semester, Per Student	Courses not sold individually	\$160.00
2305	Calvert Grade 5 Social Studies	Per Semester, Per Student	Courses not sold individually	\$160.00
2305	Calvert Kindergarten Social Studies	Per Semester, Per Student	Courses not sold individually	\$160.00
<b>Electives Courses</b>				
1173	Calvert Grade 2 Art and Picture Study	Per Semester, Per Student	Courses not sold individually	\$160.00
1173	Calvert Grade 3 Art and Picture Study	Per Semester, Per Student	Courses not sold individually	\$160.00
1173	Calvert Grade 4 Art and Picture Study	Per Semester, Per Student	Courses not sold individually	\$160.00
1173	Calvert Grade 5 Art & Art History	Per Semester, Per Student	Courses not sold individually	\$160.00
<b>Health, Fitness &amp; Physical Education Courses</b>				

1343	Calvert Grade 1 Health	Per Semester, Per Student	Courses not sold individually	\$160.00
1344	Calvert Grade 1 Physical Education	Per Semester, Per Student	Courses not sold individually	\$160.00
1345	Calvert Grade 2 Physical Education	Per Semester, Per Student	Courses not sold individually	\$160.00
1346	Calvert Grade 3 Physical Education	Per Semester, Per Student	Courses not sold individually	\$160.00
1347	Calvert Grade 4 Physical Education	Per Semester, Per Student	Courses not sold individually	\$160.00
1348	Calvert Grade 5 Physical Education	Per Semester, Per Student	Courses not sold individually	\$160.00
1349	Calvert Grade 6 Health	Per Semester, Per Student	Courses not sold individually	\$160.00
1350	Calvert Grade 7 Physical Education	Per Semester, Per Student	Courses not sold individually	\$160.00
<b>Calvert Learning Course Libraries</b>				
<b>Math 2204</b>				
ELA 1114	Kindergarten Library	Per Student, Per Year	\$3,000.00	\$600.00
Science 2254	(Includes math, ELA, science, social studies, health, and physical education)			
Social Studies 2205				
Health 1343				
Phy Ed 1343				
Math 2204				
ELA 1114	Kindergarten Library	Per Student, Per Semester	\$2,100.00	\$345.00
Science 2254	(Includes math, ELA, science, social studies, health, and physical education)			
Social Studies 2205				
Health 1343				
Phy Ed 1343				
Math 2204				
ELA 1114	Grade 1 Library	Per Student, Per Year	\$3,000.00	\$600.00
Science 2254	(Includes math, ELA, science, social studies, health, and physical education)			
Social Studies 2205				
Health 1343				
Phy Ed 1343				
Math 2204				
ELA 1114	Grade 1 Library	Per Student, Per Semester	\$2,100.00	\$345.00
Science 2254	(Includes math, ELA, science, social studies, health, and physical education)			
Social Studies 2205				
Health 1343				
Phy Ed 1343				
Math 2204				
ELA 1114	Grade 2 Library	Per Student, Per Year	\$3,000.00	\$600.00
Science 2254	(Includes math, ELA, science, social studies, art and picture study, and physical education)			
Social Studies 2205				
Art & Picture Study 1173				
Phy Ed 1343				
Math 2204				
ELA 1114	Grade 2 Library	Per Student, Per Semester	\$2,100.00	\$345.00
Science 2254	(Includes math, ELA, science, social studies, art and picture study, and physical education)			
Social Studies 2205				
Art & Picture Study 1173				
Phy Ed 1343				
Math 2204				
ELA 1114	Grade 3 Library	Per Student, Per Year	\$3,000.00	\$600.00
Science 2254	(Includes math, ELA, science, social studies, art and picture study, and physical education)			
Social Studies 2205				
Art & Picture Study 1173				
Phy Ed 1343				
Math 2204				
ELA 1114	Grade 3 Library	Per Student, Per Semester	\$2,100.00	\$345.00
Science 2254	(Includes math, ELA, science, social studies, art and picture study, and physical education)			
