

MARK T. PORTER
Superintendent of Schools



To Excellence in the Monroe County Schools

Members of the Board

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BOBBY HIGHSMITH
Vice-Chairman

District # 2
ANDY GRIFFITHS

District # 3
Mindy Conn

District # 4
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Chairman

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RONALD A. MARTIN

Contractor's Refusal to Sign District Standard Form Contract

Please be advised that pursuant to the policies and procedures of The School Board of Monroe County, Florida, all contracts between companies and/or contractors and the School District are to be documented using standard form contracts of the School Board. It is our understanding; however, that you /your company prefers and/or otherwise refused to utilize a standard form contract for goods or services.

Furthermore, Florida Statute §119.0701 requires that all contracts entered into by the Board contain the following requirements:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the School Board in order to perform the service.

(b) Upon request from the School Board's custodian of public records, provide the School Board with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the School Board.

(d) Upon completion of the contract, transfer, at no cost, to the School Board all public records in possession of the contractor or keep and maintain public records required by the School Board to perform the service. If the contractor transfers all public records to the School Board upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the School Board, upon request from the School Board's custodian of public records, in a format that is compatible with the information technology systems of the School Board.

Failure of Contractor to comply with this section and F.S. §119.0701 may include, but not be limited to, the School Board holding the contractor in default, termination of the contract or legal action.

Purchasing | Property Control | Contract and Records Management Divisions
241 Trumbo Road • Key West, FL 33040
Tel. (305) 293-1400
www.KeysSchools.com

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (telephone number, email address, and mailing address).

Kindly acknowledge your preference to not utilize a School Board of Monroe County standard form contract by signing below, and agree to comply with F.S. §119.0701 as indicated above. Please return a signed copy of this letter to the School Board of Monroe County at your earliest convenience.

Should you have any questions or concerns, please do not hesitate to contact me.

Suanne Lee
Supervisor

I would prefer not to use or have otherwise refused to use a Monroe County School Board standard form contract. I also agree to comply with F.S. §119.0701 and acknowledge the above requirements.

6.27.2017

Date



Signature of Vendor

MATT BACHMAN / Dir. Finance

Printed Name and Title



CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 1

DATE (MM/DD/YYYY)
07/03/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis of New York, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: PHONE (A/C, No. Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com
INSURED Frontline Technologies, Inc. 1400 Atwater Drive Malvern, PA 19355	INSURER(S) AFFORDING COVERAGE INSURER A: Berkley National Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
	NAIC # 38911


COVERAGES**CERTIFICATE NUMBER:** W6836117**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			TCP 7011692-10	09/18/2017	09/18/2018	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
							MED EXP (Any one person) \$ 15,000
							PERSONAL & ADV INJURY \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$ 2,000,000
	OTHER:						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR						EACH OCCURRENCE \$
	EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$
	DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input type="checkbox"/> N/A						E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

Monroe County School District 241 Trumbo Road Key West, FL 33040	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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ACORD 25 (2016/03)

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SR ID: 16407107

BATCH: 773732



Exhibit A- Frontline Customer Order Form

CD990411667889701177

MSA3634

08/14/2017

P: 610-722-9745 | F: 888-492-0337

1400 Atwater Drive Malvern, PA 19355

HUMAN RESOURCES:

