

## **AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this 4th 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

**SCHOLASTIC, INC.**  
(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
557 Broadway, New York, New York 10012

**WHEREAS**, SBBC is in need of books to enrich home libraries for Pre-K through 2<sup>nd</sup> grade developing readers as they continue at-home learning and virtual instruction during the COVID-19 pandemic and has selected VENDOR to provide such products;

**WHEREAS**, VENDOR is willing to provide such materials to SBBC;

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

**WHEREAS**, SBBC Purchasing Policy 3320 Section 2(H) states that "the requirement of requesting competitive solicitations from three or more sources is hereby waived as authorized by Rule 6A-1.012, Florida Administrative Code State Board of Education Administrative rules for the purchase of educational services and any type of copyrighted materials"; and

**WHEREAS**, the materials being purchased under this Agreement are copyrighted.

**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 upon execution by both parties and concludes on October 31, 2020.

2.02 **Description of Goods and Services Provided.** VENDOR shall provide the following goods and services as outlined in **Attachment A**, which includes:

- (a) 47,951 book packs, each including:
  - 1) Five high interest, grade appropriate, and culturally responsive books.
  - 2) Family guide with reading tips, family literacy support, and overall reading strategies
  - 3) Student journal with reading motivation and book response pages aligned with the book pack books
- (b) Delivery of book packs directly to the homes of Pre-K through 2<sup>nd</sup> grade students in SBBC Title I Schools

2.03 **Cost of Services.** SBBC shall pay VENDOR for materials delivered to SBBC students' homes as detailed below. The total amount must not exceed Eight Hundred Ninety-seven Thousand Two Hundred Eighty-three Dollars and 09/100 Cents (\$897,283.09), which includes shipping and handling, see **Attachment B**.

DESCRIPTION	Per Student Price	Gratis Quantity	SBBC Quantity	Gratis Offer	Total	Scholastic Contribution	Price Per Pack	SBBC Purchase
<b>Pricing for 47,951K Packs: My Books Every Day Shipping to Student Homes</b>								
<i>Best Price 30,000+ Packs, Scholastic contributes 25% Gratis</i>  <b>My Books Every Day</b> THEME- Open a World of Possible. The learning pack includes 5 high interest and culturally responsive books, one student journal, and one family guide. The learning packs support grade level skills and family literacy skills to support reading at home.	\$ 24.95	11987.75	35943.25	25% Gratis	\$1,196,377.45	<b>\$299,094.36</b>	\$18.71	\$ 897,283.09

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

(a) SBBC will provide VENDOR the education records listed in this section to enable mailing of book packs directly students' homes.

(b) SBBC will provide VENDOR with the following education records:

- 1) Students' first and last name
- 2) Students' mailing address

(c) VENDOR is considered a "school official" with a legitimate educational interest to

receive SBBC student education records for the purposes listed in this section. Pursuant to the Family Educational Rights and Privacy Act (FERPA), 34 CFR Part 99.31(a)(1), these records may be provided without prior parental consent. Prior written consent of the parent or student age 18 years or over is needed for any types or purposes of disclosures of education records beyond those listed in this section.

## **2.05 VENDOR Confidentiality of Education Records.**

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

- 1) fully comply with the requirements of Sections 1002.22, 1002.221, and 1002.222, Florida Statutes; the Family Educational Rights and Privacy Act, 20 U.S.C § 1232g (FERPA) and its implementing regulations (34 C.F.R. Part 99), and any other state or federal law or regulation regarding the confidentiality of student information and records;
- 2) hold any education records in strict confidence and not use or redisclose same except as required by this Agreement or as required or permitted by law unless the parent of each student or a student age 18 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;
- 6) notify SBBC immediately upon discovery of a breach of confidentiality of education records by telephone at 754-321-0300 (Manager, Information Security), and 754-321-1900 (Privacy Officer), and email at [privacy@browardschools.com](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 its Privacy Officer and/or Information Technology staff to resolve any privacy investigations and concerns in a timely manner;
- 8) prepare and distribute, at its own cost, any and all required breach notifications, under federal and Florida Law, or reimburse SBBC any direct costs incurred by SBBC for doing so, including, but not limited to, those required by Section 501.171, Florida Statutes;