Social Studies 2205				
Art & Picture Study 1173				
Phy Ed 1343				
Math 2204				
ELA 1114	Grade 4 Library	Per Student, Per Year	\$3,000.00	\$600.00
Science 2254	(Includes math, ELA, science, social studies, art and picture study, and physical education)			
Social Studies 2205				
Art & Picture Study 1173				
Phy Ed 1343				
Math 2204				
ELA 1114	Grade 4 Library	Per Student, Per Semester	\$2,100.00	\$345.00
Science 2254	(Includes math, ELA, science, social studies, art and picture study, and physical education)			
Social Studies 2205				
Art & Picture Study 1173				
Phy Ed 1343				
Math 2204				
ELA 1114	Grade 5 Library	Per Student, Per Year	\$3,000.00	\$600.00
Science 2254	(Includes math, ELA, science, social studies, art and picture study, and physical education)			
Social Studies 2205				
Art History 1173				
Phy Ed 1343				
Math 2204				
ELA 1114	Grade 5 Library	Per Student, Per Semester	\$2,100.00	\$345.00
Science 2254	(Includes math, ELA, science, social studies, art and picture study, and physical education)			
Social Studies 2205				
Art History 1173				
Phy Ed 1343				
<b>Apex Courses</b>				
<b>Math Courses</b>				
4615	AP* Calculus AB	Per Semester, Per Student	\$300	\$50.00
4760	AP* Statistics	Per Semester, Per Student	\$300	\$50.00
4611	Algebra I	Per Semester, Per Student	\$300	\$50.00
N/A	Algebra I Honors	Per Semester, Per Student	\$300	\$50.00
N/A	Algebra I Prescriptive	Per Semester, Per Student	\$300	\$50.00
4612	Algebra I A	Per Semester, Per Student	\$300	\$50.00
4613	Algebra I B	Per Semester, Per Student	\$300	\$50.00
4614	Algebra I C	Per Semester, Per Student	\$300	\$50.00
N/A	Algebra I Honors	Per Semester, Per Student	\$300	\$50.00
N/A	Algebra I Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Bridge Math	Per Semester, Per Student	\$300	\$50.00
N/A	Fundamental Math	Per Semester, Per Student	\$300	\$50.00
4620	Geometry	Per Semester, Per Student	\$300	\$50.00
N/A	Geometry Honors	Per Semester, Per Student	\$300	\$50.00
N/A	Geometry Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Introductory Algebra	Per Semester, Per Student	\$300	\$50.00
N/A	Liberal Arts Mathematics I	Per Semester, Per Student	\$300	\$50.00
N/A	Liberal Arts Mathematics I Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Liberal Arts Mathematics 2	Per Semester, Per Student	\$300	\$50.00
2204	Math 6	Per Semester, Per Student	\$300	\$50.00
2204	Math 7	Per Semester, Per Student	\$300	\$50.00
2212	Math 8	Per Semester, Per Student	\$300	\$50.00
N/A	Math Foundations I	Per Semester, Per Student	\$300	\$50.00
N/A	Math Foundations I Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Math Foundations II	Per Semester, Per Student	\$300	\$50.00
N/A	Math Foundations II Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Mathematics I	Per Semester, Per Student	\$300	\$50.00
N/A	Mathematics I Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Mathematics II	Per Semester, Per Student	\$300	\$50.00
N/A	Mathematics II Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Mathematics III Prescriptive	Per Semester, Per Student	\$300	\$50.00
4770	Mathematics of Personal Finance	Per Semester, Per Student	\$300	\$50.00
4611	Pre-Calculus	Per Semester, Per Student	\$300	\$50.00
N/A	Pre-Calculus Honors	Per Semester, Per Student	\$300	\$50.00
4740	Probability and Statistics	Per Semester, Per Student	\$300	\$50.00
N/A	Probability and Statistics Prescriptive	Per Semester, Per Student	\$300	\$50.00
<b>English Language Arts Course</b>				
4057	AP* English Language and Composition	Per Semester, Per Student	\$300	\$50.00
