

## **AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**

(Hereinafter referred to as “SBBC”),  
a body corporate and political subdivision of the State of Florida,  
whose principal place of business is  
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

**TURNITIN, LLC**

(Hereinafter referred to as “VENDOR”),  
whose principal place of business is  
2101 Webster St Ste 1800 Oakland CA 94612

**WHEREAS**, the SBBC issued a Request for Proposal identified as RFP 18-126E, Plagiarism Detection Software (hereinafter referred to as “RFP”), dated October 31, 2017, and amended by Addendum No 1 dated November 14, 2017, each of which is incorporated by reference herein, for the purpose of receiving proposals for Plagiarism Detection Software and Services; and

**WHEREAS**, VENDOR offered a proposal in response to the RFP (hereinafter referred to as “Proposal”) and which is incorporated herein by reference whereby VENDOR proposed to provide a plagiarism detection software solution to evaluate student papers, track and report via a learning management system (currently Canvas by Instructure). This entails cross referencing SBBC student submissions, web sites, journals and other sources to report potential plagiarism; and

**WHEREAS**, VENDOR acquired original RFP awardee, Vericite, Inc. and VENDOR has agreed to provide functionally the same services as Vericite proposed in RFP18-126E which is attached hereto and incorporated as Attachment A; and

**WHEREAS**, the SBBC is in need of certain products and services and has selected the VENDOR to provide such products and services; and

**WHEREAS**, VENDOR is willing to provide such products and services to the SBBC; and

**WHEREAS**, the SBBC and VENDOR desire to memorialize the terms and conditions of their agreement;

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE 1 – RECITALS**

1.0 **Recitals.** The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

### **ARTICLE 2 – SPECIAL CONDITIONS**

2.0 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.06 of this Agreement, the term of this Agreement shall commence upon execution by SBBC and conclude on **June 30, 2021**. The term of the Agreement may be extended by two (2) additional one-year periods. In addition, SBBC has the option to extend the Agreement beyond the initial Agreement period or beyond any renewal period for an additional one-hundred and eighty (180) days.

2.01 **Description of Goods or Services Provided.** VENDOR shall provide the software subscription based products described in **Attachment B** (Cost of Services Matrix).

2.02 **Priority of Documents:** In the event of a conflict between documents, the following priority of documents shall govern:

- First: This Agreement, then;
- Second: Attachment B (Cost of Services Matrix)
- Third: Addendum No. 1 to RFP 18-126E
- Fourth: RFP 18-124E – Plagiarism Detection Software
- Fifth: Proposal submitted by Vericite, Inc. in response to RFP 18-124E

2.03 **Cost of Services.** SBBC shall pay VENDOR for services rendered under this Agreement as outlined in **Attachment B** (Cost of Services Matrix).

2.04 **Services.** VENDOR shall provide SBBC with training and support services as indicated on **Attachment B**.

(a) SBBC will incorporate the VENDOR’s software (herein referenced as “the Turnitin originality checker (OC) service”) into the SBBC’s campus learning systems using only Vendor approved integration code for the Turnitin OC Service.

(b) SBBC will not use the Turnitin OC Service as the sole and authoritative tool for prosecuting any instance(s) of plagiarism in a judicial proceeding or sanction.

(c) SBBC will not access or use the Turnitin OC Service to build a competing service or product.

(d) SBBC, its Agents or End Users own and reserve all right, title, and interest in and to their respective Covered Content. Except as provided in this section (Proprietary Rights), VENDOR obtains no rights under this Agreement from SBBC, its Agents or End Users to their Covered Content, including any related intellectual property rights or copyrights. SBBC consents to VENDOR's use and disclosure of such Covered Content solely to provide the Turnitin OC Service to SBBC, its Agents and End Users or to comply with any order of a court, or an administrative body, or a government agency; provided that any such disclosure shall comply with applicable law, including without limitation, FERPA.

(e) SBBC represents and warrants that: (i) SBBC, its Agents or End Users own all right, title, and interest in and to their respective Covered Content, or are duly licensed to use such Covered Content as contemplated by this Agreement; (ii) SBBC has all rights in such Covered Content necessary to grant the rights contemplated by this Agreement.

(f) VENDOR owns and reserves all right, title, and interest in and to the Turnitin OC Service. VENDOR hereby grants SBBC a limited, revocable, non-exclusive, non-assignable, non-transferrable worldwide right to do the following during the Term: (i) access and use the Turnitin OC Service solely in accordance with this Agreement; and (ii) copy and use the Turnitin OC Service documentation solely in connection with the permitted use of the Turnitin OC Service. Except as provided in this section (Proprietary Rights), SBBC obtains no rights under this Agreement to the Turnitin OC Service, including any related intellectual property rights.

