



# AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE	2020-05-19 10:05 - Regular School Board Meeting
AGENDA ITEM	ITEMS
CATEGORY	EE. OFFICE OF STRATEGY & OPERATIONS
DEPARTMENT	Procurement & Warehousing Services

Special Order Request <input type="radio"/> Yes <input checked="" type="radio"/> No
Time
Open Agenda <input checked="" type="radio"/> Yes <input type="radio"/> No

ITEM No.:  
EE-31.

TITLE:  
Recommendation of \$500,000 or Less - FY21-054 - Head Start and Early Childhood Digital Tools

REQUESTED ACTION:  
Approve the recommendation for the above agreement. Contract Term: July 1, 2020, through June 30, 2023, Three (3) Years with two (2) optional renewal periods. User Department: Head Start/Early Intervention Services; Award Amount: \$90,771; Awarded Vendor(s): Teaching Strategies, Inc.; Small/Minority/Women Business Enterprise Vendor(s): None.

SUMMARY EXPLANATION AND BACKGROUND:  
This recommendation is to approve the agreement to provide required assessment software for the Voluntary Prekindergarten (VPK) and Head Start programs. Data from this tool is utilized for reports to the State of Florida and for reports for The School Board of Broward County, Florida. This assessment software is the companion to the Head Start approved researched-based curriculum Creative Curriculum.  
This Agreement has been reviewed and approved as to form and legal content by the Office of the General Counsel.

SCHOOL BOARD GOALS:  
 Goal 1: High Quality Instruction  Goal 2: Safe & Supportive Environment  Goal 3: Effective Communication

FINANCIAL IMPACT:  
Due to the COVID-19, the spending authority requested covers the estimated amount projected for the first twelve (12) months; therefore, additional spending authority, to cover the remaining term of the Agreement will be requested in a future date. The spending authority requested is \$90,771 and will be funded by the Head Start/Early Intervention Department fund which is a combination of Head Start federal grant dollars and VPK funding (State categorical). The financial impact amount represents an estimated contract value; however, the amount authorized will not exceed the estimated contract award amount.

EXHIBITS: (List)  
(1) Executive Summary (2) Financial Analysis Worksheet (3) Agreement (4) Attachment A (5) Attachment B

BOARD ACTION:  
**APPROVED**  
(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Kimberly M. Eichner	Phone: 754-321-1961
Name: Mary C. Coker	Phone: 754-321-0501

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA  
Senior Leader & Title  
Maurice L. Woods - Chief Strategy & Operations Officer

Approved In Open Board Meeting On: **MAY 19 2020**  
By:   
School Board Chair

Signature  
Maurice Woods  
5/11/2020, 2:21:10 PM

## EXECUTIVE SUMMARY

### Recommendation of \$500,000 or Less FY21-054 – Head Start and Early Childhood Digital Tools

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#### **Introduction**

**Responsible: Procurement and Warehousing Services (PWS)**

This request is to approve the agreement between Teaching Strategies LLC. (TS) and The School Board of Broward County, Florida (SBBC), for three (3) years, starting July 1, 2020, through June 30, 2023, with an option for two (2) additional one (1) year renewals periods. The vendor will provide an observation-based assessment system utilized in the Head Start and Voluntary Prekindergarten program. Teaching Strategies Gold (GOLD) helps teachers and administrators measure what students know and are able to do and provide appropriate and differentiated instruction and will be funded by Head Start/Early Intervention Budget. The Head Start grant is currently funded through June 2024.

Due to the COVID-19, the spending authority being requested is \$90,771, and covers the estimated amount projected for the first twelve (12) months; therefore, additional spending authority to cover the remaining term of the Agreement will be requested in a future date.

#### **Goods/Services Description**

**Responsible: Head Start/Early Intervention Department**

#### **About Teaching Strategies**

GOLD is an authentic, ongoing, observation-based assessment system utilized in the Head Start and Voluntary Prekindergarten program. GOLD helps teachers and administrators measure what students know and are able to do, so they can then provide appropriate and differentiated instruction. GOLD measures thirty-eight (38) industry-recognized, researched-based objectives for development and learning for children ages birth through five (5), and is aligned with the Florida Early Learning and Development Standards as well as the Head Start Early Learning Outcomes Framework. GOLD automatically links teaching and assessment, thus providing the information needed to tailor instruction and provide direct feedback to parents.

GOLD fulfills Head Start Performance Standard 1302.33 - Child Screening and Assessments, stating that Head Start programs must use one (1) or more research-based developmental standardized screening tools.

#### **Curriculum Alignment with Head Start and Voluntary Prekindergarten (VPK)**

GOLD is recognized throughout the nation as a premier assessment tool and is aligned with Head Start/Early Intervention's established curriculum, The Creative Curriculum System for Preschool. The Head Start/Early Intervention Department purchased The Creative Curriculum System for Preschool in the summer of 2016 for use beginning in the 2016-2017 school year in both the Head Start and VPK classrooms throughout the District. This curriculum meets the Head Start Performance Standard (1302.32) requiring a developmentally appropriate, research-based, early childhood curricula and is aligned with the Head Start Early Learning Outcomes Framework: Ages Birth to five (5). It is also on The Florida Department of Education's Office of Early Learning list of approved VPK curricula. The Early Learning Coalition of Broward (ELC) continues to promote its use for VPK and School Readiness providers.

GOLD provides resources that help the teacher plan instruction based upon the assessment data and is automatically adjusted for every child, thus removing the possibility of inappropriate planning and instruction. GOLD data is used to track progress toward School Readiness Goals and is reported three (3) times per year to the School Board, District Departments, and Community Stakeholders.

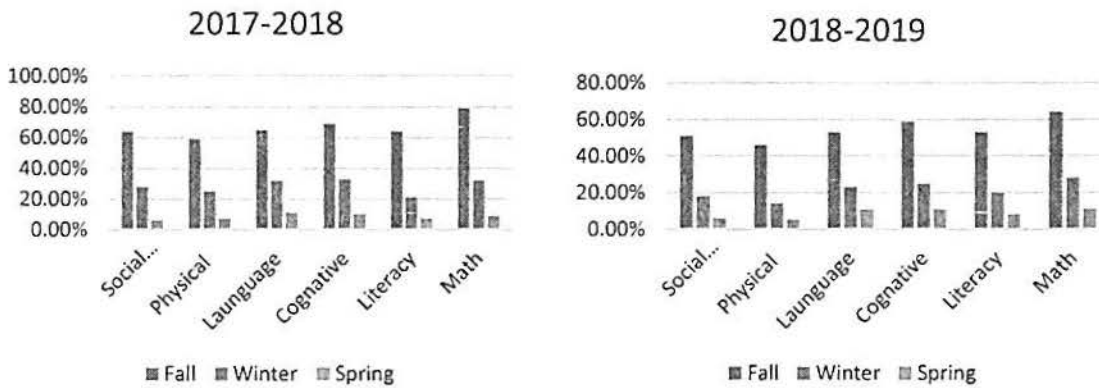
**Recommendation of \$500,000 or Less**  
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**Growth and Expansion**

The recommendation is a multi-year agreement with allowances for growth and expansion of the VPK program. By entering into this contract and combining resources for Head Start and VPK, more competitive pricing was able to be negotiated. The National List price with standard volume discount pricing is \$15.00 per student portfolio, but SBBC's price is \$12.95 per student portfolio.