4058	AP* English Literature and Composition	Per Semester, Per Student	\$300	\$50.00
4301	Creative Writing	Per Semester, Per Student	\$300	\$50.00
4046	English 10	Per Semester, Per Student	\$300	\$50.00
N/A	English 10 Honors	Per Semester, Per Student	\$300	\$50.00
N/A	English 10 Prescriptive	Per Semester, Per Student	\$300	\$50.00
4051	English 11	Per Semester, Per Student	\$300	\$50.00
N/A	English 11 Honors	Per Semester, Per Student	\$300	\$50.00
N/A	English 11 Prescriptive	Per Semester, Per Student	\$300	\$50.00
4054	English 12	Per Semester, Per Student	\$300	\$50.00
N/A	English 12 Honors	Per Semester, Per Student	\$300	\$50.00
N/A	English 12 Prescriptive	Per Semester, Per Student	\$300	\$50.00
1114	English 8	Per Semester, Per Student	\$300	\$50.00
1114	English 7	Per Semester, Per Student	\$300	\$50.00
1114	English 6	Per Semester, Per Student	\$300	\$50.00
4045	English 9	Per Semester, Per Student	\$300	\$50.00
N/A	English 9 Honors	Per Semester, Per Student	\$300	\$50.00
N/A	English 9 Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	English 9 with Romeo and Juliet	Per Semester, Per Student	\$300	\$50.00
N/A	English 9 with Romeo and Juliet Honors	Per Semester, Per Student	\$300	\$50.00
N/A	English 9 with Romeo and Juliet Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	English Foundations I	Per Semester, Per Student	\$300	\$50.00
N/A	English Foundations I Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	English Foundations II	Per Semester, Per Student	\$300	\$50.00
N/A	English Foundations II Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Media Literacy	Per Semester, Per Student	\$300	\$50.00
N/A	Personal Communication	Per Semester, Per Student	\$300	\$50.00
N/A	Personal Communication Prescriptive	Per Semester, Per Student	\$300	\$50.00
4210	Reading Skills and Strategies	Per Semester, Per Student	\$300	\$50.00
N/A	Writing Skills and Strategies	Per Semester, Per Student	\$300	\$50.00
<b>Science</b>				
6035	AP* Biology	Per Semester, Per Student	\$300	\$50.00
6035A	AP* Chemistry	Per Semester, Per Student	\$300	\$50.00
1121	AP* Environmental Science	Per Semester, Per Student	\$300	\$50.00
6031	Biology	Per Semester, Per Student	\$300	\$50.00
N/A	Biology Honors	Per Semester, Per Student	\$300	\$50.00
N/A	Biology Prescriptive	Per Semester, Per Student	\$300	\$50.00
6061	Chemistry	Per Semester, Per Student	\$300	\$50.00
N/A	Chemistry Honors	Per Semester, Per Student	\$300	\$50.00
N/A	Chemistry Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Chemistry in the Earth System	Per Semester, Per Student	\$300	\$50.00
N/A	Chemistry in the Earth System Prescriptive	Per Semester, Per Student	\$300	\$50.00
5061	Earth Science	Per Semester, Per Student	\$300	\$50.00
N/A	Earth Science Honors	Per Semester, Per Student	\$300	\$50.00
6120	Environmental Science	Per Semester, Per Student	\$300	\$50.00
N/A	Environmental Science Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	MS Earth and Space Science	Per Semester, Per Student	\$300	\$50.00
N/A	MS Life Science	Per Semester, Per Student	\$300	\$50.00
2268	MS Physical Science	Per Semester, Per Student	\$300	\$50.00
5160	Physical Science	Per Semester, Per Student	\$300	\$50.00
N/A	Physical Science Prescriptive	Per Semester, Per Student	\$300	\$50.00
6211	Physics	Per Semester, Per Student	\$300	\$50.00
N/A	Physics Honors	Per Semester, Per Student	\$300	\$50.00
N/A	Physics Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Physics the Universe	Per Semester, Per Student	\$300	\$50.00
N/A	Physics of the Universe Prescriptive	Per Semester, Per Student	\$300	\$50.00

