

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, _____, 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

ZOOBEAN, INC.
(hereinafter referred to as “VENDOR”),
whose principal place of business is
5614 Connecticut Ave, Suite #227
Washington, DC 20015

WHEREAS, pursuant to SBBC Policy 3320, Section II, H, and pursuant to the Department of Education, Rule 6A-1.012, 1 l(b), Florida Administrative Code as authorized by Section I010.04(4)(a), Florida Statutes, the requirement for requesting competitive solicitation for commodities or contractual services from three (3) or more sources is hereby waived as for the SBBC's purchase of computer software; and

WHEREAS, VENDOR will provide access to their software platform that facilitates independent reading of students throughout the District.

WHEREAS Students, staff, and parents will be able to log their independent reading, track their completion of learning activities, write reviews, earn virtual badges and receive incentives.

WHEREAS, SBBC’s objective for implementing this program is enabling students to read what they want, keeping them motivated and building a culture of reading that will help them be more prepared and successful in life.

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

1.01 **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

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on upon the execution of all parties and and shall conclude on **June 30, 2019**.

2.02 **VENDOR Responsibilities:**

- (a) VENDOR shall provide SBBC with District wide access to their software platform called “Beanstack”, accessible through a website or mobile app, see **Attachment A** for application features.
- (b) Beanstack shall facilitate reading programs currently being used throughout the District, for example the “Reading Across Broward” program.
- (c) VENDOR shall provide each participating school with an individual beanstack site that links to a dashboard of their data.
- (d) VENDOR shall provide promotional support which shall include but is not limited to designing thematic virtual badges for a citywide challenge, posters, bookmarks, and refrigerator magnets.
- (e) VENDOR shall provide a Client Success Manager to facilitate implementation, on-site and webinar training and on-going support.
- (f) VENDOR shall provide implementation services that shall include the initial versions of each school’s separate Beanstack sites with some pre-populated district-wide content. This will include providing each school with a launch checklist at the start of the process and quality assurance (QA) survey once ready to introduce the site to the school community. The initial customized site for each school will be completed ahead of scheduled professional development for participating school librarians, teachers, and staff.
- (g) **Training:** VENDOR shall will provide on-site, webinar, and recorded trainings for SBBC staff. On-site training will be conducted up to two (2) times and webinar trainings will be conducted up to five (5) times per year. Ongoing webinars shall be held to share best practices and facilitate dialogue on ways in which each school’s Beanstack site can be most useful.
- (h) **Site Maintenance and Support:** VENDOR shall provide ongoing maintenance and improvements to their platform. Support tickets may be submitted through VENDOR’s helpdesk and will be addressed within one (1) business day.
- (i) **Technical Implementation with SBBC’s Integration Program:** VENDOR shall manage technical implementation with SBBC’s integration program according to specifications provided by SBBC.

2.03 **SBBC Responsibilities:**

- (a) **District-wide Reading Challenge Design:** SBBC shall work closely with VENDOR to determine the settings and content that shall be common across all school sites. This shall include the ways in which participants can log their independent reading (i.e. by books, minutes, pages, and/or days) and earn points (i.e. x points for logging one book versus writing one review). It will also entail designing a district-wide reading challenge that is common across all schools.
- (b) **On-site Training:** SBBC shall provide the opportunity and venue to train school staff in-person and coordinate scheduling for up to five (5) live webinar training dates.
- (c) **Primary Points of Contact:** SBBC shall ensure that VENDOR has a clear single point of contact for each school or, alternatively, for each cluster of schools. This contact may be a school librarian or other staff member including teachers or administrators in English & Language Arts.
- (d) **Process Compliance:** SBBC shall work closely with VENDOR to ensure that each school is following the designated process for implementation, training, and ongoing support. This process shall include clear, simple systems for each school point of contact to better ensure successful implementation and ongoing use.
- (e) **Promotion:** SBBC shall promote the district-wide independent reading program through its existing channels including email, print, earned and paid media, and in-person communication to students, parents, and local organizations.
- (f) **Individual Site Customizations:** VENDOR's representative at each school may customize the school's beanstack site to contain independent reading challenges and other content specific to the school. This may include content aligned to reading challenges or classroom content.
- (g) **Individual Reader Recognition:** SBBC may provide some additional special recognition for students, staff, and parents who are high achievers within the district-wide reading challenge.