- 9) be responsible for any fines or penalties for failure to meet breach notice requirements pursuant to federal and/or Florida law;
- 10) provide SBBC with the name and contact information of its employee who shall serve as SBBC's primary security contact and shall be available to assist SBBC in resolving obligations associated with a security breach of confidentiality of education records; and
- 11) securely erase education records from any media once any media equipment is no longer in use or is to be disposed; secure erasure will be deemed the deletion of the education records using a single pass overwrite Secure Erase (Windows) or Wipe (Unix).

(b) All education records 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) The 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 survives the termination of all performance required or conclusion of all obligations existing under this Agreement.

**2.06 Inspection of VENDOR'S Records by SBBC.** The 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 applicable records, regardless of the form in which they are kept, must 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 the 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 must have access to VENDOR's facilities and to any and all records related to this Agreement, and must 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 constitutes grounds for termination of this Agreement by SBBC for cause and grounds for SBBC's denial of some or all of any VENDOR 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 will 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 constitutes grounds for termination of this Agreement by SBBC for cause and 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.

2.07 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: Executive Director, Early Learning Language Acquisition  
The School Board of Broward County, Florida  
600 Southeast Third Avenue

Fort Lauderdale, Florida 33301

To VENDOR: Scholastic, Inc.  
557 Broadway  
New York, New York 10012  
Attn: General Counsel

With a Copy to: Vice President of Operations  
Scholastic, Inc.  
90 Old Sherman Turnpike  
Danbury, Connecticut 06810

**2.08 Background Screening.** VENDOR shall comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (a) are to be permitted access to school grounds when students are present, (b) will have direct contact with students, or (c) 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.

**2.09 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 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 any public records that are 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](mailto:RECORDREQUESTS@BROWARDSCHOOLS.COM), RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

2.10 **Liability.** This section survives 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 the VENDOR, SBBC or otherwise.

2.11 **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) **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.

(d) **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.

(e) **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.

2.12 **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.

2.13 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement are 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.

2.14 **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.

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

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

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign



immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

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

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

**3.04 Default.** The parties agree that, if either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) calendar days' written notice to cure the default. However, if said default cannot be cured within said thirty (30) calendar day period and the defaulting party is diligently attempting in good faith to cure same, the time period will 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) calendar days' notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy is cumulative and 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 will be construed to preclude termination for convenience pursuant to Section 3.05.

**3.05 Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) calendar 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.

**FOR SBBC:**

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

ATTEST:

By \_\_\_\_\_  
Donna P. Korn, Chair

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

Approved as to Form and Legal Content:

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

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



**FOR VENDOR:**

(Corporate Seal)

ATTEST:

**SCHOLASTIC, INC.**

By *Toni Abrahams*

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

Name Toni Abrahams

Title VP of Operations

-or-

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

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

STATE OF CT

COUNTY OF Fairfield

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of May, 2020.

by Toni Abrahams of Scholastic Inc., on behalf of the  
Name of Person Name of Corporation or Agency  
corporation/agency. He/She is personally known to me or produced  
Driver's License as identification and did/did not first take an oath.  
Type of Identification

My Commission Expires:



(SEAL)

*S. Bignell*  
Signature – Notary Public

Sharilynne Bignell  
Printed Name of Notary

N/A  
Notary's Commission No.

## ATTACHMENT A



April 24, 2020

Scope of Work for:

# SBBC *My Books Every Day* Book Distribution Home Library Project

## Overview

Provide a pack of five books with family guide and journal to PreK-Second Grade students at SBBC Title One Schools by directly mailing book packs to students' homes.

Each participating student will receive:

### *My Books Every Day*

- Family Guide with Reading Tips, Family Literacy Support, and Overall Reading Strategies
- Student Journal with Reading Motivation and Book Response Pages Aligned with the Book Pack Books
- SBBC letter for each student
- 5 Books per Grade Level around the theme "Open a World of Possible".