2286	Science 6	Per Semester, Per Student	\$300	\$50.00
2286	Science 7	Per Semester, Per Student	\$300	\$50.00
2286	Science 8	Per Semester, Per Student	\$300	\$50.00
2287	Science Foundations	Per Semester, Per Student	\$300	\$50.00
N/A	Science Foundations Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	The Living Earth	Per Semester, Per Student	\$300	\$50.00
N/A	The Living Earth Prescriptive	Per Semester, Per Student	\$300	\$50.00
<b>Social Studies Courses</b>				
5275	AP* Macroeconomics	Per Semester, Per Student	\$300	\$50.00
5276	AP* Microeconomics	Per Semester, Per Student	\$300	\$50.00
5645	AP* Psychology	Per Semester, Per Student	\$300	\$50.00
5646	AP* U.S. Government and Politics	Per Semester, Per Student	\$300	\$50.00
5653	AP* U.S. History	Per Semester, Per Student	\$300	\$50.00
5621	Economics	Per Semester, Per Student	\$300	\$50.00
N/A	Economics Honors	Per Semester, Per Student	\$300	\$50.00
N/A	Economics Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Economics and Personal Finance	Per Semester, Per Student	\$300	\$50.00
N/A	Economics and Personal Finance Prescriptive	Per Semester, Per Student	\$300	\$50.00
4447	Financial Literacy	Per Semester, Per Student	\$300	\$50.00
N/A	Financial Literacy Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Geography and World Cultures	Per Semester, Per Student	\$300	\$50.00
N/A	Geography and World Cultures Honors	Per Semester, Per Student	\$300	\$50.00
2603	GIS	Per Semester, Per Student	\$300	\$50.00
N/A	GIS Contemporary World	Per Semester, Per Student	\$300	\$50.00
2325	GIS U.S. History	Per Semester, Per Student	\$300	\$50.00
2315	GIS World History	Per Semester, Per Student	\$300	\$50.00
N/A	Modern World History from 1450	Per Semester, Per Student	\$300	\$50.00
N/A	Modern World History from 1450 Honors	Per Semester, Per Student	\$300	\$50.00
N/A	Modern World History from 1450 Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Modern World History from 1600	Per Semester, Per Student	\$300	\$50.00
N/A	Modern World History from 1600 Honors	Per Semester, Per Student	\$300	\$50.00
N/A	Modern World History from 1600 Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Multicultural Studies	Per Semester, Per Student	\$300	\$50.00
5641	Psychology	Per Semester, Per Student	\$300	\$50.00
5720	Sociology	Per Semester, Per Student	\$300	\$50.00
5641	U.S. Government and Politics	Per Semester, Per Student	\$300	\$50.00
N/A	U.S. Government and Politics Honors	Per Semester, Per Student	\$300	\$50.00
N/A	U.S. Government and Politics Prescriptive	Per Semester, Per Student	\$300	\$50.00
5620	U.S. History	Per Semester, Per Student	\$300	\$50.00
N/A	U.S. History Honors	Per Semester, Per Student	\$300	\$50.00
N/A	U.S. History Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	U.S. History Since the Civil War	Per Semester, Per Student	\$300	\$50.00
N/A	U.S. History Since the Civil War Honors	Per Semester, Per Student	\$300	\$50.00
N/A	U.S. History Since the Civil War Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	U.S. History to the Civil War	Per Semester, Per Student	\$300	\$50.00
N/A	U.S. History to the Civil War Prescriptive	Per Semester, Per Student	\$300	\$50.00
2324	World History	Per Semester, Per Student	\$300	\$50.00
N/A	World History Honors	Per Semester, Per Student	\$300	\$50.00
N/A	World History Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	World History to the Renaissance	Per Semester, Per Student	\$300	\$50.00
N/A	World History to the Renaissance Honors	Per Semester, Per Student	\$300	\$50.00
<b>World Languages Courses</b>				
3185	AP* Spanish Language and Culture	Per Semester, Per Student	\$300	\$50.00
3111	French I	Per Semester, Per Student	\$300	\$50.00
3112	French II	Per Semester, Per Student	\$300	\$50.00
3181	Spanish I	Per Semester, Per Student	\$300	\$50.00
N/A	Spanish II Prescriptive	Per Semester, Per Student	\$300	\$50.00
3182	Spanish II	Per Semester, Per Student	\$300	\$50.00
N/A	Spanish III Prescriptive	Per Semester, Per Student	\$300	\$50.00
3183	Spanish III	Per Semester, Per Student	\$300	\$50.00
<b>Electives Courses</b>				
2817	Art Appreciation	Per Semester, Per Student	\$300	\$50.00
N/A	College and Career Preparation I	Per Semester, Per Student	\$300	\$50.00
N/A	College and Career Preparation II	Per Semester, Per Student	\$300	\$50.00
8892	Computer Science Essentials	Per Semester, Per Student	\$300	\$50.00
3120	Health	Per Semester, Per Student	\$300	\$50.00
N/A	Health Extended	Per Semester, Per Student	\$300	\$50.00
N/A	Health Extended Prescriptive	Per Semester, Per Student	\$300	\$50.00
N/A	Health Opportunities Through Physical Education (HOPE)	Per Semester, Per Student	\$300	\$50.00
N/A	Health Prescriptive	Per Semester, Per Student	\$300	\$50.00
3053	Music Appreciation	Per Semester, Per Student	\$300	\$50.00
3320	Physical Education	Per Semester, Per Student	\$300	\$50.00