**Supporting Data**

GOLD provides teachers with the ability to track student progress throughout the year. This data is utilized to individualize instruction, determine teacher needs, and guide program-wide improvements. A School Readiness Goals Report is developed (baseline, mid-year, and end-of-year) to present the data in relation to the goals and benchmarks, determine progress, and identify program-wide trends. Program decisions and improvements are then made based on the data. The graph below shows the overall performance of Head Start students during the 2017-2018 and 2018-2019 school years.



% of students not meeting or exceeding expectations in each domain

Yearly data shows a decrease in students not meeting or exceeding expectations from Fall to Spring across six (6) domains to include Social-Emotional, Physical, Language, Cognitive, Literacy, and Math. This decrease is tracked with GOLD. From the collected data, curriculum suggestions are provided at the individual student level that aligns with the designated curriculum, Creative Curriculum, used by the Head Start and VPK programs. Using Teaching Strategies Gold and Creative Curriculum concurrently makes it possible to track student growth and link classroom observations with day-to-day instructional decisions and customize learning for each student within the program that shows a direct correlation to the decreasing number of students not meeting or exceeding expectations throughout the school year.

**Procurement Method**

**Responsible: PWS & Head Start/Early Intervention Department**

The Agreement was negotiated in accordance with Rule 6A -1.012 (11B and 14), Florida Administrative Code and Purchasing Policy 3320, Section II, H, SBBC is authorized to purchase copyrighted materials, instructional materials and computer software without competitive solicitations.

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**Financial Impact**

**Responsible: PWS and Head Start/Early Intervention Department**

Due to the COVID-19, the spending authority being requested is \$90,771, and covers the estimated amount projected for the first twelve (12) months; therefore, additional spending authority to cover the remaining term of the Agreement will be requested in a future date.

This will be funded by the Head Start/Early Intervention Budget. The Head Start grant is currently funded through June 2024.

Please see below the breakdown for the entire bid term.

Year one (1): \$90,771  
 Year two (2): \$90,771  
 Year three (3): \$90,771  
**Total: \$272,313**

<b>Year 1-3 (July 1, 2020 - June 30, 2023)</b>			
<b>PRODUCT</b>	<b>QUANTITY</b>	<b>UNIT PRICE</b>	<b>EXTENDED PRICE</b>
Digital Curriculum Resources	188	\$250	\$47,000
Florida GOLD Bundle	3,380	\$0	\$0
GOLD Online Assessment Portfolios	3,380	\$12.95	\$43,771
GOLD Archives	67,600	\$0	\$0
<b>Total (Estimated)</b>			<b>\$90,771</b>

The financial impact represents an estimated contract value; however, the amount authorized will not exceed the estimated contract award amount.







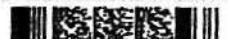
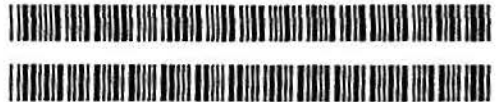
**Broward County Master VPK and Head Start Contract ts sig 04.02.2020.pdf**

DocVerify ID: E8ED1149-DCF4-489D-999F-9D97D6AC344D  
Created: April 15, 2020 14:19:16 -8:00  
Pages: 18  
Remote Notary: Yes State: MD

**E-Signature Summary**

**E-Signature 1: Heather Oshea (HO)**  
April 15, 2020 14:27:46 -8:00 [D6C7EF3AD6E4] [10.0.0.5]  
heather.o@teachingstrategies.com (Principal) (Personally Known)

**E-Signature Notary: Rashae Travers-Oni (rt)**  
April 15, 2020 14:27:46 -8:00 [E550007465E6] [10.0.0.5]  
rayetravers@gmail.com  
I, Rashae Travers-Oni, did witness the participants named above electronically sign this document.



**AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this 19<sup>th</sup> day of May, 2020, 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

**TEACHING STRATEGIES, LLC**  
(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
4500 East West Highway, Suite 300, Bethesda, Maryland 20814

**WHEREAS**, SBBC is in need of assessment software, training materials, curriculum materials, and methodologies for Head Start and Voluntary Pre-Kindergarten (VPK) and has selected the VENDOR to provide such products; and

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

**WHEREAS**, Rule 6A -1.012 (11B and 14), Florida Administrative Code and School Board Policy 3320, Section II, H, authorize SBBC to purchase copyrighted materials, instructional materials, and computer software without competitive solicitations; and

**WHEREAS**, SBBC and VENDOR desire to memorialize the terms and conditions of their agreement for the purchase of such products.

**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 are 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 commences on July 1, 2020 and concludes on June 30, 2023. The term of the Agreement may, by mutual written agreement between SBBC and VENDOR, be extended for two (2) additional one-year periods.



2.02 **Description of Goods or Services Provided.** VENDOR shall provide software as a service (SaaS) products and subscription curriculum which include VENDOR's proprietary content, activities, articles, tools, software applications, databases, and other materials.

2.03 **Cost and Payment.** SBBC will pay the VENDOR a total of Two Hundred Seventy-Two Thousand Three Hundred-thirteen Dollars and 00/100 cents (\$272,313) in accordance with **Attachment A**. The yearly amount of Ninety Thousand Seven Hundred Seventy-one Dollars and 00/100 cents (\$90,771) will be invoiced to SBBC annually and the initial payment will be due August 1, 2020 according to the following cost schedule:

Year 1 (July 1, 2020 - June 30, 2021)			
PRODUCT	QUANTITY	UNIT PRICE	EXTENDED PRICE
Digital Curriculum Resources	188	\$250.00	\$47,000.00
Florida GOLD Bundle	3380	\$0.00	\$0.00
GOLD Online Assessment Portfolios	3380	\$12.95	\$43,771.00
GOLD Archives	67600	\$0.00	\$0.00
Year 1 Total (Estimated)			\$90,771.00

Year 2 (July 1, 2021 - June 30, 2022)			
PRODUCT	QUANTITY	UNIT PRICE	EXTENDED PRICE
Digital Curriculum Resources	188	\$250.00	\$47,000.00
Florida GOLD Bundle	3380	\$0.00	\$0.00
GOLD Online Assessment Portfolios	3380	\$12.95	\$43,771.00
GOLD Archives	67600	\$0.00	\$0.00
Year 2 Total (Estimated)			\$90,771.00

Year 3 (July 1, 2022 - June 30, 2023)			
PRODUCT	QUANTITY	UNIT PRICE	EXTENDED PRICE
Digital Curriculum Resources	188	\$250.00	\$47,000.00
Florida GOLD Bundle	3380	\$0.00	\$0.00
GOLD Online Assessment Portfolios	3380	\$12.95	\$43,771.00
GOLD Archives	67600	\$0.00	\$0.00
Year 3 Total (Estimated)			\$90,771.00
Year 1 + Year 2 + Year 3 = Total			\$272,313.00

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

First: This Agreement, then;  
 Second: Attachment A, then;  
 Third: Attachment B

2.05 **SBBC Disclosure of Education Records.**



- (a) SBBC will provide VENDOR with education records:
  - 1) In order to enroll students in the assessment tool
  - 2) For VENDOR's system to provide recommended lessons based on students' development and actions
  
- (b) SBBC will provide VENDOR with the following education records:
  - 1) Student first and last name
  - 2) Student date of birth
  - 3) Student gender
  - 4) SBBC student identification number
  - 5) State student identification number, where applicable
  - 6) Development data from VENDOR scale (entered by student's teacher)
  
- (c) VENDOR will also have access via its system to student assessment results, including but not limited to:
  - 1) Cognitive learning
  - 2) Social and emotional growth
  - 3) Physical development
  - 4) Language development
  
- (d) VENDOR is considered a "school official" with a legitimate educational interest to receive the aforementioned types of information from SBBC student education records for the purposes listed above. Pursuant to the Family Education Rights and Privacy Act (FERPA), 34 CFR 99.31(a)(1), these records may be provided without prior parental consent. Prior written consent of the parent or student age eighteen (18) years or over is needed for any types or purposes of disclosures of education records beyond those listed above.
  