1. Payment.

1. The Startup Cost set forth on the first page of this Order Form will be invoiced to Customer by Frontline as stated on the front of this Order Form; but if Customer terminates this Order Form before completion of the implementation process, Frontline will refund the Startup Cost on a pro-rata basis, based on an eight (8) week setup schedule.
2. The Annual Subscription, set forth on the first page of this Order Form, will be invoiced to Customer by Frontline based on the Subscription Start Date unless otherwise stated on the front of this Order Form. Frontline will render a detailed invoice, showing the Annual Subscription item(s) unit price multiplied by the quantity, as set forth on the first page of this Order Form, to yield the actual annual subscription (the "Actual Annual Subscription"). The quantities of any Annual Subscription item(s) of this Order Form are merely illustrative and are based on Customer's usage estimates. Should the number of users change significantly during Startup or during the Initial Term, Frontline will recalculate the Actual Annual Subscription and render an invoice for the difference.
3. For Aesop® Customers: (i) Before the start of the school year, Frontline will calculate the Subscription by multiplying the actual employees entered into Aesop® by the applicable Subscription item unit price, as amended from time to time. This will be multiplied by the ten (10) month school year to yield the Actual Annual Subscription. Should the number of employees on Aesop® change significantly during any school year, Frontline will recalculate the Actual Annual Subscription and render an invoice for the difference. (ii) Customer may use Aesop® to obtain temporary employee when there is no absent employee (a "Vacancy"). Filling a Vacancy is treated by Aesop® as if it was a regular replacement for an absent employee and is billed at the Employee Rates.
4. For all other products: Before the start of any Renewal Term, Frontline will calculate the Annual Subscription by multiplying the actual users entered into the Software by the applicable subscription item(s) unit price, as amended from time to time, to yield the Actual Annual Subscription. Should the number of users on the Software change significantly during any Renewal Term, Frontline will recalculate the Actual Annual Subscription and render an invoice for the difference.
5. Frontline reserves the right to increase any of the fees after the Initial Term, by providing at least thirty (30) days prior written notice of same to Customer.
6. The Startup Cost, Annual Subscription and any other applicable fees do not include any local or state sales or use taxes, any assessment of which shall be paid by the Customer. Without limiting the foregoing, Customer shall promptly pay to Frontline any amounts actually paid or required to be collected or paid by Frontline pursuant to any statute, ordinance, rule or regulation of any legally constituted taxing authority. If the Customer claims tax exempt status or the right to remit taxes directly, the tax exempt number must be entered on the first page of this Order Form and the Customer shall Indemnify and hold Frontline harmless for any loss occasioned by Its failure to pay any tax when due.

PROFESSIONAL GROWTH:

1. Payment.

1. The Startup Cost set forth on the first page of this Order Form will be invoiced to Customer by Frontline as stated on the front of this Order Form; but if Customer terminates this Order Form before completion of the implementation process, Frontline will refund the Startup Cost on a pro-rata basis, based on a six (6) week setup schedule.
2. The Annual Subscription, set forth on the first page of this Order Form, will be invoiced to Customer by Frontline based on the Subscription Start Date unless otherwise stated on the front of this Order Form. Frontline will render a detailed invoice, showing the Annual Subscription item unit price multiplied by the quantity, as set forth on the first page of this Order Form, to yield the actual annual subscription (the "Actual Annual Subscription"). The quantities of any Annual Subscription item of this Order Form are merely illustrative and are based on Customer's usage estimates. Should the number of users change significantly during Startup or during the Initial Term, Frontline will recalculate the Actual Annual Subscription and render an invoice for the difference.
3. Before the start of any Renewal Term, Frontline will calculate the Annual Subscription by multiplying the actual users entered into the Software by the applicable subscription item unit price, as amended from time to time, to yield the Actual Annual Subscription. Should the number of users on the Software change significantly during any Renewal Term, Frontline will recalculate the Actual Annual Subscription and render an invoice for the difference.
4. Frontline reserves the right to increase any of the fees after the Initial Term, by providing at least thirty (30) days prior written notice of same to Customer.



Exhibit A- Frontline Customer Order Form

CD990411667889701177

MSA3634

08/14/2017

1400 Atwater Drive Malvern, PA 19355

P: 610-722-9745 | F: 888-492-0337

5. The Startup Cost, Annual Subscription and any other applicable fees do not include any local or state sales or use taxes, any assessment of which shall be paid by the Customer. Without limiting the foregoing, Customer shall promptly pay to Frontline any amounts actually paid or required to be collected or paid by Frontline pursuant to any statute, ordinance, rule or regulation of any legally constituted taxing authority. If the Customer claims tax exempt status or the right to remit taxes directly, the tax exempt number must be entered on the first page of this Order Form and the Customer shall Indemnify and hold Frontline harmless for any loss occasioned by Its failure to pay any tax when due.
2. Third Party Products. Customer may elect to use ETS Classroom Video Library ("ETS"). ETS may contain links or other access to other third party products or services. Customer's use of any third party's products and/or services is at Customer's own risk, and subject to the ETS Terms of Use found on their website at: http://www.etsvideo.mylearningplan.com/terms.html#/. In the event of a conflict between this Order Form and any ETS agreement or the ETS Terms of Use, this Order Form governs.