Additional discounts may be available based on volume purchased.

# ATTACHMENT E4

## VALUE ADD OFFERINGS



With many options to meet diverse district and school needs, our flexible programs empower you with the tools you need to be more effective.

We offer the following value-added products and services:



### Tutorials

6-12 concept recovery and test readiness



### Exact Path

K-12 diagnostic-driven personalized intervention



### Study Island

K-12 standards mastery and test preparation



### Instructional Services

K-12 small-group instruction and high-impact tutoring

Please see the following pages for brief overviews of each of our value-added options.

We provide pricing for our value-added products and services in **Exhibit 2 - Price Template** which is uploaded separately in Excel format. For more information on any of our offerings, please reach out to your dedicated Partnership Manager, Kent Walstad.



# Tutorials

## Concept Recovery and Test Readiness for Grades 6–12

Tutorials provides concept recovery that catches students up so OMES can propel them forward. Create more opportunities for successful on-grade level teaching and learning with Tutorials aligned to core secondary courses, state end-of-course exams, and national college and career assessments (SAT, ACT, GED).

Pretests identify each student's readiness for course- and test-specific standards and topics. Tutorials automatically provides short, interactive lessons to help students quickly bridge the gap to on-grade level learning and test success. Research studies indicate Tutorials meets the Moderate Evidence, Promising Evidence, and Demonstrates a Rationale categories as defined by the ESSA legislation.

OMES can expect the following outcomes:

- Students accelerate through prerequisite skills to access course-aligned instruction
- Students are engaged with content that specifically meets their needs
- Educators easily access standards- and test category-aligned data to individualize instruction and accelerate test success



Students using Tutorials have significantly greater average scores on state ELA and math tests.



“Tutorials are a great help. We'll be using them a lot next year for that accelerated instruction.”

—Interview Participant  
Friendship Independent School District, TX



# Exact Path

## K–12 Diagnostic Assessments and Individualized Learning Paths

Exact Path makes personalized learning possible, helping OMES scale intervention plans and accelerate growth. By combining evidence-based diagnostic assessments with individualized learning paths for K–12 math, reading, and language arts, Exact Path allows OMES to meet every student’s unique needs.

Diagnostic assessments determine students’ individual strengths and needs. Alternatively, we offer integrations with NWEA® MAP® Growth™ and Renaissance® Star®. All students then automatically receive a unique learning path of high-quality, standards-aligned digital curriculum. Educators are supported with aligned resources to elevate quality intervention. Immediate, meaningful data pinpoints growth, tracks grade-level proficiency, and measures progress toward accountability goals. Exact Path meets the Moderate Evidence category as defined by the ESSA legislation, with validation from a third-party educational research company.

OMES can expect the following outcomes:

- Educators pinpoint strengths and needs regardless of grade level
- Students experience individualized curriculum with automatic building blocks
- Educators leverage supplementary resources for targeted intervention
- Educators access growth and proficiency data including Quantile® measures



**Exact Path is proven to improve student achievement on state assessments, NWEA MAP Growth, and Renaissance Star.**

“On average, our students grew by two grade levels using Exact Path in [the RTI teacher’s] classroom. Exact Path was a huge piece in our success this year.”