2.04 **SBBC Disclosure of Education Records.**

- (a) SBBC shall provide VENDOR with the following records through its integration program for the purposes listed.

1) Age – Shall be used to properly direct each student to reading challenges, suggested reading lists, and other appropriate content. Age can be an estimate and does not need to be an exact birthdate.

2) Student Identification Number - Shall be used for identifying each student that accesses the program.

3) Student's First and Last Name – Shall be used for identifying each student that accesses the program.

4) *Grade level* – Shall be used to determine which reading challenge a student should be placed in.

5) *School and teacher* – Shall be used for reporting purposes. Reports shall be created for SBBC to provide performance statistics. Access to these reports shall be limited to selected employees. Some reports that are focused on individual student readers will contain personally identifiable information such as student's first name and last name, student identification number, age and grade level.

- (b) VENDOR is considered a "school official" with a legitimate educational interest to receive the types of education records listed in section 2.04(a) for the purposes listed in 2.04(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 those listed in 2.04(a).
- (c) VENDOR shall not prompt or request SBBC student or faculty users to provide any additional personally identifiable information during use of software, website or program services pursuant to this agreement. VENDOR shall not use or re-disclose any student information for any purpose not listed in section 2.04 of this agreement. In the event of a conflict between this provision or any other provision in this Agreement and the VENDOR's privacy policy, attached as **Attachment B**, then this provision and the provisions in this Agreement takes precedence and supersede the provisions of **Attachment B**.

2.05 **VENDOR Confidentiality of Education Records.**

(a) Notwithstanding any provision to the contrary within this Agreement, VENDOR shall:

1) fully comply with the requirements of Sections 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;

2) hold any education records in strict confidence and not use or redisclose same except as required by this Agreement or as required or permitted by law unless the parent of each student or a student age 18 or older whose education records are to be shared provides prior written consent for their release;

3) 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;

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

5) 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;

6) notify SBBC immediately upon discovery of a breach of confidentiality of education records by telephone at 754-321-0300 (Manager, Information Security), and 754-321-1900 (Privacy Officer), and email at 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;

7) 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;

8) prepare and distribute, at its own cost, 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;

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

10) provide SBBC 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

11) securely erase education records from any media once any 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).

(b) 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.

(c) 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 SBBC Disclosure of Employee Records.

(a) SBBC will provide VENDOR the records listed in 2.06(b) through its integration program for the purposes listed.

(b) SBBC will provide VENDOR with employee user identification and work email address that shall be used to identify each teacher that accesses the program.

2.07 Safeguarding confidential employee records. Notwithstanding any provision to the contrary within this Agreement, VENDOR shall 1) fully comply with the requirements of state or federal law or regulation regarding the confidentiality of employee records, 2) hold the employee records in strict confidence and not use or disclose same except as required by this Agreement or as required or permitted by law, 3) only share employee records with those who have a need to access the information in order to perform their assigned duties in the performance of this Agreement, 4) protect employee records through administrative, physical and technological safeguards to ensure adequate controls are in place to protect the employee's records and information, 5) notify SBBC immediately upon discovery of a breach of confidentiality of employee records by telephone at 754-321-0300 (Manager, Information Security), and 754-321-1900 (Privacy Officer), and email at 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, 6) prepare and distribute, at its own cost, any and all required notifications, under federal and Florida Law, or reimburse SBBC any direct costs incurred by SBBC for doing so, and 7) be responsible for any fines or penalties for failure to meet notice requirements pursuant to federal and/or Florida law. This section shall survive the termination of all performance or obligations under this Agreement.

2.08 VENDOR's Privacy Policy and Terms of Use. See **Attachment B** for VENDOR's Privacy Policy and **Attachment C** for VENDOR's Terms of Use.

2.09 Cost of Services.

(a) Upon execution by both parties, SBBC shall pay VENDOR \$26,100 for 150 school building licenses within 30 days of receipt of an appropriate invoice. Subsequent purchases shall be maintained at the negotiated price of \$174 per school. In addition, SBBC shall pay \$0.25 per unit for designing, printing, and shipping each promotional bookmark.

(b) SBBC shall not incur any costs for typographical errors.

2.10 **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's applicable 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 the applicable business records of VENDOR directly relating to this Agreement in order to verify the accuracy of invoices provided to SBBC. Such audit shall be no more than one (1) time per calendar year.

(a) **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's 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.