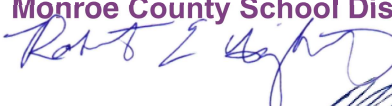
Frontline Technologies Group LLC dba Frontline Education

MSA3634

MASTER SERVICES AGREEMENT

This Master Services Agreement is made effective as of the date of last signature below (the "Effective Date") by and between Frontline Technologies Group LLC dba Frontline Education, with an address at 1400 Atwater Drive, Malvern, PA 19355 ("Frontline"), and the customer identified below ("Customer"). Frontline and Customer are sometimes referred to herein, individually, as a "Party" and, collectively, the "Parties."

By signing below, the Parties agree to be legally bound by the Terms and Conditions contained herein, including any exhibits, Order Form (s) and Statements of Work (collectively, the "Agreement"). To place orders subject to this Agreement, at least one Order Form (as defined in Section 1.2 below) must be incorporated into this Agreement. This Agreement constitutes the complete and exclusive statement of the agreement between the Parties with respect to the Software and the Services set forth herein and any other software, products or other services provided by Frontline or any of its affiliates or predecessors prior to the Effective Date. For the avoidance of doubt, this Agreement supersedes any and all prior oral or written communications, proposals, RFPs, contracts, and agreements (including all prior license and similar agreements) and the Parties hereby terminate any such agreements. Should any of terms of this Agreement conflict with any of the terms in an applicable Order Form, the terms of this Agreement shall prevail.

Frontline Technologies Group LLC dba Frontline Education	Monroe County School District
Signature: _____	 Signature: _____
Name: _____	Robert E. Highsmith Name: <u>Mark T. Porter</u>
Title: _____	Chairman, MC School Board Title: <u>Superintendent of Schools, MCSD</u>
Address: 1400 Atwater Drive Malvern, PA 19355	Address: <u>241 Trumbo Road</u> <u>Key West, Florida 33040</u>
Email: _____	Email: <u>Mark.Porter@KeysSchools.com</u>
Date: _____	Date: <u>08/23/2017</u>

Attached: *Terms and Conditions of Agreement*
Exhibit A: Executed Order Forms

Please email or fax ALL PAGES of the signed MSA to EGreen@frontlineed.com or 888.492.0337.