—Robyn Thornton, Principal  
Onalaska Independent School District, TX



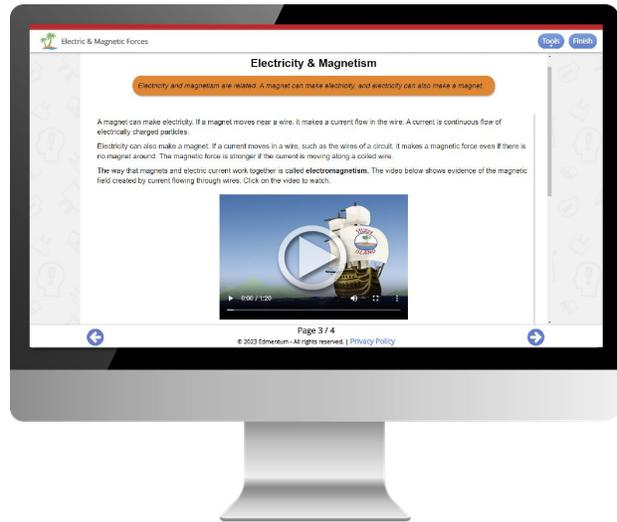
## Standards-Based Practice and Assessment for Grades K–12

Study Island delivers math, ELA, science, and social studies assessments and practice built from Oklahoma standards. OMES can boost standards mastery and integrate effective test preparation with flexible practice and custom formative assessment tools. In addition, OMES can integrate NWEA® MAP® Growth™ assessment RIT scores to generate learning paths. Multiple-choice and technology-enhanced items expose students to items aligned to end-of-year tests.

OMES can trust Study Island to drive student achievement on grade-level standards and beyond. Quasi-experimental research studies prove that Study Island meets the Moderate Evidence category as defined by the ESSA legislation.

OMES can expect the following outcomes:

- Students improve mastery with built-in games and competitive practice options
- Teachers access detailed standards-based reporting for accountability
- Students are prepared for state and end-of-course tests



**Results from multiple third-party and Edmentum research studies demonstrate that Study Island has a positive, statistically significant effect on student achievement.**

“There was a direct correlation to the growth of those schools that used [Study Island] with fidelity and used it often...and found that it is one of the keys to our success.”

—Russell Hughes, Superintendent  
Walton County School District, FL



# Instructional Services

## Customizable Targeted and Intensive Support for K–12

Edmentum offers several high-impact tutoring options to strengthen intervention models or support special programming. Options include one-to-one and small-group tutoring from dedicated, highly qualified tutors and educators. Targeted, personalized sessions support remediation, acceleration, or enrichment needs in a synchronous virtual setting.

### **Targeted Small-Group Instruction:**

Small-group intensive instruction and intervention in core subjects led by a highly qualified educator. Group instruction is customized to the instructional day based on a six-week cycle, with flexible options from one to five sessions per week.

**On-Demand Tutoring:** On-demand 1:1 core subject coursework and homework support led by highly qualified virtual tutors. Provides 24/7 access to just-in-time course-specific support.

**High-Impact Tutoring:** High-dosage, high-impact tutoring to support intensive skills recovery, close learning gaps, and propel individual growth in core subjects. Sessions are prescheduled before, during, or after school and are led by highly qualified virtual tutors.



**In a meta-analysis of 96 tutoring studies, tutoring programs consistently lead to large improvements in learning outcomes for students.**

“What makes [this] different from the programs I’ve used is that you’re not talking to some kind of robot. You’re talking to an actual person. They will help you if you got something wrong, or they will tell you what you did right.”

—5th Grade Student,  
Georgia

**ATTACHMENT E5**

**THIRD PARTY TERMS**

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# ATTACHMENT F

## NEGOTIATED EXCEPTIONS

The Solicitation is hereby amended as set forth below and supersedes all prior Exceptions submitted by Edmentum, Inc. or discussed by the parties.

**ANY REQUESTED EXCEPTION NOT APPEARING BELOW HAS BEEN DECLINED BY THE STATE**

Supplier's modifications listed in "red"	
Term & Section	Language
Attachment B – State of Oklahoma General Terms, (Section 6.2, pgs. 6-7)	Section 6.2 (1 <sup>st</sup> paragraph) shall be modified to add the following:  Services will be performed in accordance with <b>this Contract including but not limited to Attachment E-2</b> and industry best practices and are subject to acceptance by the Customer. Notwithstanding any other provision in the Contract, deemed acceptance of a service or associated deliverable shall not apply automatically upon receipt of a deliverable or upon provision of a service.
Attachment B – State of Oklahoma General Terms, (Section 9.9, pg. 12)	Section 9.9 shall be modified to add the following:  Supplier represents that, to the best of its knowledge, any <b>material</b> litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other <b>material</b> litigation, claim or threat thereof.
Attachment B – State of Oklahoma General Terms, (Section 10.2, pg. 13)	Section 10.2 shall be modified to add the following:  The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of <b>five (5)</b> years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the <b>five (5)</b> year retention period, whichever is later.
Attachment B – State of Oklahoma General Terms, (Section 14, pg. 17)	Section 14 shall be modified to add the following:  Prior to the commencement of any services, background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required and, if so, the required information shall be provided to the State in a timely manner. Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State. The costs of additional background checks beyond Supplier's normal hiring practices shall be the responsibility of the Customer unless such additional background checks are required solely because Supplier will not provide results of its otherwise acceptable normal background checks; in such an instance, Supplier shall pay for the additional background checks. Supplier will coordinate with the State and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Supplier who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, the Customer may require replacement of the employee or subcontractor in question and, if no suitable replacement is <b>offered</b> within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