(g) Neither SBBC nor any of its Agents or End Users may use the Turnitin OC Service in any manner or for any purpose other than as expressly permitted by this Agreement. Neither SBBC nor any of its Agents or End Users may attempt to, (i) modify, alter, tamper with, repair, or otherwise create derivative works of any software included in the Turnitin OC Service, (ii) reverse engineer, disassemble, or decompile the Turnitin OC Service or apply any other process or procedure to derive the source code of any software included in the Turnitin OC Service. All rights and licenses granted to SBBC in this Agreement are conditioned on the continued compliance by SBBC with this Agreement and will terminate if SBBC does not cure any non-compliance within thirty (30) business days of receiving notice from VENDOR as outlined in Section 2.08 of this Agreement. No refund of fees will be made as a result of termination for noncompliance. During and after the Term, To the extent provided by law, SBBC will not assert, nor will SBBC authorize, assist, or encourage any third party to assert, against VENDOR or any of its affiliates, customers, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim regarding the Turnitin OC Service.

## 2.05 **SBBC Disclosure of Education Records.**

(a) Provided SBBC accesses VENDOR software using the Canvas Plagiarism Framework, then VENDOR will utilize the Canvas user ID only, accessed via the learning Canvas by Instructure, to retain student's written assignment submissions to become part of the private SBBC repository for comparison against future submissions to identify potential plagiarism.

(b) SBBC will provide VENDOR with the following education records: student first name, student last name, student email, student number, course identification number (ID) and course title.

(c) VENDOR is considered a “school official” with a legitimate educational interest to receive the types of information from SBBC student education records listed in 2.05 (b) and for the purposes listed in section 2.05 (a). Prior written consent of the parent or student age 18 or over is needed for any types or purposes of disclosures of education records beyond these listed above.

(d) All education records shall remain the property of SBBC, and any party contracting with SBBC serves solely as custodian of such information pursuant to this Agreement and claims no ownership or property rights thereto and, upon termination of this Agreement shall, at SBBC’s request, return to SBBC or dispose of the education records in compliance with the applicable Florida Retention Schedules and provide SBBC with a written acknowledgment of said disposition.

(e) VENDOR shall, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes. This section shall survive the termination of all performance required or conclusion of all obligations existing under this Agreement.

2.06 **Confidentiality of Education Records.** Notwithstanding any provisions to the contrary within this Agreement, VENDOR shall:

(a) Fully comply with the requirements of Section 1002.22, 1002.221, and 1002.222, Florida Statutes; the Family Educational Rights and Privacy Act, 20 U.S.C § 1232g (FERPA) and its implementing regulations (34 C.F.R. Part 99), and any other state or federal law or regulation regarding the confidentiality of student information and records;

(b) hold any education records in strict confidence and not use or re-disclose same except as required by this Agreement or as required or permitted by law unless the parent of each student or a student age 10 or older whose education records are to be shared provides prior written consent for their release;

(c) ensure that, at all times, all of its employees who have access to any education records during the term of their employment shall abide strictly by its obligations under this Agreement, and that access to education records is limited only to its employees that require

the information to carry out the responsibilities under this Agreement and shall provide said list of employees to SBBC upon request;

(d) safeguard each education record through administrative, physical and technological standards to ensure that adequate controls are in place to protect the education records and information in accordance with FERPA's privacy requirements;

(e) utilize the education records solely for the purposes of providing products and services as contemplated under this Agreement; and shall not share, publish, sell, distribute, target advertise, or display education records to any third party;

(f) notify SBBC immediately upon discovery of a breach of confidentiality of education records by telephone and email at 754-321-0300 (Manager, Information Security), and 754-321-1900 (Privacy Officer) [privacy@browardschools.com](mailto:privacy@browardschools.com); and take all necessary notification steps as may be required by federal and Florida law, including, but not limited to, those required by Section 501.171, Florida Statutes;

(g) fully cooperate with appropriate SBBC staff, including Privacy Officer and/or Information Technology staff to resolve any privacy investigations and concerns in a timely manner;

(h) prepare and distribute, at its own cost if any and all required breach notifications, under federal and Florida Law, or reimburse SBBC any direct costs incurred by SBBC for doing so, including, but not limited to, those required by Section 501.171, Florida Statutes;

(i) be responsible for any fines or penalties for failure to meet breach notice requirements pursuant to federal and/or Florida law;

(j) provide SBB with the name and contact information of its employee who shall serve as SBBC's primary security contact and shall be available to assist SBBC in resolving obligations associated with a security breach of confidentiality of education records; and

(k) securely erase education records from any media once that media equipment is no longer in use or is to be disposed; secure erasure will be deemed the deletion of the education records using a single pass overwrite Secure Erase (Windows) or Wipe (Unix).