- (e) VENDOR's Privacy Policy is attached and incorporated as **Attachment B**.

2.06 **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 eighteen (18) years 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. Notwithstanding the foregoing, VENDOR may use anonymized education records for purposes of enhancing the services, analyzing usage trends, aggregating statistical analysis, and technical support. Anonymized education records are defined as previously identifiable information that has been de-identified and for which a code or other association for re-identification no longer exists. VENDOR agrees not to attempt to re-identify anonymized educational records and agrees not to transfer anonymized educational records to any party without permission.

6) notify SBBC within twenty-four (24) hours upon verification 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](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;

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, if breach of confidentiality of education records is attributable to the VENDOR, 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; if breach of confidentiality of education records is attributable to the VENDOR;

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, 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.

#### 2.07 SBBC Disclosure of Employee Records

(a) SBBC will provide VENDOR the employee records for the following purposes:

- 1) To establish an account to provide employee access and use of VENDOR's system
- 2) To enable teachers to access students' assessment results

(a) VENDOR shall not use the employee records listed in this section for any purpose other than those listed above or re-disclose the records to any outside source without the prior written consent of the employee, except as required or allowable by law.

#### 2.08 VENDOR Safeguarding Confidential Employee Records.

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

(a) fully comply with the requirements of state or federal law or regulation regarding the confidentiality of employee records;

(b) 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;



(c) 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;

(d) protect employee records through administrative, physical and technological safeguards to ensure adequate controls are in place to protect the employee's records and information;

(e) notify SBBC within twenty-four (24) hours upon verification 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](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;

(f) prepare and distribute, if breach of confidentiality of education records is attributable to the VENDOR 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 if breach of confidentiality of education records is attributable to the VENDOR ; and

(g) be responsible for any fines or penalties for failure to meet notice requirements pursuant to federal and/or Florida law if breach of confidentiality of education records is attributable to the VENDOR. This section shall survive the termination of all performance or obligations under this Agreement.

**2.09 Inspection of VENDOR's 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.

**2.10 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 Head Start / Early Intervention  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301





To VENDOR:

Teaching Strategies, LLC  
Heather O'Shea, Chief Financial Officer  
4500 East West Highway, Suite 300  
Bethesda, Maryland 20814

2.11 **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.

2.12 **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, RECORDREQUESTS@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

2.13 **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, up to the limits of Section 768.28, Florida Statutes, 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.

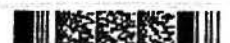
2.14 **Insurance Requirements.** VENDOR shall comply with the following insurance requirements throughout the term of this Agreement:

(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.

2.15 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.

2.16 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.



2.17 **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.

2.18 **Incorporation by Reference.** Attachments A and B attached hereto and referenced herein are incorporated into this Agreement by reference.

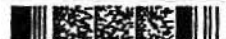
### **ARTICLE 3 – GENERAL CONDITIONS**

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, if 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, if 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 either party 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.

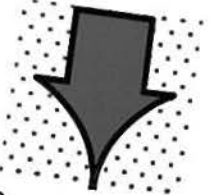
3.21 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this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



**SIGN  
HERE**



**FOR SBBC:**

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Donna P. Korn, Chair

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:



Digitally signed by Maya A.  
Moore  
Reason: Teaching Strategies  
Agreement  
Date: 2020.04.16 13:19:08 -04'00'

Office of the General Counsel

**[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]**







ORDER

**Order #:** Q-91553-2  
**Date:** 01-31-2020  
**Expiration Date:** 06-30-2023

**Teaching Strategies, LLC ("TS")**  
 4500 East West Highway, Suite 300  
 Bethesda, MD, 20814, US  
 Phone: (301) 634-0818

<b>Subscriber Name:</b> Broward County Public Schools-VPK and Headstart <b>Subscriber Number:</b> 02BROWARD	<b>Contact Name:</b> Paul Gress <b>Contact Email:</b> paul.gress@browardschools.com <b>Contact Title:</b> Supervisor, VPK Programs
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SALESPERSON	PHONE NUMBER & EXT	EMAIL
Ingrid Tunche		ingrid.t@teachingstrategies.com

PRODUCT CODE	DESCRIPTION	QTY	UNIT PRICE	EXTENDED
41digres	Digital Curriculum Resources	188	\$250.00	\$47,000.00
FLGOLD	Florida GOLD Bundle	3380	\$0.00	\$0.00
10GOLDPORT	GOLD™ Online Assessment Portfolios	3380	\$12.95	\$43,771.00
60ARCHIVE	GOLD Archives	33800		\$0.00

ATTACHMENT A


SUBTOTAL	\$90,771.00
TAX	\$0.00
TOTAL	\$90,771.00

Year 1: \$90,771.00  
Year 2: \$90,771.00  
Year 3: \$90,771.00  
\$272,313.00

Select a payment method, and follow the payment instructions.

Payment Type:

Orders will not be processed until a payment method is confirmed. Acceptable payment methods include:

1. Receipt of a valid purchase order;
2. Completed credit card transaction;
3. Receipt of wire transfer; or
4. Receipt of check.

You will receive a follow-up email with instructions on how to submit your payment based on the payment type selected.

Subscription Services Products



## ATTACHMENT A

This Order is entered into by and between Subscriber identified above and TS. This Order, together with the Agreement between SBBC and Teaching Strategies, LLC, the Subscription Services Terms and Conditions ('Agreement'), and those other documents incorporated by reference into the Agreement, constitute the entire agreement between Subscriber and TS ('Entire Agreement'). The Entire Agreement sets forth the terms pursuant to which TS will provide access to its subscription services ("Services"). Subscriber must sign and deliver a copy of this Order and an executed Agreement (when applicable) to receive access to the Services set forth in this Order.

The subscription period will begin on 07-01-2020 and expire on 06-30-2023 ("Term").

### Digital Curriculum

Digital editions of one or more of our curriculum products will be made available to you upon logging in through the website [TeachingStrategies.com](http://TeachingStrategies.com) for use by personnel within your organization. Detailed instructions on how to access the digital editions of our curriculum will be provided to you via email. The materials and content of those digital editions of our curriculum, including their features and functionality, are and will remain the exclusive property of Teaching Strategies, LLC. These digital editions of our curriculum are protected by copyright, trademark, and other laws of the United States. The materials, content, features, and functionality of the digital editions of our curriculum may not be copied and/or republished in any format, in whole or in part. This includes, but is not limited to, copying text, pictures or video, images for use in brochures, websites or any other medium, review content (narrative, video or pictures), backgrounds and borders, or any other content.