Attachment B – State of Oklahoma General Terms, (Section 24, pg. 25)	Section 24 shall be modified to add the following:  In connection with Supplier’s performance under the Contract, Supplier may have access to Customer personnel, premises, data, records, equipment and other property. Supplier shall use commercially reasonable best efforts to preserve the safety and security of such personnel, premises, data, records, equipment, and other property of Customer. Supplier shall be responsible for damage to such property to the extent such damage is caused by its employees or subcontractors and shall be responsible for loss of Customer property in its possession, <b>regardless of cause, except to the extent such loss is caused by Customer or State.</b> If Supplier fails to comply with Customer’s security requirements, Supplier is subject to immediate suspension of work as well as termination of the associated purchase order or other payment mechanism.
Attachment B – State of Oklahoma General Terms, (Section 26.5, pg. 26)	Section 26.5 shall be modified to add the following:  The existence of the Contract or any Acquisition is in no way an endorsement of Supplier, the products or services and shall not be so construed by Supplier in any advertising or publicity materials. Supplier agrees to submit to the <b>State or Customer, as applicable,</b> all advertising, sales, promotion, and other publicity matters relating to the Contract wherein the name of the State or any Customer, <b>as applicable,</b> is mentioned or language used from which, in the State’s judgment, an endorsement may be inferred or implied. Supplier further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the Contract or any Acquisition hereunder without obtaining the prior written approval of the State.
Attachment D – State of Oklahoma Information Technology Terms, (Section 11, pg. 6)	Section 11 shall be modified to add the following paragraph to end of this section:  <b>This Section 11 is applicable only to software developed, modified, or customized by the Supplier for the State or the Customer in accordance with a mutually negotiated statement of work pursuant to this Contract; this Section 11 does not apply to Supplier’s off the shelf software.</b>
Attachment D – State of Oklahoma Information Technology Terms, (Section 12, pg. 8)	Section 12 shall be modified to add this paragraph to end of this section:  <b>This Section 12 is applicable only to software or Work Product developed, modified, or customized by the Supplier for the State or the Customer in accordance with a mutually negotiated statement of work pursuant to this Contract; this Section 12 does not apply to Supplier’s off the shelf software.</b>
Attachment D – State of Oklahoma Information Technology Terms, (Section 13, pg. 8)	Section 13 shall be modified to add the following:  A Supplier shall be responsible for the obligations set forth in in this Contract, including those obligations related to breach reporting and associated costs <b>to the extent</b> a Supplier Hosting Customer Data or providing products or services pursuant to an Acquisition, contributes to, or directly causes a Data Breach or a Security Incident. Likewise, Supplier shall be responsible for the obligations set forth in in this Contract, including those obligations related to breach reporting and associated costs <b>to the extent</b> a Supplier’s affiliate or subcontractor contributes to, or directly causes a Data Breach or a Security Incident.
Attachment D – State of Oklahoma Information Technology Terms, (Section 16, pg. 9)	Section 16 shall be modified to add the following:  Notwithstanding any other provision in the Contract and pursuant to the Oklahoma Information Technology Consolidation and Coordination Act, all information technology and telecommunication assets and contracts on behalf of appropriated agencies of the State belong to OMES-IS. OMES-IS allows other State agencies to use the assets while retaining ownership and the right to reassign the assets, at no additional cost, upon written notification to Supplier. <b>Such right to reassign is not intended to interfere with the license terms of any software licensed from Supplier pursuant to the Contract.</b>
Attachment D – State of Oklahoma Information Technology Terms, (Section 17.3, pg. 9)	Section 17.3 shall be modified to add the following:  Supplier shall promptly notify the Customer upon receipt of any requests from unauthorized third parties which in any way might reasonably require access to Customer Data or Customer’s use of the Hosted environment. Supplier shall notify the Customer by the fastest means available and also in writing pursuant to Contract notice provisions and the notice provision herein. Except to the extent required by law, Supplier shall not respond to subpoenas, service or process, Freedom of Information Act or other open records requests, and other legal request related to Customer without first notifying the Customer and obtaining the Customer’s prior approval, which shall not be unreasonably withheld, of Supplier’s proposed responses. <b>As permitted by applicable law,</b> Supplier agrees to provide its completed responses to the Customer with adequate time for Customer review, revision and