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

(c) **Audit Site Conditions.** SBBC's agent or its authorized representative shall have access to 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.

(d) **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 SBBC's denial of some or all of any VENDOR's claims for payment.

(e) **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 VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand unless otherwise agreed to in writing by both parties.

(f) **Inspection of Subcontractor's Records.** If applicable, 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 Payees' costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(g) 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.

2.11 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, Innovative Learning*
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

To VENDOR: Felix Lloyd, President
Zoobean, Inc.
5614 Connecticut Ave, Suite #227
Washington, DC 20015

2.12 Background Screening. VENDOR shall 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 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 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.

2.13 **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 transfers 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.

2.14 **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: 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.

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

(a) **General Liability.** VENDOR shall maintain General Liability insurance during the term of this Agreement with limits not less than \$1,000,000 per occurrence for Bodily Injury/Property Damage; \$1,000,000 General Aggregate; and limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

(b) **Professional Liability/Errors & Omissions.** VENDOR shall maintain Professional Liability/Errors & Omissions insurance during the term of this Agreement with a limit of not less than \$1,000,000 per occurrence covering services provided under this Agreement.

(c) **Workers' Compensation.** VENDOR shall maintain Workers' Compensation insurance during the term of this Agreement in compliance with the limits specified in Chapter 440, Florida Statutes, and Employer's Liability limits shall not be less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

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

(e) **Acceptability of Insurance Carriers.** The insurance policies required under this Agreement shall be issued by companies qualified to do business in the State of Florida and having a rating of at least A- VI by AM Best or Aa3 by Moody's Investor Service.

(f) **Verification of Coverage.** Proof of the required insurance must be furnished by VENDOR to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) days of the date of this Agreement. To streamline this process, SBBC has partnered with EXIGIS Risk Management Services to collect and verify insurance documentation. All certificates (and any required documents) must be received and approved by SBBC's Risk Management Department before any work commences to permit VENDOR to remedy any deficiencies. VENDOR must verify its account information and provide contact details for its Insurance Agent via the link provided to it by email.

(g) **Required Conditions.** Liability policies must include the following terms 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 (2) business days if required insurance is cancelled.

(i) SBBC reserves the right to review, reject or accept any required policies of insurance, including limits, coverage or endorsements, herein throughout the term of this Agreement.

2.16 **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.

2.17 **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.

2.18 **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.

2.19 **Incorporation by Reference.** Attachments A, B, & C attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

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 Agreement.

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, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **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.

3.05 **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. In the event of such termination, SBBC shall be entitled to a *pro rata* refund of any pre-paid amounts for any services scheduled to be delivered after the effective date of such termination. 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.

3.06 **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.

3.07 **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.

3.08 **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 exclusively to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida or to the jurisdiction of the United States District Court for the Southern District of Florida. Each party agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida or the United States District Court for the Southern District of Florida shall have jurisdiction over it for any dispute arising under this Agreement.

3.09 **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.

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

3.11 **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.

3.12 **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.

3.13 **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.

3.14 **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.

3.15 **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.

3.16 **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.

3.17 **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.

3.18 **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.

3.19 **Agreement 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.

3.20 **Counterparts and Multiple Originals.** This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

3.21 **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.

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]

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:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams, Esq. - kathelyn.jacques-adams@gbrowardschools.com
Reason: Zoobean, Inc.
Date: 2018.05.21 10:32:26 -04'00'

Office of the General Counsel

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

FOR VENDOR:

(Corporate Seal)

ZOOBEAN, INC.

ATTEST:

[Signature]
_____, Secretary

-or-

[Signature]

Witness

[Signature]

Witness

By [Signature]

Felix Lloyd, President

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 MASSACHUSETTS

COUNTY OF SUFFOLK

The foregoing instrument was acknowledged before me this 22 day of MAY, 2019 by FELIX LLOYD of ZOOBEAN INC on behalf of the corporation/agency.