2.07 **Inspection of VENDOR Records by SBBC:** VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR'S payees pursuant to this Agreement. VENDOR Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect

costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR Records Defined. For the purposes of this Agreement, the term “VENDOR Records” shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC’s agent or authorized representative shall have access to VENDOR Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC’s agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC’s agent or its authorized representative shall have access to the VENDOR’S facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC’s audit shall be paid by the VENDOR. If the audit discloses billings or charges to which the VENDOR is not contractually entitled, the VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor’s Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as “Payees”) providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to

include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of the VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.08 **Notice:** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Director of Innovative Learning  
The School Board of Broward County, Florida  
600 Southeast Third Avenue, 5<sup>th</sup> Floor  
Fort Lauderdale, Florida 33301

To VENDOR: Turnitin, LLC  
Attn: Chief Financial Officer  
2101 Webster St Ste 1800  
Oakland CA 94612

2.09 **BACKGROUND SCREENING.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to the VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or

mental injury, death or property damage resulting from VENDOR'S failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

2.10 **Insurance Requirements.** VENDOR shall comply with the following insurance requirements throughout the term of this Agreement.

(a) **General Liability.** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

(b) **Professional Liability/Errors & Omissions.** Limit not less than \$1,000,000 per occurrence covering services provided under this Agreement.

(c) **Workers' Compensation.** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

(d) **Auto Liability.** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit.

If Awardee does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 shall be accepted. In addition, an affidavit signed by the Awardee must be furnished to SBBC indicating the following:

(N/A) does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition.

(e) **Acceptability of Insurance Carriers.** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated at least A- VI by AM Best or Aa3 by Moody's Investor Service.

(f) **Verification of Coverage.** Proof of Insurance must be furnished within 15 days of execution of this Agreement. To streamline this process, SBBC has partnered with EXIGIS RiskWorks to collect and verify insurance documentation. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit Awardee time to remedy any deficiencies. EXIGIS RiskWorks will send an email notification within three (3) business days after receipt of the award letter.

- New vendors will receive an email notification requesting account verification and insurance agent information.
- Existing vendors will receive an email notification of current status.

(g) **Required Conditions.** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:



1. The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.
2. All liability policies are primary of all other valid and collectable coverage maintained by the School Board of Broward County, Florida.
3. Certificate Holder: The School Board of Broward County, Florida, c/o EXIGIS Risk Management Services, P. O. Box 4668-ECM, New York, New York 10163-4668

(h) Cancellation of Insurance. VENDOR is prohibited from providing services under this Agreement with SBBC without the minimum required insurance coverage and must notify SBBC within two business days if required insurance is cancelled.

(i) The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.

2.11 **Payment Method.** SBBC's preferred method of payment is via ACH electronic payments. An electronic payment can reduce processing time and administrative overhead costs for both parties, resulting in expedited payment upon invoice approval, and reduces exposure to check fraud. SBBC will not pay convenience fees, surcharges, or any additional costs for payments made by electronic payment.

(a) VENDOR accepts payment via electronic payment as noted above. VENDOR shall provide SBBC with its ACH form upon its execution of this Agreement.

2.12 **Warranty and Disclaimer.** SBBC ACCEPTS THE TURNITIN OC SERVICE "AS IS" AND AS AVAILABLE, WITH NO REPRESENTATION OF FITNESS FOR A PARTICULAR PURPOSE OTHER THAN EXPRESSED IN THIS AGREEMENT, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING: (a) VENDOR DOES NOT REPRESENT OR WARRANT THAT THE SYSTEM WILL PERFORM WITHOUT INTERRUPTION OR ERROR; AND (b) VENDOR SHALL USE REASONABLE TECHNOLOGY SOLUTIONS TO PROTECT SBBC DATA FROM HACKING OR OTHER UNAUTHORIZED INTRUSION.