By executing this Order Form, the Subscriber hereby agrees to be bound by the provisions contained herein:

**TEACHING STRATEGIES, LLC  
SUBSCRIPTION SERVICES TERMS AND CONDITIONS**

These Subscription Services Terms and Conditions (the "**Agreement**") set forth the terms pursuant to which Teaching Strategies, LLC ("TS") will provide The School Board of Broward County, Florida (SBBC) ("**Subscriber**") access to its subscription services ("**Services**") pursuant to one or more order forms (each an "**Order**") signed by Subscriber. The Services include proprietary content, activities, articles, tools, software applications, databases, and other materials.

**1. Services.**

- A. *License Grant.* Subject to Subscriber's continued compliance with this Agreement, including payment of all fees, TS hereby grants to Subscriber a limited, non-exclusive, non-transferable license to access and use the Services as provided herein, and to have Authorized Users, as defined below, use and access the Services in accordance with the foregoing grant.
- B. *Delivery and Access.* The Services will be provided through TS's website at [www.teachingstrategies.com](http://www.teachingstrategies.com) and such other sites as TS may designate (collectively, "**Website**"). Use of the Website is subject to additional terms and conditions contained within the Terms of Use and Privacy Policy set forth on the Website. Subscriber agrees that it will use the Services only as permitted herein. For the purpose of this Agreement, "**Authorized Users**" will include Subscriber's employees, contractors, consultants, and those auditors, governmental authorities and other individuals and entities who may require access to Subscriber Data, as defined below. Subscriber agrees to be responsible for all use of the Services by its Authorized Users. Any breach of the Agreement by an Authorized User will be deemed a breach by Subscriber. TS will in no event be liable for any misuse by an Authorized User of the rights granted hereunder.
- C. *Prohibited Activities.* Except as expressly authorized in this Agreement, Subscriber will not: (i) rent, lease, sublicense, distribute, transfer, copy, reproduce, display, modify, or timeshare the Services or any portion thereof; (ii) use the Services as a component of or as a base for products or services prepared for commercial sale, sublicense, lease, access, or distribution; (iii) modify, translate, or prepare any derivative work based on the Services; (iv) decompose, decode, or otherwise reverse engineer any TS technology; (v) allow any third party or unlicensed user or computer system to access or use the Services; or (vi) remove any proprietary notices or labels attached to the Services. Subscriber agrees to take all reasonable steps to protect the Services from unauthorized access, copying, or use.

**2. Administration of Services.**

- A. *Subscriber Administrator.* Subscriber may designate one (1) or more of its employees to serve as the administrator(s) for the Services. The administrator is responsible for (i) assigning and administering passwords and usernames to the Authorized Users; (ii) setting

## ATTACHMENT A

4500 East West Highway • Suite 300 • Bethesda, MD 20814

Phone 301-634-0818 • Fax 301-634-0824

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up and maintaining access and permission rights for the Authorized Users; and (iii) where applicable, inputting data regarding the Authorized Users.

- B. *Registration.* Subscriber will assign a unique username and password to all Authorized Users that will allow them to access and use the Services. Passwords and usernames may not be shared or utilized by anyone other than the Authorized User to whom such identification has been assigned. Each Authorized User will need to register his or her username and password with TS through the Website before the Authorized User can access the Services for the first time.
- C. *Password Protection.* Subscriber is solely responsible for the security of all usernames and passwords issued to Authorized Users. Subscriber agrees to comply at all times with the procedures specified by TS regarding password security. TS may cancel or suspend the use of a username and password in the event that it is misused by Subscriber or an Authorized User. The reissuance or reactivation of any canceled or suspended usernames or passwords will be at TS' sole discretion. Subscriber agrees to ensure that each Authorized User treats his or her username and password as confidential and will use his or her best efforts to prevent any third party from obtaining his or her password. Subscriber will immediately notify TS of any actual or potential unauthorized access to a password or to the Services. TS cannot and will not be liable for any loss or damage arising from Subscriber's or any Authorized Users' failure to comply with these obligations.
- D. *Instructions.* TS will make instructions regarding use of the Services available in electronic form on the Website, including instructions for accessing the Services, procedures for printing or storing data, and user identification and security procedures.
- E. *Retrieval of Data.* Upon termination of the Services, Subscriber will have forty-five (45) days to retrieve all Subscriber Data. TS will not be responsible for any Subscriber Data not retrieved within this period.
3. **Length of Services.** The initial term of the Services will be as set forth in an Order (the "Term"). The Term may be renewed by mutual written agreement of the parties via acceptance and execution of a renewal Order.
4. **Subscription Fee.** Access to the Services is subject to TS' receipt of the full amount of the subscription fee as set forth in an Order. Payment may be made by credit card or by check. TS may suspend Subscriber's access to and use of the Services if Subscriber fails to pay any amounts due within thirty (30) days of the execution of an Order. Suspension of the Services does not reduce Subscriber's liability to pay for past due fees. Subscriber is responsible for paying all applicable taxes and duties, including, without limitation, sales, use, excise, value-added, and franchise taxes, associated with its use of the Services and any transactions that result there from, except for taxes based on TS income. This clause will not apply if Subscriber is tax exempt and provides TS with a tax exempt certificate.
5. **Subscriber Data.** As-between Subscriber and TS, Subscriber will own all right, title, and interest in and to the data submitted or input by Subscriber into the Services or processed, stored, handled, or analyzed by TS as a part of or to enable or facilitate the provision of the Services ("Subscriber Data"). Subscriber hereby grants TS a limited, non-exclusive right and license to use Subscriber Data to facilitate performance of the Services. Further, Subscriber acknowledges and agrees that during and after the Term, TS may use Subscriber Data in de-identified and aggregated form for purposes of enhancing the Services, analyzing usage trends, aggregated

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statistical analysis, technical support, and other business purposes. TS will handle all Subscriber Data in accordance with the Privacy Policy set forth on the Website.

**6. Termination.**

A. *By TS.* TS may terminate this Agreement and Subscriber's access to the Services (i) upon written notice to Subscriber if Subscriber fails to pay or materially breaches a provision of this Agreement and fails to cure such breach within thirty (30) calendar days after receipt of notice; or (ii) immediately if Subscriber files for or has a bankruptcy petition filed against it, ceases to conduct business in the normal course, makes an assignment for the benefit of its creditors, becomes insolvent, or is liquidated or otherwise dissolved.

B. *By Subscriber.* Subscriber may terminate this Agreement by providing TS written notice of its intent to terminate if TS materially breaches a provision of this Agreement and fails to cure such breach within thirty (30) calendar days after receipt of such notice; or (ii) immediately if TS files for or has a bankruptcy petition filed against it, ceases to conduct business in the normal course, makes an assignment for the benefit of its creditors, becomes insolvent or is liquidated or otherwise dissolved.

C. *Effect of Termination.* Upon the expiration or earlier termination of this Agreement, Subscriber will promptly discontinue any further use of the Services. Subscriber will not be entitled to any refund of fees paid in the event of termination. This clause does not impact TS' right to collect any amount due hereunder, nor does it limit Subscriber's rights under termination for breach of Agreement by TS.