He/She is personally known to me or produced MASHINGTON DC JC as identification and did/did not first take an oath. Type of Identification

My Commission Expires:

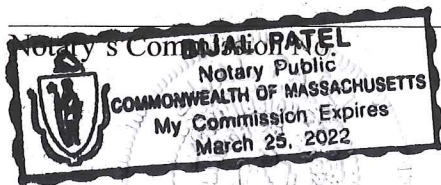
[Signature]

Signature – Notary Public

(SEAL)

BIJAL PATEL

Printed Name of Notary



ATTACHMENT A

APPLICATION FEATURES

Key Web Application Features	Key Mobile Application Features	Additional Benefits
<ul style="list-style-type: none"> ✓ Mobile responsive site each school ✓ Site customization tools ✓ Family, classroom, and group registration ✓ Concurrent reading challenge system ✓ Monthly reading templates ✓ Virtual badge system ✓ Virtual points system ✓ Reading logging system ✓ Activity logging system ✓ Book reviews system ✓ Prize and drawings ✓ Reading lists system ✓ Data reports for admins ✓ Integration with Clever 	<ul style="list-style-type: none"> ✓ Logging by ISBN scan ✓ Timed reading sessions ✓ Reading history and active reading log ✓ Reader streaks and achievements ✓ Reader statistics by pages, minutes, days, titles per day, week, month, and year 	<ul style="list-style-type: none"> ✓ Unlimited user accounts ✓ Client success ✓ Up to 2 on-site trainings each year ✓ Up to 5 webinar trainings each year ✓ Recorded tutorials ✓ 24-Hour helpdesk access

Attachment B

Privacy Policy

Your access to, and use of, the Services is subject to Zoobean's Terms of Use. Beanstack has created this Privacy Policy to explain what information we gather from you when you visit our Site or use the Services, how we may use this information, and the security approaches we use to protect your information. This Privacy Policy is incorporated and made part of Beanstack's Terms of Use.

By using the Services, you consent to the collection and use of your information by Beanstack in accordance with this Privacy Policy. If we decide to change our privacy policy, we will post those changes on this page. Policy changes will apply only to information collected after the date of the change.

1. What information do we collect?

We may ask you for your name, e-mail address, mailing address, phone number, or other information. You may, however, visit our Site without providing such information.

We use IP addresses and session identifiers to analyze trends, to administer the Services, to track user activities, to infer user interests, and to otherwise induce, deduce, and gather information.

Like many websites, we use "cookies" to enhance your experience and gather information about visitors and visits to our Site. Please refer to the "Do we use 'cookies'?" section below for information about cookies and how we use them.

Because there is not yet a common understanding of how to interpret web browser-based "Do Not Track" ("DNT") signals other than cookies, we do not currently respond to undefined "DNT" signals to the Site or Services.

2. How do we use your information?

We may use the information we collect from you when you register, respond to a survey or marketing communication, surf the Site, or use the Services in the following ways:

- To personalize your experience with the Services and to allow us to deliver the type of content and product offerings in which you are most interested.
- To allow us to better service you in responding to your customer service requests.
- To administer a promotion, survey or other feature of the Services.

3. Do we disclose the information we collect to outside parties?

We do not sell or trade your personally identifiable information for marketing, advertising, or other use under any circumstances. We may share your information with our affiliates and website hosting partners and other trusted parties who assist us in providing the Services, conducting our business, or servicing you, so long as those parties agree to keep this information confidential and use it only for purposes of delivering the Services to you. In the event that we sell our company, or otherwise transfer any assets of our company, we may provide your information to the purchaser who agrees to this Privacy Policy so that you may continue the relationship or business with us and our products. We may also release your information when we believe release is necessary to comply with law, enforce our Site policies, or protect ours or others' rights, property, or safety.

4. Who owns the data?

The licensee of each Beanstack site (i.e. a public library or school) retains ownership of all data created by the Library's users. This includes user contact information, reading logs, and any user-created content such as reading lists, book reviews, and picture reviews.

Zoobean agrees to delete all data created by Library's users at anytime upon receipt of a request for deletion. Library shall give notice to Zoobean of any request for the deletion of such information.

5. Correction/Updating Personal Information

You can correct or update your personally identifiable information by re-registering, updating your profile, or by contacting us by electronic-mail at contact@beanstack.com or by telephone at 412-532-6267.

6. Do we use "cookies"?

Yes. Cookies are small files that a site or its service provider transfers to your computer's hard drive through your Web browser (if you allow) that enables the site's or service provider's systems to recognize your browser and capture and remember certain information. For instance, we use cookies to help us remember and process the items in your shopping cart. Cookies are also used to help us understand your preferences based on previous or current Site activity, which enables us to provide you with improved services. We also use cookies to help us

compile aggregate data about Site traffic and Site interaction so that we can offer better Site experiences and tools in the future.