## Grade Level Book Packs

Pre-Kindergarten	Kindergarten
<ol style="list-style-type: none"><li>1. Not a Box</li><li>2. R is for Robot</li><li>3. Penguin and Pinecone</li><li>4. Think Big</li><li>5. This Book Just Ate My Dog!</li></ol>	<ol style="list-style-type: none"><li>1. Whistle for Willie</li><li>2. Fish is Fish</li><li>3. Dream Big Little Pig!</li><li>4. Boy + Bot</li><li>5. The Paper Crane</li></ol>
First Grade	Second Grade
<ol style="list-style-type: none"><li>1. Giraffes Can't Dance</li><li>2. Immi's Gift</li><li>3. Exclamation Mark</li><li>4. Pete the Cat and His Magic Sunglasses</li><li>5. Sky Color</li></ol>	<ol style="list-style-type: none"><li>1. Amazing Grace</li><li>2. Flat Stanley</li><li>3. Long Shot</li><li>4. Super Dog</li><li>5. The Disappearing Wok</li></ol>

## Fulfillment Requirements:

## ATTACHMENT A



SBBC will provide a residential address for every student receiving a book pack. This data will be sent to Scholastic and managed within Scholastic in a secure way to be described under **Data Management Section**.

- Orders will be processed against a Purchase Order (“PO”) provided by SBBC.
- Scholastic will not ship until signed PO and clean student address files are received by Scholastic.
- Quantity of students to receive book pack is 47,951 and therefore 47,951 orders processed (per quote sent and copied below):

DESCRIPTION	Per Student Price	Gratis Quantity	SBBC Quantity	Gratis Offer	Total	Scholastic Contribution	Price Per Pack	SBBC Purchase
<b>Pricing for 47,951K Packs: My Books Every Day Shipping to Student Homes</b>								
Best Price 30,000+ Packs, Scholastic contributes 25% Gratis								
<b>My Books Every Day</b> THEME- Open a World of Possible. The learning pack includes 5 high interest and culturally responsive books, one student journal, and one family guide. The learning packs support grade level skills and family literacy skills to support reading at home.	\$ 24.95	11987.75	35963.25	25% Gratis	\$1,196,377.45	<b>\$299,094.36</b>	\$18.71	\$ 897,283.09

- An “Order” will be defined as one pack per student and SBBC will specify the grade level to be shipped to that student in the data file.
- Orders for families with multiple students will not be combined.
- Orders will ship from the Scholastic National Service Center in Jefferson City, MO.
- Every student will receive one carton with a label (black and white label designed by SBBC but printed and affixed by Scholastic) on each carton so the carton can be easily identified by the student as part of this program.
- Orders will ship via Mail Innovations- a partnership between UPS and USPS.
- Scholastic will ship through UPS network and UPS will deliver to local USPS office for delivery to each residence.
- Service level and reliability is similar to USPS for any other item and during this COVID 19 period we should expect longer delivery times generally due to higher unpredictability in the carrier network.

### Data Management

Scholastic will work with SBBC’s data management team to receive and manage the data of 47,951 students in a secure way.

## ATTACHMENT A



Scholastic understands the importance of information security, including cybersecurity, to protect against external threats and malicious insiders. Policies and standards are aligned with recognized industry standards, including those dictated by the National Institute of Standards and Technology (NIST). We protect our infrastructure through a control framework which includes a tiered network architecture, vulnerabilities testing, system hardening, and malware protection. We also perform ongoing risk assessments, aligned to industry standards, which include the identification, monitoring and analysis of control performance. When appropriate, risk issues are created and monitored until complete. Scholastic has implemented controls designed to safeguard our client information which covers data classification, secure storage, handling, transmission and destruction.