7. **Intellectual Property Rights.** TS will own and retain all right, title, and interest in and to the Services and any and all improvements, enhancements, or modifications thereto and all intellectual property rights related to any of the foregoing. Additionally, Subscriber agrees that the Services and its components are protected by copyright, patent, trademark, trade secret, and other intellectual property rights and registrations. Subscriber agrees not to remove, obliterate, obscure, or alter any copyright or other proprietary rights notice that appears on any document, web page, or other component of the Services or any related materials or documentation.

8. **Warranties.** TS represents, warrants, and covenants that (i) its use of Subscriber Data during the Term of this Agreement will comply with its posted Privacy Policy; (ii) the Services will operate in substantial accordance with the specifications set forth in the documentation related to the Services; and (iii) it will use reasonable efforts to resolve operational problems related to the Services. Except as set forth herein, TS makes no other warranties and all other warranties, either express or implied, are hereby disclaimed, including but not limited to warranties of merchantability and fitness for a particular purpose. TS will not be responsible for any damages that may be suffered by Subscriber, including loss of data resulting from delays, non-deliveries, or service interruptions by any cause, or due to errors or omissions of Subscriber. TS expressly limits its liability to Subscriber for any non-accessibility time or other down time to the pro-rata daily charge during the system unavailability.

Subscriber represents, warrants, and covenants that (i) it has the right and authority to enter into this Agreement and to use and disclose Subscriber Data; (ii) it has all necessary rights and permissions to grant access to the Services to its Authorized Users; (iii) it will obey all applicable laws, rules, and regulations in its use of the Services and Subscriber Data; (iv) Subscriber Data will not infringe upon any copyright, trademark, privacy right, right of publicity, or other proprietary right(s) of any third party; and (v) Subscriber Data will not

## ATTACHMENT A

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contain any material that is unlawful, hateful, obscene, libelous, threatening, or defamatory. Subscriber acknowledges that TS has no obligation to monitor Subscriber Data. However, in the event that TS becomes aware that any Subscriber Data may or does violate the representations and warranties set forth herein, TS will have the right to remove such item(s) pending resolution.

9. **Limitation of Damages.** NEITHER PARTY WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED TO THE SERVICES WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SUBSCRIBER ACKNOWLEDGES THAT THE SERVICES ARE PROVIDED "AS IS" AND "AS DELIVERED," AND CANNOT BE CUSTOMIZED OR MODIFIED. WITHOUT LIMITING THE FOREGOING, AND EXCLUDING THE INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 9, THE TOTAL LIABILITY OF TS FOR ANY REASON WHATSOEVER RELATED TO THE SERVICES WILL, IN NO EVENT, EXCEED THE FEES PAYABLE BY SUBSCRIBER TO TS IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM.

10. **General Terms.**

- A. *Severability.* If any provision of this Agreement is found to be invalid or unenforceable, such provision will be interpreted as to give maximum effect to its intended purpose without affect to the validity or enforceability of any other provision of this Agreement.
- B. *Legal Notice.* TS will provide any legal notice to Subscriber via mail at the address noted below. Subscriber must provide any legal notice to Teaching Strategies, LLC, Attn: Chief Financial Officer, 4500 East West Highway, Suite 300, Bethesda, MD, 20814, USA. Any legal notices provided without compliance with this section will have no legal effect.
- C. *Entire Agreement.* This Agreement between SBBC and Teaching Strategies, LLC., this Agreement, the Order, the Terms of Use, and the Privacy Policy effective as of the Order date constitute the entire, complete, and exclusive agreement between TS and Subscriber regarding the Services ("**Entire Agreement**"). The Entire Agreement supersedes all prior agreements and understandings, whether written or oral, whether established by custom, practice, policy, or precedent, with respect to the subject matter of this Agreement.



# Attachment B

## Privacy Policy

This Privacy Notice applies to Teaching Strategies, LLC Software as a Service products, located on the Web site [www.teachingstrategies.com](http://www.teachingstrategies.com) (the “Site”). The Site is owned and operated by Teaching Strategies, LLC (“Teaching Strategies”). Teaching Strategies makes the following available on the Site: online management, reporting, and assessment systems (the “Services”). Teaching Strategies is committed to ensuring the privacy and accuracy of the information collected on the Site. This Privacy Notice identifies the information that Teaching Strategies collects from users and visitors of the Site and describes how we will use, share, and otherwise process the information we have collected.

This document is organized as follows:

- A. Information We Collect
- B. How We Protect and Secure Our User’s Information
- C. How We Use The Information We Collect
- D. When and How We Share Information
- E. International Visitors
- F. Retention
- G. We Do Not Collect Information from Children
- H. How Users Can Correct Their Information
- I. Links to Third Party Sites and Listservs
  - External Links
  - Discussion Groups
- J. Data Tracking
  - Tracking Information
- K. Changes to Privacy Policy
- L. Disclaimer of Liability

### A. WHAT INFORMATION WE COLLECT

Teaching Strategies collects Member Data, Student Data, and Portfolio Data. The Data includes Personally Identifiable Information (PII), which means information that may identify an individual Student or Member. Teaching Strategies complies with applicable laws, regulations, industry standards, and contracts and agreements pertaining to the safeguarding of PII. The Data are provided by the authorized representative of an organization who has purchased a subscription to use the Services (an “Authorized User”).

Member Data is limited information that can be used to personally identify an Authorized User. This information is required before the Authorized User can access the Services (whether on a trial basis or through a paid subscription). There are three kinds of Member Data:

1. **Subscribers:** Organizations and Individual Subscribers are members that have purchased a subscription from Teaching Strategies to use the Services. Subscribers provide their full

## Attachment B

name, the name of their organization, their mailing and e-mail addresses, telephone number, and information regarding their method of payment (e.g., purchase order number).

2. **Group Members:** Program and Site Administrators and Teachers are members who register through a school, school district, childcare center, Head Start program, or other organization that has purchased a subscription from Teaching Strategies to use the Services. They provide us with their full names and e-mail addresses.
3. **Invited Guests:** Parents and Others are members who register to use the Services in response to an invitation from another registered member. They provide their full names and e-mail addresses.
4. **Student Data** is information that personally identifies a student and his or her Portfolio. The personally identifiable information includes first name, last name, date of birth, gender and, where applicable, State Student Identification Number. Student Data is stored in online Portfolios. Each Portfolio includes Documentation and Checkpoint information.
5. **Documentation:** Teachers observe children in the classroom and gather documentation of their learning and development over the course of the year. Documentation can be notes, photos, videos, samples of children's artwork, and observations from families about their child's development.
6. **Checkpoint:** A few times a year, teachers analyze the Portfolio Data collected during the checkpoint period and make ratings based on their observations and the documentation they have gathered. These ratings are based on a list of research-based and developmentally appropriate indicators that reflect widely held expectations for children of similar ages, classes, or grades. Completing these checkpoints allows teachers to evaluate children's progress and show growth in the children's learning and development over the course of the year. The Student Data is only provided by authorized Subscribers during the initial setup or in the development of an individual student Portfolio. The provision of information is sometimes required by law and at other times is a result of a contractual requirement. You may be required to provide information, for example in a case where we sign a contract with your organization, and the non-provision of information could, in certain circumstances, prevent a transaction from concluding.

### B. HOW WE PROTECT AND SECURE OUR USER'S INFORMATION

We utilize technical, administrative, and physical procedures to ensure Data is protected from unauthorized access, disclosure, or alteration.

You may have the right to restrict or object to the processing of your personal information or to

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exercise a right to data portability under applicable law.