We may contract with third-party service providers to assist us in better understanding our Site visitors or the users of the Services. These service providers are not permitted to use the information collected on our behalf except to help us conduct and improve our business.

You can choose to have your computer warn you each time a cookie is being sent, or you can choose to turn off all cookies. You do this through your browser (like Mozilla Firefox or Internet Explorer) settings. Each browser is a little different, so look at your browser Help menu to learn the correct way to modify your cookies. If you turn cookies off, you won't have access to many features that make your Site experience more efficient and some of our Services will not function properly.

7. Safeguarding Your Personal Information

Beanstack follows generally accepted industry security standards to safeguard and help prevent unauthorized access, maintain data security and correctly use your personally identifiable information. However, no commercial method of information transfer over the Internet or electronic data storage is known to be 100% secure. As a result, we cannot guarantee the absolute security of that information during its transmission or its storage in our systems.

8. Privacy and Third Party Services

This Privacy Policy applies solely to information collected by our Services. In an attempt to provide you with increased value, we may link to or provide Services integrated with sites or services operated by third parties (collectively, "Third Party Services"). These Third Party Services have separate and independent privacy policies. We therefore have no responsibility or liability for the content and activities of these Third Party Services. Nonetheless, we seek to protect the integrity of our Services and welcome any feedback about these Third Party Services (including if a specific link or integration does not work).

9. Online Policy Only

This Privacy Policy applies only to information collected through our Services and not to information collected offline.

10. Questions and feedback

We welcome your questions, comments, and concerns about the Services. Please send us any and all feedback or questions pertaining to the Services to contact@beanstack.com with "WEBSITE PRIVACY POLICY" in the subject line or by mailing us at the following address:

Zoobean, Inc. 1400 Key Boulevard, Suite 100 Arlington, VA 22209

11. Important Notices to Non-U.S. Residents

It is important to note that the Services are operated in the United States. If you are located outside of the United States, please be aware that any visitor information you provide to us will be transferred to the United States. By using the Services and/or providing us with your visitor information, you consent to this transfer.

12. Your California Privacy Rights

Under California's "Shine the Light" law, California residents who provide personal information in obtaining products or services for personal, family or household use are entitled to request and obtain from us once a calendar year information about the customer information we shared, if any, with other businesses for their own direct marketing uses. If applicable, this information would include the categories of customer information and the names and addresses of those businesses with which we shared customer information for the immediately prior calendar year (e.g. requests made in 2013 will receive information regarding 2012 sharing activities).

To obtain this information from Beanstack please send an email message to contact@beanstack.com with "Request for California Privacy Information" on the subject line and in the body of your message. We will provide the requested information to you at your e-mail address in response. Not all information sharing is covered by the "Shine the Light" requirements and only information on covered sharing will be included in our response.

Children's Privacy

If a child has provided us with personally identifiable information, a parent or guardian of that child may send an email message to contact@beanstack.com with "Request for Child Information Removal" on the subject line and the name and age of the child in the body of the message. We will then make reasonable efforts to delete the child's information from the database that stores information for the Services.

Attachment C

Zoobean, Inc. - Terms of Use

Please read these Terms of Use carefully. By accessing or using the websites or other products or services (collectively, the "Services") of Zoobean, Inc. ("we," "our," or "us"), including the websites located at uniform resource locator www.beanstack.com and www.beanstack.org (collectively, the "Site"), SBBC ("you" or "your") agrees to be bound by these Terms of Use.

1. You Agree to These Terms by Using the Services

Your access to, and use of, the Site and Services is subject to the following Terms of Use and all applicable laws and regulations. By accessing and using the Services, you accept, without limitation or qualification, these Terms of Use. You may not modify these Terms of Use except in a writing signed by Zoobean.

If you do not agree and accept, without limitation or qualification, these Terms of Use, you must exit the Site and cease using the Services immediately.

2. Permitted Use of the Services

The information and materials on the Site are provided for general informational purposes. You may access and use the Services solely for the purpose of using and enjoying the benefits of the Services as provided by Zoobean and learning about and/or purchasing Zoobean or its services and products. You may not use, reproduce or distribute the text, graphics, downloads, tools or any other content of the Services for any other purpose.

3. User Submitted Content

The Services may, from time to time offer interactive features that allow users to submit content to the Services. Zoobean does not and cannot review all such content, and is not responsible for such content.