MASTER SERVICES AGREEMENT

TERMS AND CONDITIONS

1. Software and Services

- 1.1. Software. Subject to the terms and conditions set forth in this Agreement (including any Order Forms and/or Statement of Work, as well as Customer-specific terms set forth in Exhibit B, if any), Frontline hereby grants Customer a non-exclusive, non-transferable license to use the software identified on any Order Form ("Software") and the technical manuals, instructions, user information, training materials, and other documentation that accompany the Software and contain its technical specifications, as may be amended from time to time ("Documentation") solely for internal use by end users in the ordinary course of Customer's business. Frontline shall provide any professional or other services set forth in an Order Form ("Services"). All rights, title and interest to the Software and any work product, deliverables or other materials provided by Frontline ("Work Product") are expressly reserved and retained by Frontline or its licensors, including any program or other application that is designed to integrate and be used with the Software, whether or not developed independently by Frontline, and all improvements, modifications and intellectual property rights therein. Customer shall not, and Customer shall require any end users to not (i) transfer, assign, export, or sublicense the Software or Work Product except as specifically set forth herein, or its license rights thereto, to any other person, organization or entity, including through rental, timesharing, service bureau, subscription, hosting, or outsourcing the Software (whether or not such sublicense, hosting or outsourcing is by Customer or for Customer); (ii) attempt to create any derivative version thereof; (iii) remove or modify any marking or notice on or displayed through the Software, Work Product or Documentation, including those related to Frontline's or its licensors' proprietary rights in and to the Software, Work Product or Documentation, as applicable; or (iv) de-compile, decrypt, reverse engineer, disassemble, or otherwise reduce same to human-readable form. Without limiting the foregoing, Customer may not sublicense, outsource or otherwise grant access to the Software to any third party vendor without Frontline's prior written consent, including any third party host of the Software for Customer.
- 1.2. Order Forms. Customer may place orders for the Software and Services by entering into a mutually agreed Order Form, which shall become a part of this Agreement and be attached hereto as Exhibit A. No other document shall be required to effect a legally binding purchase under this Agreement. Any preprinted or other terms contained on Customer's purchase order or otherwise shall be inapplicable to this Agreement, unless otherwise specifically agreed by the Parties in writing. Unless an Order Form states otherwise, each Order Form is independent of each other Order Form (but each Order Form is a part of and integral to this Agreement).
- 1.3. Software Administrator; Maintenance Windows. At all times, Customer must have an employee who has obtained the Software administrator certification training from Frontline and who is certified by Frontline as a Software administrator ("Software Administrator"). If the Software Administrator ceases to serve as such, Customer shall promptly provide written notice to Frontline and have another employee obtain Frontline Software administrator certification and be designated as a Software Administrator, at Customer's expense. Frontline shall provide Customer with assistance regarding the use of the Software during Frontline's normal business hours (EST), Monday through Friday. Such assistance shall be provided only to Customer's Software Administrator. Frontline may perform system maintenance and/or software updates periodically upon advanced notice to Customer. However, due to extenuating circumstances, Frontline may, at times, need to perform maintenance without the ability to provide advance notice.
- 1.4. Customer Content. The Software and Services may enable Customer and end users to provide, upload, link to, transmit, display, store, process and otherwise use text, files, images, graphics, illustrations, information, data (including Personal Data as that term is defined in applicable laws), audio, video, photographs and other content and material in any format (collectively, "Customer Content") in connection with the Software and Services. Customer shall have the sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and ownership of all of Customer Content. Frontline will act as a data processor, and will act on Customer's instruction concerning the treatment of Personal Data provided in connection with the Software and Services, as specified in the Order Form. Customer shall provide any notices and obtain any consents (including consent of any parent or guardian for any minor) related to Customer's use of the Software and receipt of the Services and Frontline's provision of the Software and Services, including those related to the collection, use, processing, transfer and disclosure of Personal Data. Customer acknowledges and agrees that it must properly enter data, information and other Customer Content and configure settings within the Software in order for the Software to operate properly. Customer shall verify the accuracy of any of the Customer Content, forms, workflow and configuration settings entered on the Software. Frontline shall not have any liability arising from the inaccuracy of scoring, completeness, use of or reliance on the information contained in the extract of data from any Software or Services under this Agreement. Customer assumes the sole responsibility for the selection of the Software and Services to achieve Customer's intended results, the use of the Software and Services, and the results attained from such selection and use. Customer represents and warrants that it is the owner of the Customer Content, or has obtained permission for such use from the owner of the Customer Content, including evaluation frameworks and/or rubrics uploaded into the Software. As to any content or data made available to Frontline, Customer represents that it has notified and obtained consent from all necessary persons (including parents, students, teachers, interns, aides, principals, other administrative personnel, and classroom visitors), and has taken all other actions that may be necessary to ensure that use of the products, services, or related materials provided or produced hereunder complies with all applicable laws and regulations as well as school or district policies.