We have implemented reasonable safeguards designed to prevent loss, misuse and unauthorized access, disclosure or modification of Personal Data provided or collected through the Teaching Strategies Services. With respect to Personal Data collected through the Teaching Strategies Services, we use Secure Socket Layer Technology or SSL to encrypt or scramble that information during transmission and data is encrypted at rest.

In particular:

1. **Data Storage and Security:** Secure data centers house all Member Data, Student Data, and Portfolio Data. These data centers are continuously monitored and audited annually.
2. **Disclosures:** The uses and disclosures of Student Data are in compliance with state and federal laws designed to protect such information. Only authorized individuals, including Teaching Strategies employees and subcontractors, have access to children's portfolio items, and their authorization is constantly reviewed and verified by a cross functional working group, which includes the Information Security Officer and senior Legal and HR staffs. Individuals authorized to have access to Student Data are limited to only those who need access to that data in order to perform the work necessary under our contractual arrangements with our Subscribers.
3. **Accountability:** All Teaching Strategies employees and subcontractors are accountable for the Security and Privacy of the Member Data, Student Data, and Portfolio Data we maintain on our Subscribers' behalf. This policy applies to all computing systems, networks, business processes, and the verbal transmission of information.

### C. HOW WE USE THE INFORMATION WE COLLECT

1. **Only for Authorized Purposes:** We only use information we collect for the educational purposes for which we were authorized by our Subscribers.
  1. **Member Data:** We will use the Member Data provided to register the membership, set up and maintain the account, determine the number of Portfolios an Authorized User is authorized to create (if any), and determine which Portfolios the Authorized User is authorized to access, update, view, and/or modify. We will also use Member Data to notify Authorized Users of updates to the Site and our Services, and for contact purposes if we need more information. If an Authorized User has purchased a subscription to use the Services, we will use the financial information provided to bill the Authorized User. If an Authorized User has registered to use the Services through a school, school district, child care center, Head Start program, or other organization

## Attachment B

that has purchased a subscription from Teaching Strategies, the Member Data provided will be accessible by the organization that purchased the subscription, as outlined in the contract with the organization.

- 2. Student Data:** Student Data is used to set up and maintain Portfolios and to grant other Authorized Users the right to access, update, view, and/or modify such Portfolios. Portfolio Data can be used to identify and recommend appropriate activities and customize student plans. Aggregated, non-personalized outcome group progress reports for Subscribers are also generated using Student Data. Only the Student Data provided by a Subscriber's Authorized Users will be used to create reports for such Subscriber. We also may aggregate the Portfolio Data, with all personally identifying information about individual students, Authorized Users, organizations, and programs removed, to generate reports and conduct research. From time to time we may publish the results of the aggregated, de-identified Portfolio Data. In no event will any such results permit the personal identification of students and their parents, or identify in any way the site, program, or organization. If an Authorized User has invited the parent or legal guardian of a child to view his or her child's Portfolio, we will make the Student Data and Portfolio Data in the child's Portfolio available to such invited guest for review. All invited guests must register with Teaching Strategies before being granted access to a Portfolio, and the invited guest's access will be limited to the Portfolio such guest has been invited to view. An invited guest will not be able to modify or add to a Portfolio. Additionally, if the Authorized User has registered to use the Services through a school, school district, child care center, Head Start program, or other organization that has purchased a subscription from Teaching Strategies, any Student and Portfolio Data that the Authorized User provides will be accessible by the organizations that purchased the subscription services, as outlined in the contract with the organization. We do not use automatic decision-making or engage in profiling. In the event that circumstances require us to process your personal data for a purpose other than the purpose for which it was collected, we will provide you with information regarding the purpose for the processing, as well as other relevant information, prior to processing your personal data for the new purpose. Please see Section D. below for applicable circumstances.

### D. WHEN AND HOW WE SHARE INFORMATION

We share information only for the educational purpose of the work. We do not share Member Data, Student Data, or Portfolio Data for advertising or any other use outside of the educational purpose of the collection of such information. We vigilantly review our policies and practices to ensure compliance with the Federal Educational Rights and Privacy Act (FERPA) and the European Union's General Data Protection Regulation (GDPR), applicable state law and regulations, and Subscriber policies. We will not disclose any of the Member Data, Student Data, or Portfolio Data

## Attachment B

we collect to any third parties except as described in C(1)(b) above and in the following limited circumstances:

1. **Disclosures that are necessary to carry out the scope of work.** We may use subcontractors to carry out functions within the scope of work when it is in compliance with GDPR, federal, and state law and with applicable Subscriber agreements. In such circumstances, the subcontractor is acting as a Teaching Strategies employee and is required to comply with the privacy and security requirements and safeguards that apply to Teaching Strategies and all of its employees. This includes all applicable federal laws, state laws and regulations, contractual agreements, and applicable Subscriber policies. Our accountability for personal information we receive under the Privacy Shield and subsequently transferred to a third party is described in the Privacy Shield Principles. In particular, we may use third parties to process data on our behalf as described in this Privacy Policy, and we remain liable if they do so in a manner inconsistent with the Privacy Shield Principles, unless we prove that we are not responsible for the event giving rise to the damage.
2. **Legally compelled disclosures.** We will disclose the data we collect if required to do so by law or in the good-faith belief that disclosure is necessary (a) to obey the law or comply with legal process served on us or our affiliates; (b) to protect and defend our rights or property or the rights or property of other users of our Web site; or (c) to act in an emergency to protect the personal safety of users of our website or the public.
3. **Company acquisition.** In the event that our company is acquired, we may share the data with the acquirer to continue to provide services to you. The acquirer will be bound by this Privacy Policy, and we will comply with all contractual agreements with our Subscribers that require us to disclose any acquisition of Teaching Strategies.
4. **Analytics.** We may work with third parties that collect data about your use of the Site and other sites or apps over time for non-advertising purposes. For example, Teaching Strategies uses Google Analytics to improve the performance of the Site and for other analytics purposes. For more information about how Google Analytics collects and uses data when you use our Site, visit <https://www.google.com/policies/privacy/partners/> , and to opt out of Google Analytics, visit <https://tools.google.com/dlpage/gaoptout/> .
5. **We do not sell or rent your data:** Teaching Strategies, LLC does not sell or rent any data that has been collected through the Services.

### E. INTERNATIONAL VISITORS

This section applies to those who visit our Site from the European Economic Area or Switzerland.



## Attachment B

- **Lawful Basis for Processing**

On certain occasions, we process your personal data when it is necessary for the performance of a contract to which you are a party, such as to provide services to you that you have requested. We may also process your personal data to respond to your inquiries concerning our products and services. On other occasions, we process your personal data where required by law. We may also process your personal data if to protect your interests or the interests of a third party. Additionally, we process your personal data when it becomes necessary for us to provide important notifications to Subscribers concerning the Services. We will also use your personal data to communicate with you if you choose to opt into our marketing communications so that you can learn more about our Services and products. However, this interest in providing you with information does not override your data protection rights. Where we process your personal data for this purpose, our legitimate interest is to improve our Services and secure our Site. If the processing of personal data is necessary and there is no statutory basis for such processing, we will ask for your consent to process your personal data. You have the right to withdraw your consent to processing of personal data at any time. If you wish to exercise the right to withdraw consent, contact us via the “Contact” section below for contact information.