### **ARTICLE 3 – GENERAL CONDITIONS**

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this Agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, and contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression, marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **S/M/WBE Commitment.** Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified S/M/WBE Vendor(s) who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, S/M/WBE Vendor(s) to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding S/M/WBE participation, including dollars spent on S/M/WBE Vendor(s) for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for S/M/WBE Vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for S/M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

3.06 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

- (a) VENDOR, upon thirty (30) days written notice to the parties, may terminate this Agreement (i) if a third party license of technology used by the Turnitin OC Service expires, or is terminated, or if the licensor thereof requires VENDOR to change the way VENDOR provides the licensed technology as part of the Turnitin OC Service, (ii) if, in the reasonable opinion of VENDOR, providing the Turnitin OC Service could create a substantial economic or technical burden or material security risk for VENDOR, (iii) in order to comply with the law or requests of governmental entities, or (iv) if VENDOR determines SBBC's use of, or VENDOR's provision of the Turnitin OC Service to SBBC, has become impractical or unfeasible for any legal or regulatory reason; and
- (b) Any time upon written request from SBBC, provided that all subscription fees are paid to the Termination Date, VENDOR shall delete completely expunge SBBC's Covered Content from the Turnitin OC Service servers within 30 days of such written request from SBBC.
- (c) If VENDOR terminates Agreement, VENDOR agrees to refund SBBC remaining paid subscription service fees from the date of termination.

3.07 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days' notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.08 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.09 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.10 **Public Records:** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. VENDOR shall keep and maintain public records required by SBBC to perform the services required under this Agreement. Upon request from SBBC's custodian of public records, VENDOR shall provide SBBC with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. VENDOR shall 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 Agreement's term and following completion of the Agreement if VENDOR does not transfer the public records to SBBC. Upon completion of the Agreement, VENDOR shall transfer, at no cost, to SBBC all public records in possession of VENDOR or keep and maintain public records required by SBBC to perform the services required under the Agreement. If VENDOR transfer all public records to SBBC upon completion of the Agreement, VENDOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If VENDOR keeps and maintains public records upon completion of the Agreement, VENDOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal state and local laws, SBBC policies codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this

document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment.** Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference.** **Attachment A-B,** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense (“Force Majeure”). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26 **Liability.** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees’ acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: Except for claims related to third-party content in the Turnitin OC Service, VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney’s fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR’S agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC’s property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Liability Cap.** TO THE EXTENT ALLOWED BY APPLICABLE LAW, VENDOR AND ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS OR LICENSORS’ TOTAL CUMULATIVE LIABILITY ARISING UNDER OR RELATED TO THIS AGREEMENT AND THE SERVICE, WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED SEVEN TIMES THE AMOUNTS PAID TO VENDOR BY SBBC

UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVEN RISE TO LIABILITY. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES; IN THOSE JURISDICTIONS TURNITIN'S LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. THE LIABILITY CAP SHALL APPLY EVEN IF THE EXPRESS WARRANTIES SET FORTH HEREIN FAIL OF THEIR ESSENTIAL PURPOSE.

3.28 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement on the date first above written.

**FOR SBBC**

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

ATTEST:

By \_\_\_\_\_  
Nora Rupert, Chair

\_\_\_\_\_  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

\_\_\_\_\_  
Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

ATTEST:

TURNITIN, LLC

By [Signature]  
Chris Capen, CEO

Laura DiPiano for

\_\_\_\_\_, Secretary

-or-  
[Signature]  
Witness

[Signature]  
Witness

**The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF California

COUNTY OF Alameda

The foregoing instrument was acknowledged before me this 27th day of April, 2018 by Laura DiPiano of Turnitin, LLC Name of Person, on behalf of the corporation/agency. Name of Corporation or Agency

He/She is personally known to me or produced U.S. passport as identification and did/did not first take an oath. Type of Identification

My Commission Expires: July 18, 2018

[Signature]  
Signature - Notary Public

Angela Curtin Rhee  
Printed Name of Notary

(SEAL)



2074997  
Notary's Commission No.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.





2101 Webster St Ste 1800  
Oakland CA 94612 USA

April 16, 2018

The School Board of Broward County, Florida ("SBBC")  
600 Southeast Third Ave  
Fort Lauderdale FL 33301

RE: Turnitin, LLC and VeriCite, Inc

Dear Procurement & Warehousing Services,

In accordance with an April 13, 2018 request from your institution, please accept this letter as confirmation that Turnitin, LLC ("Turnitin") announced its acquisition of VeriCite, Inc on February 8, 2018. VeriCite is now a wholly owned subsidiary of Turnitin, LLC.

Turnitin further acknowledges the contemplated agreement for services between Turnitin and SBBC (the, "Agreement") incorporates by reference VeriCite's response to SBBC's RFP18-126E, and that Turnitin shall adhere to same.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura DiPiano". The signature is fluid and cursive, with a prominent initial "L" and "D".