Frontline Technologies Group LLC dba Frontline Education

MSA3634

- 1.5. **Integration.** Customer may, with or without Frontline's assistance, integrate or otherwise use the Software in connection with third party courseware, training, and other information and materials of third parties ("Third Party Materials") and Frontline may make certain Third Party Materials available in connection with the Software and Services. Customer acknowledges and agrees that (a) Frontline is authorized to provide Customer Content to a specified third party or permit such third party to have access to Customer Content in connection with the Third Party Materials; and (b) Frontline does not control and is not responsible for, does not warrant, support, or make any representations regarding (i) Third Party Materials (ii) Customer Content provided in connection with such Third Party Materials, including a third party's storage, use or misuse of Customer Content; or (iii) Customer's uninterrupted access to Third Party Materials. Customer understands that the use of the Software may involve the transmission of Customer Content over the Internet and over various networks, only part of which may be owned or operated by Frontline, and that Frontline takes no responsibility for data that is lost, altered, intercepted, or stored without Customer's authorization during the transmission of any data whatsoever across networks whether or not owned or operated by Frontline. If Customer engages Frontline to assist in Customer's integration or use of the Software with Third Party Materials, you authorize Frontline to access and use such Third Party Materials in connection with such assistance and you represent and warrant that you have the rights necessary to grant such authorization.
- 1.6. **Hosting.** The Software will be hosted by an authorized subcontractor (the "Hosting Service Provider") that has been engaged by Frontline and shall only be accessed by Customer on websites, using Customer's computers. As part of the Services, the Hosting Service Provider shall be responsible for maintaining a backup of Customer Content. The Hosting Service Provider is an independent third party not controlled by the Frontline. Accordingly, IN NO EVENT WILL FRONTLINE BE LIABLE FOR ANY DIRECT, GENERAL, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE TO DATA, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF INFORMATION OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE, DUE TO PROBLEMS (INCLUDING BUT NOT LIMITED TO ERRORS, MALFUNCTIONS) ASSOCIATED WITH THE FUNCTIONS OF SERVERS MAINTAINED BY THE HOSTING SERVICE PROVIDER, EVEN IF FRONTLINE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 1.7. **Customer Responsibilities.** Customer understands and agrees that (a) Customer shall have sole responsibility for administering access security (e.g. the granting of rights to Customer's users); (b) Customer shall review any calculations made by using the Services and satisfy Customer that those calculations are correct; and (c) if Customer uses the Services for reimbursement or payment from Medicaid and other government agencies, Frontline shall have no responsibility, and Customer shall have sole responsibility, to submit information and claims for such reimbursement or payment. Frontline does not warrant that the Services, or the results derived there from, will meet Customer's requirements, or that the operation of the Services will be uninterrupted or error-free.
2. **Invoicing and Payment.** All fees and charges will be set forth in the applicable Order Form(s). Except as otherwise provided, Frontline shall invoice Customer in US Dollars and Customer shall pay all fees, charges, and expenses within thirty days of the date of an invoice via check or ACH. Without prejudice to its other rights and remedies, if Frontline does not receive any payment by its due date, Frontline may assess a late payment charge on the unpaid amount at the rate of 1.5% per month or the highest rate allowed under applicable law, whichever is more. All charges under this Agreement are exclusive of, and Customer is solely responsible for, any applicable taxes, duties, fees, and other assessments of whatever nature imposed by governmental authorities. If for any reason Frontline's personnel travel to Customer's facility or otherwise in connection with the Software or Services under this Agreement, Customer shall be responsible for the reasonable costs of transportation, lodging, meals and the like for Frontline's personnel.
3. **Warranties and Disclaimers.**
 - 3.1. **Mutual.** Each Party represents and warrants that the Party's execution, delivery, and performance of this Agreement (a) have been authorized by all necessary action of the governing body of the Party; (b) do not violate the terms of any law, regulation, or court order to which such Party is subject or the terms of any agreement to which the Party or any of its assets may be subject; and (c) are not subject to the consent or approval of any third party. Customer represents and warrants on behalf of itself and any of its end users that it has the full legal right to provide the Customer Content and that the Customer Content will not (a) infringe any intellectual property rights of any person or entity or any rights of publicity, personality, or privacy of any person or entity, including as a result of failure to obtain consent to provide Personal Data or otherwise private information about a person; (b) violate any law, statute, ordinance, regulation, or agreement, including school or district policies; or (c) constitute disclosure of any confidential information owned by any third party.
 - 3.2. **Software Warranties.** Frontline represents and warrants that (a) the Software will perform substantially in accordance with the specifications set forth in the then-current Documentation for ninety (90) days after delivery and (b) the Services will be performed in a professional and workmanlike manner. In the event of a non-conformance of the Software, Work Product or Services, reported to and verified by Frontline, Frontline will make commercially reasonable efforts to correct such non-conformance. Customer's sole remedy is limited to the replacement, repair, or refund, at Frontline's option, of defective Software or Work Product or re-performance of the Services. Notwithstanding the foregoing, any Third Party Materials shall be subject only to such third party terms and any warranties therein.
 - 3.3. **Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, FRONTLINE AND ITS LICENSORS EXPRESSLY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, AS TO ANY ASPECT OF THE SOFTWARE, WORK PRODUCT, SERVICES, OR OTHER PRODUCTS INCLUDING WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. FRONTLINE AND ITS LICENSORS DO NOT WARRANT THAT THE SOFTWARE, WORK PRODUCT, SERVICES, OR OTHER PRODUCTS WILL BE UNINTERRUPTED, OR ERROR-FREE; NOR DO THEY MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE, WORK PRODUCT, SERVICES, OR OTHER PRODUCTS.