- **Transfers of Personal Data**

Please be aware that the personal data we collect may be transferred to and maintained on servers or databases located outside your state, province, country, or other jurisdiction, where the privacy laws may not be as protective as those in your location. If you are located outside of the United States, please be advised that we process and store personal data in the United States. Teaching Strategies complies with the EU-U.S. Privacy Shield Framework and Swiss-U.S. Privacy Shield Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information transferred from the European Union and Switzerland to the United States. Teaching Strategies has certified to the Department of Commerce that it adheres to the Privacy Shield Principles. If there is any conflict between the terms in this privacy policy and the Privacy Shield Principles, the Privacy Shield Principles shall govern. To learn more about the Privacy Shield program, and to view our certification, please visit <https://www.privacyshield.gov/>.

- **Complaints Resolution**

In compliance with the Privacy Shield Principles, Teaching Strategies commits to resolve complaints about our collection or use of your personal information. EU and Swiss individuals with inquiries or complaints regarding our Privacy Shield policy should first contact Teaching Strategies at [DPO@teachingstrategies.com](mailto:DPO@teachingstrategies.com). Teaching Strategies has further committed to refer unresolved Privacy Shield complaints to JAMS, an alternative dispute resolution provider located in the United States. If you do not receive timely

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acknowledgement of your complaint from us, or if we have not addressed your complaint to your satisfaction, please visit <https://www.jamsadr.com/eu-us-privacy-shield> for more information or to file a complaint. The services of JAMS is of no cost to you. If your concern still is not addressed by JAMS you may be entitled to a binding arbitration under the Privacy Shield Principles. For purposes of enforcing compliance with the Privacy Shield, Teaching Strategies is subject to the investigatory and enforcement authority of the U.S. Federal Trade Commission.

If you are affected by the GDPR, please consult the following link for the *Teaching Strategies, LLC GDPR Addendum*, which states your rights under the GDPR: [Teaching Strategies, LLC GDPR Addendum](#)

- **Your Rights**

You have a right to the following:

- To request access to the personal data we hold about you;
- To request that we rectify or erase your personal data;
- To request that we restrict or block the processing of your personal data;
- Under certain circumstances, to receive personal data about you that we store and transmit to another without hindrance from us, including requesting that we provide your personal data directly to another (i.e., a right to data portability); and
- Where we previously obtained your consent, to withdraw consent to processing your personal data.

To exercise these rights, contact our Data Protection Officer. (Please see the “Contact” section below.) Please be aware that Teaching Strategies may be unable to afford these rights to you under certain circumstances, such as if we are legally prevented from doing so.

Additionally, you have the right to lodge a complaint against us. To do so, contact the supervisory authority in your country of residence.

### F. RETENTION

We will process and store your information only for the period necessary to achieve the purpose of the storage, or as permitted by law.

### G. WE DO NOT COLLECT INFORMATION FROM CHILDREN

Our services are not intended to be accessed by anyone under 18 years of age. We respect the sensitive nature of children’s privacy online. The Services are intended for use by schools, school districts, program administrators, teachers, parents, and legal guardians. They are not intended for use by persons under the age of 18. We do not expect and are not aware of children under the age

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of 18 accessing our site, and we are in full compliance with the legal requirements outlined in COPPA regarding children under the age of 13. If we learn that a user is under 18 years of age, we will promptly delete any personally identifiable information provided by that user.

### H. HOW USERS CAN CORRECT THEIR INFORMATION

Members can manage the data they entered: Our Authorized Users are able to manage and modify the information that they provide to us. They may correct or change any of their Member Data by logging onto the site and updating or correcting their Member Data. Authorized Users may change any of the Student Data that they provide by logging onto the Services and modifying the applicable student Portfolio. Only the Authorized User who created the Portfolio and such member's program administrator have the ability to modify the Student Data for a Portfolio. If you need assistance modifying Student Data, you may contact Teaching Strategies' support services line at 1-866-736-5913.

### I. LINKS TO THIRD PARTY SITES AND LISTSERVS

1. **External links:** The Site may contain links to other Web sites or refer our users to other resources. We are not responsible for the privacy practices or the content of such Web sites or resources, and our users should refer to such Web sites and resources for information about how such sites and resources protect the information they collect.
2. **Discussion groups:** The Site also makes available to Authorized Users a discussion group through which Authorized Users may communicate with other Authorized Users and exchange ideas. Any information disclosed in these areas becomes public information. Any information disclosed in these areas becomes public information.

### J. DATA TRACKING

1. **Tracking Information:** We use the anonymous information we collect to administer our Site, improve our services, determine how the Site is being used, identify popular areas of the Site, and analyze trends and usage patterns. We may use the IP address of our Authorized Users to help diagnose problems with our server. This anonymous information cannot be used to personally identify users or students.

### K. CHANGES TO OUR PRIVACY POLICY

Teaching Strategies may modify or update this Privacy Policy from time to time. The Policy is posted at <https://teachingstrategies.com/contact/support/privacy-policy/>. We encourage you to review this page periodically. If we change the policy in a material manner, such as using personal data in a different way than prior practice, we will provide at least a 30-day notice to our Authorized

## Attachment B

Users so that they will have sufficient time to evaluate the change in practice.

### L. DISCLAIMER OF LIABILITY

The information contained herein reflects the privacy policy and practices that Teaching Strategies has adopted for the Site. In legal terms, it shall not be construed as a contractual promise, and Teaching Strategies reserves the right to amend it at any time in accordance with Section K above. Any such amendment will become effective, with a 30-day notice, as stated in Section K above.

Neither Teaching Strategies nor any of its affiliates, employees, or agents shall be held liable for any improper or incorrect use of the information described and/or contained in the Site and assumes no responsibility for anyone's use of the information.

### CONTACT

If you have any questions or concerns about Teaching Strategies' information collection and use practices, please contact our Legal Affairs team at: [legal@teachingstrategies.com](mailto:legal@teachingstrategies.com).

If you have questions regarding our role as a data controller, please contact us at: [DPO@teachingstrategies.com](mailto:DPO@teachingstrategies.com)



**Broward County Master VPK and Head Start Contracts sig 04.02.2020.pdf**

DocVerify ID: E8ED1149-DCF4-489D-999F-9D97D6AC344D

Created: April 15, 2020 14:27:46 -8:00

Pages: 1

Notary: Rashae Travers-Oni

**E-Signature Summary**

**E-Signature 1: Heather Oshea (HO)**  
April 15, 2020 14:27:46 -8:00 [D6C7EF3AD6E4] [10.0.0.5]  
heather.o@teachingstrategies.com (Principal) (Personally Known)

**E-Signature Notary: Rashae Travers-Oni (rt)**  
April 15, 2020 14:27:46 -8:00 [E550007465E6] [10.0.0.5]  
rayetravers@gmail.com  
I, Rashae Travers-Oni, did witness the participants named above electronically sign this document.





**AGREEMENT**

THIS AGREEMENT is made and entered into as of this 19<sup>th</sup> day of May, 2020, 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

**TEACHING STRATEGIES, LLC**  
(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
4500 East West Highway, Suite 300, Bethesda, Maryland 20814

**WHEREAS**, SBBC is in need of assessment software, training materials, curriculum materials, and methodologies for Head Start and Voluntary Pre-Kindergarten (VPK) and has selected the VENDOR to provide such products; and

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

**WHEREAS**, Rule 6A -1.012 (11B and 14), Florida Administrative Code and School Board Policy 3320, Section II, H, authorize SBBC to purchase copyrighted materials, instructional materials, and computer software without competitive solicitations; and

**WHEREAS**, SBBC and VENDOR desire to memorialize the terms and conditions of their agreement for the purchase of such products.