Laura DiPiano for Chris Caren, CEO

# Signature Certificate



Document Reference: 9LR22SIAUI2X765HYVXDLB

**RightSignature**  
Easy Online Document Signing



Laura DiPiano  
Party ID: 578DALJUHELIE7VCYIN4AVN  
IP Address: 23.118.109.55  
VERIFIED EMAIL: ldipiano@turnitin.com

Electronic Signature:

Multi-Factor  
Digital Fingerprint Checksum

64153a0e220e295b1773d1cf082a2c10fcd5adab



## Timestamp

2018-04-16 21:00:54 -0700

2018-04-16 21:00:53 -0700

2018-04-16 21:00:30 -0700

2018-04-16 18:33:05 -0700

## Audit

All parties have signed document. Signed copies sent to: Laura DiPiano and Angela Rhee.

Document signed by Laura DiPiano (ldipiano@turnitin.com) with drawn signature. - 23.118.109.55

Document viewed by Laura DiPiano (ldipiano@turnitin.com). - 23.118.109.55

Document created by Angela Rhee (arhee@turnitin.com). - 199.47.85.103



This signature page provides a record of the online activity executing this contract.

**ATTACHMENT B  
COST OF SERVICES MATRIX**

<b>ANNUAL SUBSCRIPTION COST</b>				<b>TOTAL USER COUNT</b>		<b>TOTAL COST</b>	
YEAR 1	\$1.05/user	130,222		\$136,733.10			
YEAR 2	\$1.05/user	TBD UPON RENEWAL BASED ON USER COUNT (FTE GRADE 6-12, BBU, PROFESSIONAL DEVELOPMENT)					
YEAR 3	\$1.05/user	TBD UPON RENEWAL BASED ON USER COUNT (FTE GRADE 6-12, BBU, PROFESSIONAL DEVELOPMENT)					
EXTENSION YEAR 1	\$1.10/user	TBD UPON RENEWAL BASED ON USER COUNT (FTE GRADE 6-12, BBU, PROFESSIONAL DEVELOPMENT)					
EXTENSION YEAR 2	\$1.16/user	TBD UPON RENEWAL BASED ON USER COUNT (FTE GRADE 6-12, BBU, PROFESSIONAL DEVELOPMENT)					
Repository seeding							
Canvas integration							
<b>INCLUDED TRAINING (YEAR 1)</b>							
<b>ADMINISTRATOR &amp; HELP DESK TRAINING</b>		<b>ONSITE*</b>	<b>ONLINE**</b>	<b>COST</b>			
		1 session		\$0			
<b>INSTRUCTOR TRAINING</b>		<b>ONSITE*</b>	<b>ONLINE**</b>	<b>COST</b>			
			15 sessions	\$0			
<b>ADDITIONAL TRAINING (YEAR 1)</b>							
<b>ADMINISTRATOR &amp; HELP DESK TRAINING</b>				<b>INSTRUCTOR TRAINING</b>			
<b>ONSITE*</b>		<b>ONLINE**</b>		<b>ONSITE*</b>		<b>ONLINE**</b>	
\$1,000 per session		\$250 per session		\$1,000 per session		\$250 per session	
<b>OPTIONAL TRAINING (YEARS 2 &amp; 3)</b>							
<b>ADMINISTRATOR &amp; HELP DESK TRAINING</b>				<b>INSTRUCTOR TRAINING</b>			
<b>ONSITE*</b>		<b>ONLINE**</b>		<b>ONSITE*</b>		<b>ONLINE**</b>	
\$2,000 per session		\$500 per session		\$2,000 per session		\$500 per session	
*session is equal to 9am to 5pm for one trainer and up to 50 attendees							
**session is equal to 1 hour for one trainer and up to 100 attendees							

Turnitin OC Service is offered on a subscription basis and will be integrated into the District's learning management system (LMS).

Turnitin OC Service subscriptions are based on the number of students with access to the LMS. VENDOR will provide the Turnitin OC Service for users who have access to the District's instances of the Canvas LMS. We acknowledge that the Turnitin OC Service is accessible to all end-users who have access to the Canvas LMS and will not charge the District for limited, sporadic use by end-users in grades K-5 for whom the Turnitin OC Service is not primarily intended.

All subscriptions include email and phone support available 24 hours per day/7 days per week through [http://turnitin.com/en\\_us/support](http://turnitin.com/en_us/support) / 510 764 7600 x241.