You acknowledge that by providing the ability to view and distribute user-generated content on the Services, Zoobean is merely acting as a passive conduit for such distribution and is not undertaking any obligation or liability related thereto. However, Zoobean reserves the right to block or remove communications or materials that it determines to be unacceptable to Zoobean in its sole discretion.

Harassment in any manner or form on the Site or the Services, including via e-mail, chat, or by use of obscene or abusive language, is strictly forbidden. Impersonation of others, including a Zoobean employee, host, or representative, as well as other members or visitors on the Site or users of the Services is prohibited. You may not upload to, distribute, or otherwise publish through the Services any content which is libelous, defamatory, obscene, threatening, invasive of privacy or publicity rights, abusive, illegal, or otherwise objectionable which may constitute or encourage a criminal offense, violate the rights of any party or which may otherwise give rise to liability or violate any law.

4. Notice; Electronic Communications

When you visit this Site, use the Services or send e-mails to Zoobean, you are communicating with us electronically. You consent to receive communications from us electronically. With the exception of notices referenced in Section 2.11 of the Agreement, we will communicate with you by e-mail or by posting notices on the Site.

5. Disclaimer - Warranty

THE SERVICES, THE CONTENT, MATERIALS AND PRODUCTS ON THE SITE AND SERVICES ARE PROVIDED "AS IS." TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, Zoobean HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

Zoobean does not represent or warrant that the functions contained in the Services will be uninterrupted or error-free, that the defects will be corrected, or that the Services or the server that makes the Services available are free of viruses or other harmful components. Zoobean does not make any warranties or representations regarding the use of the materials in the Services in terms of their correctness, accuracy, adequacy, usefulness, timeliness, reliability or otherwise. Zoobean does not make any warranties or representations regarding the security of your personal information. Some states do not permit limitations or exclusions on warranties, so the above limitations may not apply to you.

6. Indemnification

You agree to indemnify, defend, and hold harmless Zoobean, its officers, directors, employees, agents, licensors and suppliers from and against all losses, expenses, damages and costs, including reasonable attorneys' fees, resulting from any violation of these Terms of Use or any activity related to your account (including negligent or wrongful conduct) by you or any other person accessing the Site or Services using your Internet account, up to the limits referenced in Section 768.28, Florida Statutes.

7. Limitations and Liability

YOUR USE OF THE SERVICES IS AT YOUR OWN RISK. WITH THE EXCEPTION OF CLAIMS RELATED TO BREACH OF TRADEMARK FROM A THIRD PARTY, NEITHER Zoobean, NOR ANY OF ITS SUBSIDIARIES, AFFILIATES, OFFICERS OR DIRECTORS, NOR ANY OF ITS AGENTS OR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICES OR THEIR CONTENT, ARE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF THE SERVICES WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. Some states do not permit limitations or exclusions on warranties, so the above limitations may not apply to you.

8. Third-Party Services

In an attempt to provide increased value to our visitors, Zoobean may link to or provide Services integrated with sites or services operated by third parties (collectively, "Third Party Services"). However, even if the third party is affiliated with Zoobean, Zoobean has no control over these Third Party Services, all of which may have separate privacy and data collection practices, independent of Zoobean. These Third Party Services are only for your convenience and therefore you access them at your own risk. Without limiting the foregoing, Zoobean specifically disclaims any responsibility if such Third Party Services: infringe any third party's intellectual property rights; are inaccurate, incomplete or misleading; are not merchantable or fit for a particular purpose; do not provide adequate security; contain viruses or other items of a destructive nature; or are libelous or defamatory.

Zoobean does not endorse the content, or any products or services available, on such Third Party Services. Nonetheless, Zoobean seeks to protect the integrity of its Services and therefore requests any feedback on not only its own Services, but for Third Party Services it links to or integrates with as well (including if a specific link or integration does not work).

9. Trademarks

The following trademarks are our property: Beanstack name and logo and Beanstack name and logo. These marks may not be used without our consent on any product or service, except our own.

10. Copyright

Copyright © 2018, Zoobean, Inc. ALL RIGHTS RESERVED.

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11. Copyright Complaints

Zoobean respects the intellectual property of others. If you believe that your work has been copied in a way that constitutes copyright infringement, please contact us at contact@beanstack.com

12. Export Control

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