**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 are 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 commences on July 1, 2020 and concludes on June 30, 2023. The term of the Agreement may, by mutual written agreement between SBBC and VENDOR, be extended for two (2) additional one-year periods.



2.02 **Description of Goods or Services Provided.** VENDOR shall provide software as a service (SaaS) products and subscription curriculum which include VENDOR's proprietary content, activities, articles, tools, software applications, databases, and other materials.

2.03 **Cost and Payment.** SBBC will pay the VENDOR a total of Two Hundred Seventy-Two Thousand Three Hundred-thirteen Dollars and 00/100 cents (\$272,313) in accordance with **Attachment A**. The yearly amount of Ninety Thousand Seven Hundred Seventy-one Dollars and 00/100 cents (\$90,771) will be invoiced to SBBC annually and the initial payment will be due August 1, 2020 according to the following cost schedule:

Year 1 (July 1, 2020 - June 30, 2021)			
PRODUCT	QUANTITY	UNIT PRICE	EXTENDED PRICE
Digital Curriculum Resources	188	\$250.00	\$47,000.00
Florida GOLD Bundle	3380	\$0.00	\$0.00
GOLD Online Assessment Portfolios	3380	\$12.95	\$43,771.00
GOLD Archives	67600	\$0.00	\$0.00
Year 1 Total (Estimated)			\$90,771.00

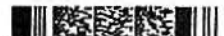
Year 2 (July 1, 2021 - June 30, 2022)			
PRODUCT	QUANTITY	UNIT PRICE	EXTENDED PRICE
Digital Curriculum Resources	188	\$250.00	\$47,000.00
Florida GOLD Bundle	3380	\$0.00	\$0.00
GOLD Online Assessment Portfolios	3380	\$12.95	\$43,771.00
GOLD Archives	67600	\$0.00	\$0.00
Year 2 Total (Estimated)			\$90,771.00

Year 3 (July 1, 2022 - June 30, 2023)			
PRODUCT	QUANTITY	UNIT PRICE	EXTENDED PRICE
Digital Curriculum Resources	188	\$250.00	\$47,000.00
Florida GOLD Bundle	3380	\$0.00	\$0.00
GOLD Online Assessment Portfolios	3380	\$12.95	\$43,771.00
GOLD Archives	67600	\$0.00	\$0.00
Year 3 Total (Estimated)			\$90,771.00
Year 1 + Year 2 + Year 3 = Total			\$272,313.00

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

First: This Agreement, then;  
 Second: Attachment A, then;  
 Third: Attachment B

2.05 **SBBC Disclosure of Education Records.**



- (a) SBBC will provide VENDOR with education records:
  - 1) In order to enroll students in the assessment tool
  - 2) For VENDOR's system to provide recommended lessons based on students' development and actions
- (b) SBBC will provide VENDOR with the following education records:
  - 1) Student first and last name
  - 2) Student date of birth
  - 3) Student gender
  - 4) SBBC student identification number
  - 5) State student identification number, where applicable
  - 6) Development data from VENDOR scale (entered by student's teacher)
- (c) VENDOR will also have access via its system to student assessment results, including but not limited to:
  - 1) Cognitive learning
  - 2) Social and emotional growth
  - 3) Physical development
  - 4) Language development
- (d) VENDOR is considered a "school official" with a legitimate educational interest to receive the aforementioned types of information from SBBC student education records for the purposes listed above. Pursuant to the Family Education Rights and Privacy Act (FERPA), 34 CFR 99.31(a)(1), these records may be provided without prior parental consent. Prior written consent of the parent or student age eighteen (18) years or over is needed for any types or purposes of disclosures of education records beyond those listed above.
- (e) VENDOR's Privacy Policy is attached and incorporated as **Attachment B**.

2.06 **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 eighteen (18) years 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. Notwithstanding the foregoing, VENDOR may use anonymized education records for purposes of enhancing the services, analyzing usage trends, aggregating statistical analysis, and technical support. Anonymized education records are defined as previously identifiable information that has been de-identified and for which a code or other association for re-identification no longer exists. VENDOR agrees not to attempt to re-identify anonymized educational records and agrees not to transfer anonymized educational records to any party without permission.

6) notify SBBC within twenty-four (24) hours upon verification 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](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;

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, if breach of confidentiality of education records is attributable to the VENDOR, 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; if breach of confidentiality of education records is attributable to the VENDOR;

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, 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.

#### 2.07 SBBC Disclosure of Employee Records

(a) SBBC will provide VENDOR the employee records for the following purposes:

- 1) To establish an account to provide employee access and use of VENDOR's system
- 2) To enable teachers to access students' assessment results

(a) VENDOR shall not use the employee records listed in this section for any purpose other than those listed above or re-disclose the records to any outside source without the prior written consent of the employee, except as required or allowable by law.

#### 2.08 VENDOR Safeguarding Confidential Employee Records.

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

(a) fully comply with the requirements of state or federal law or regulation regarding the confidentiality of employee records;

(b) 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;





(c) 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;

(d) protect employee records through administrative, physical and technological safeguards to ensure adequate controls are in place to protect the employee's records and information;

(e) notify SBBC within twenty-four (24) hours upon verification 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](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;

(f) prepare and distribute, if breach of confidentiality of education records is attributable to the VENDOR 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 if breach of confidentiality of education records is attributable to the VENDOR ; and

(g) be responsible for any fines or penalties for failure to meet notice requirements pursuant to federal and/or Florida law if breach of confidentiality of education records is attributable to the VENDOR. This section shall survive the termination of all performance or obligations under this Agreement.

2.09 **Inspection of VENDOR's 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.

2.10 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 Head Start / Early Intervention  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301



To VENDOR:

Teaching Strategies, LLC  
Heather O'Shea, Chief Financial Officer  
4500 East West Highway, Suite 300  
Bethesda, Maryland 20814

2.11 **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.

2.12 **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, RECORDREQUESTS@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.

2.13 **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, up to the limits of Section 768.28, Florida Statutes, 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.

2.14 **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.

2.15 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.

2.16 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.





2.17 **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.

2.18 **Incorporation by Reference.** Attachments A and B attached hereto and referenced herein are 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, if 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, if 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 either party 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.



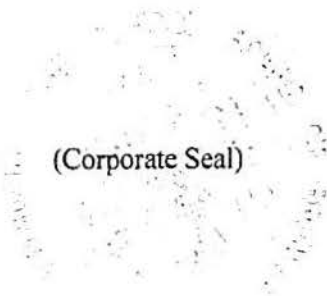
3.20 **Counterparts and Multiple Originals.** This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

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.

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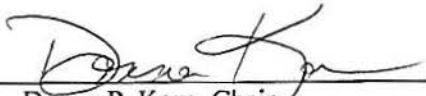




(Corporate Seal)

**FOR SBBC:**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Donna P. Korn, Chair

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:



Digitally signed by Maya A.  
Moore  
Reason: Teaching Strategies  
Agreement  
Date: 2020.04.16 13:19:08 -04'00'

Office of the General Counsel

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