Frontline Technologies Group LLC dba Frontline Education

MSA3634

4. **Confidential Information.** During the term of this Agreement and for two (2) years thereafter, each Party will use the same degree of care to protect the other Party's Confidential Information as it uses to protect its own confidential information of like nature, but in no circumstances less than reasonable care. "Confidential Information" means any information that is marked or otherwise indicated as confidential or proprietary, in the case of written materials, or, in the case of information that is disclosed orally or written materials that are not marked, by notifying the other Party of the proprietary and confidential nature of the information, such notification to be done orally, by email or written correspondence, or via other means of communication as might be appropriate. Notwithstanding the foregoing, (a) the Confidential Information of Frontline shall include the Software and the terms of this Agreement and (b) the Confidential Information of Customer shall include Personal Data regarding Customer's users provided in connection with the Software and Services. Confidential Information does not include information which (a) was known to the receiving Party or in the public domain before disclosure; (b) becomes part of the public domain after disclosure by a publication or other means except by a breach of this Agreement by the receiving Party; (c) was received from a third party under no duty or obligation of confidentiality to the disclosing Party; or (d) was independently developed by the receiving Party without reference to Confidential Information. Aggregated data that does not contain personally identifiable information regarding Customer's users provided in connection with the Software and Services will be the Confidential Information and sole property of Frontline. The receiving Party will not be liable for disclosures of Confidential Information that are required to be disclosed by law or legal process, so long as the recipient notifies the disclosing Party, provides it with an opportunity to object and uses reasonable efforts (at the expense of the disclosing Party) to cooperate with the disclosing Party in limiting disclosure.
5. **Indemnification.** Customer shall indemnify Frontline and its officers, directors, employees, and agents and hold them harmless from all liabilities, claims, expenses, and losses (including attorneys' fees and expenses) arising from or related to any breach by Customer of this Agreement, including failure to obtain consent to provide Personal Data or otherwise private information about a person.
6. **Limitations of Liability.** OTHER THAN THE FEES, CHARGES AND EXPENSES PAYABLE PURSUANT HERETO, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, OF ANY KIND WHATSOEVER (INCLUDING LOST PROFITS) ARISING FROM OR RELATING TO THIS AGREEMENT OR THE USE OR NON-USE OF THE SOFTWARE, WORK PRODUCT OR SERVICES. NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL FRONTLINE'S TOTAL LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EXCEED THE TOTAL AMOUNTS PAID TO FRONTLINE HEREUNDER DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO SUCH CLAIMS. Each Party acknowledges and agrees that the warranty disclaimers and liability and remedy limitations in this Agreement are material, bargained for provisions of this Agreement and that fees and consideration payable hereunder reflects these disclaimers and limitations.
7. **Term and Termination.** Unless otherwise specified in this Agreement, the initial term of this Agreement will commence on the Effective Date and continue for a period of one year. This Agreement will automatically renew for successive one-year terms, unless one Party notifies the other Party of non-renewal in writing at least sixty (60) days prior to the end of the current term. Customer may terminate this Agreement or any Order Form at any time, in whole or in part, for any reason or no reason, on sixty (60) days prior written notice. Upon notice of such termination, all outstanding invoices shall become immediately due and payable. Either Party may terminate this Agreement in the event that the other Party materially breaches this