	approval.
Attachment D – State of Oklahoma Information Technology Terms, (Section 20.5, pg. 12)	<p>Section 20.5 shall be modified to add the following:</p> <p>If Supplier has reasonable belief or actual knowledge of a Data Breach, Supplier shall (1) promptly notify the appropriate Customer identified contact set forth herein and within <b>24 hours or sooner for a confirmed Data Breach</b>, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the Data Breach in a timely manner.</p>
Attachment D – State of Oklahoma Information Technology Terms, (Section 22.1, pg. 12)	<p>Section 22.1 shall be modified to add the following:</p> <p>The product and services provided in connection with Hosting services do not infringe a third party’s patent or copyright or other intellectual property rights. <b>This clause 22.1 does not apply to third party software and third-party services distributed by Supplier as a licensor, distributor or reseller.</b></p>
Attachment D – State of Oklahoma Information Technology Terms, (Section 23, pg. 13)	<p>Section 23 shall be modified to bold “related to this section”:</p> <p>Supplier agrees to defend, indemnify and hold the State, its officers, directors, employees, and agents harmless from all liabilities, claims, damages, losses, costs, expenses, demands, suits and actions (including without limitation reasonable attorneys’ fees and costs required to establish the right to indemnification), excluding damages that are the sole fault of Customer, arising from or in connection with Supplier’s breach of its express representations and warranties in these Information Technology Terms and the Contract. If a third party claims that any portion of the products or services provided by Supplier under the terms of another Contract Document or these Information Technology Terms infringes that party’s patent or copyright, Supplier shall defend, indemnify and hold harmless the State and Customer against the claim at Supplier’s expense and pay all related costs, damages, and attorney’s fees incurred by or assessed to, the State and/or Customer. The State and/or Customer shall promptly notify Supplier of any third-party claims and to the extent authorized by the Attorney General of the State, allow Supplier to control the defense and any related settlement negotiations. If the Attorney General of the State does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall be granted authorization to equally participate in any proceeding <b>related to this section</b>, but Supplier shall remain responsible to indemnify Customer and the State for all associated costs, damages and fees incurred by or assessed to the State and/or Customer. Should the software become, or in Supplier’s opinion, be likely to become the subject of a claim or an injunction preventing its use as contemplated in connection with Hosting services, Supplier may, at its option (i) procure for the State the right to continue using the software or (ii) replace or modify the software with a like or similar product so that it becomes non-infringing.</p>
Attachment D – State of Oklahoma Information Technology Terms, (Section 24.1, pg. 13)	<p>Section 24.1 shall be modified to add the following:</p> <p>During any period of service suspension, Supplier shall not take any <b>unauthorized</b> action to intentionally disclose, alter or erase any Customer Data.</p>
Attachment D – State of Oklahoma Information Technology Terms, (Section 24.2, pg. 13-14)	<p>Section 24.2 shall be modified to add the following:</p> <p>In the event of a termination or expiration of the Contract, the parties further agree: Supplier shall implement an orderly return of Customer Data in a format specified <b>as agreed to by the Customer and Supplier.</b></p>
Attachment D – State of Oklahoma Information Technology Terms, (Section 24.4, pg. 14)	<p>Section 24.4 shall be modified to add the following:</p> <p>The State shall be entitled to any post termination or expiration assistance generally made available <b>by Supplier</b> with respect to the services.</p>

**Bidder respectfully offers these requests for OMES' consideration, but invites opportunity for discussion and flexibility.**