Agreement the other Party does not cure such breach within thirty (30) days after written notice of such breach. Expiration or termination of any Order Form or Statement of Work shall constitute the expiration or the termination of such Order Form or Statement of Work only and shall not affect this Agreement or any other Order Form or Statements of Work outstanding under this Agreement. Notwithstanding the foregoing, unless otherwise mutually agreed by the parties in writing, any Order Form or Statement of Work outstanding as of the date of termination or expiration of this Agreement shall remain in effect and continue to be governed by the terms of this Agreement and its own terms until such time as such Order Form or Statement of Work is completed, expires or is otherwise terminated. Upon the termination or expiration of this Agreement, Customer (a) shall immediately cease using the Software and (b) for a period of thirty (30) days, may request a copy of Customer Content that is in Frontline's possession in the format retained by Frontline. The following provisions of this Agreement will survive expiration or termination of this Agreement Sections 3.3, 4, 5, 6 and 8.
8. **General.** Frontline and Customer are each independent contractors and neither Party shall be, nor represent itself to be, the franchiser, partner, broker, employee, servant, agent, or legal representative of the other Party for any purpose whatsoever. Customer may not sublicense, assign, or transfer this Agreement, or any rights and obligations under this Agreement, in whole or in part, without Frontline's prior written consent. Any attempted assignment in violation of this Section shall be void. This Agreement shall be binding upon, and inure to the benefit of, the permitted successors and assigns of each Party. Notwithstanding anything to the contrary in this Agreement, except for Customer's obligations to pay amounts due under this Agreement, neither Party will be deemed to be in default of any provision of this Agreement for any delay, error, failure, or interruption of performance due to any act of God, terrorism, war, strike, or other labor or civil disturbance, interruption of power service, interruption of communications services, problems with the Internet, act of any other person not under the control of such Party, or other similar cause. ~~Any controversy or claim arising out of or related to this Agreement, or breach thereof, shall be settled by mandatory arbitration, in accordance with the rules of the JAMS Arbitration Association and the decision of the arbitrator(s) shall be binding on the Parties hereto.~~ This Agreement may be amended only by written agreement of the Parties, and any attempted amendment in violation of this Section shall be void. The waiver or failure of either Party to exercise in any respect any right provided under this Agreement shall not be deemed a waiver of such right in the future or a waiver of any other rights established under this Agreement. If any of the terms of a Order Form or Statement of Work directly conflict with the terms of this Agreement (for the avoidance of doubt, where an Order Form or Statement of Work includes additional and more specific terms and conditions with respect to a concept addressed generally herein, no conflict shall be deemed to exist), the terms of the Order Form or Statement of Work shall take precedence for all Services, Work Product and Software under that Order Form or Statement of Work. This Agreement does not confer any rights or remedies upon any person other than the Parties, except Frontline's licensors. When used herein, the words "includes" and "including" and their syntactical variations shall be deemed followed by the words "without limitation." This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be the same agreement.
9. This agreement shall be governed by Florida law. Venue for all actions filed to enforce the terms of this agreement shall be in courts having jurisdiction in Monroe County, Florida, and the parties hereto waive any claim of forum nonconveniens with respect to any such actions filed.
10. All travel reimbursements will be made only in accordance with School Board policy 6550 and Florida law.