### General Security Statement

- Data is encrypted when it is outside the protected enclosure of the Scholastic security enclaves, such as the network, systems with access control, and data centers. This includes encryption at rest and encryption in transit (communications) where possible.
- We use strong industry standard encryption methods and commercially available products. We regularly review the strength of those protocols.
- Standard solutions are available for encrypting files transferred between Scholastic and third parties.
- In accordance with Scholastic business principles and applicable laws, Scholastic has a number of policies, standards, procedures, and tools for protecting client, employee, and counterparty personal data. These standards specify data security and access controls for the applications handling personal data. Additionally, several tools are available for encrypting data sent outside the Scholastic and data stored on our systems.

For the purpose of transferring student address data for shipping to students' homes, Scholastic has selected DropSecure as the tool to manage and transfer the data in a secure way.

Specifics around secure file transfer between Scholastic and third party via DropSecure.

DropSecure offers end-to-end encryption using zero-knowledge proof technology. Every file is broken into multiple pieces, and each piece is encrypted with strong AES-256 bit encryption before it leaves the sender's computer making it impossible for anyone to read data during transit. Zero-knowledge transfers avoid sending keys through the DropSecure system, making it impossible for DropSecure to read or encrypt our customer's data. The Zero-knowledge option requires both parties to register with DropSecure using their email addresses and provides granular access control to each user. This ensures that information is shared only to people who need to know about it.

### Data Transfer Process:

- Scholastic will provide a data template for student data
- Data required is simple but specific and has the goal of minimizing the data transferred to Scholastic.
- We prefer not to receive the student names but prefer to receive the parent name as the first line of the address. That is security precaution #1.



## ATTACHMENT A



- For street, city, state, and zip we request Coding Accuracy Support System (CASS), a certification process used by USPS to evaluate the accuracy of address correction/matching software, certified addresses limited to 30 characters with spaces.
- Scholastic will also cleanse the address data but if SBBC does as well, the discrepancies will be minimized, and the process will move more quickly.
- Any unresolved addresses will be sent back to the district via DropSecure for the customer to resolve and resubmit.
- Upon completion of address cleansing and verification the student addresses will be imported into the Scholastic Oracle ERP System (not manually keyed).
- Student address data is not eligible for marketing and will be deactivated and purged no later than 30 days after orders have been shipped. The 30 days allows for any returns or order discrepancy issues to be resolved.

### Purchase Order Reconciliation Process and Payment Process

Scholastic will ensure that SBBC has the information needed in order to be confident that the orders have been shipped completely as outlined above in the scope of work and that any undeliverable or returned packaged are sent back to SBBC's warehouse (or other address as provided by SBBC).

Audit process will be a report that will show the following:

Source Data	Step	Qty	Extended Price	Comment
SBBC PO	1	47,951	\$897,283.09	Starting Value
Shipments from Scholastic to UPS Hubs	2	47,951	\$897,283.09	Should equal 47,951 once project is complete
UPS Hub to USPS for Delivery	3	47,951	\$897,283.09	Should equal 47,951
Returned to Scholastic	4	Less (Qty)	Less (Qty x Price)	Less any shipments returned to Scholastic
Shipped to SBBC Warehouse	5	Plus (Qty)	Plus (Qty x Price)	Amount to SBBC warehouse should equal the amount returned
Total	2 Less (4+5)= 1	47,951	\$897,283.09	Should be able to net out returns/reship to SBBC to get to total qty shipped to student homes

- Over a period of time to be mutually determined (estimated at 15 days) Scholastic will accumulate the returns/undeliverable orders and ship to SBBC's designated location.
- Scholastic will expect payment if report reflects that 47,951 have been shipped and received either at student home or SBBC's warehouse.

# ATTACHMENT B

Prepared For:

Broward

DATE 24-Apr-20

**SCHOLASTIC**EDUCATION

## CONTACT INFORMATION:

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**All prices include shipping to students' homes**  
4/24/ Update for quantity of 47,951

DESCRIPTION	Per Student Price	Gratis Quantity	Broward Quantity	Gratis Offer	Total	Scholastic Contribution	Price per Pack	Broward Purchase
<b>Volume Pricing Breakdown for Broward My Books Every Day Packs</b>								
<i>Best Price 30,000+ Packs, Scholastic contributes 25% Gratis</i>								
My Books Every Day 30,000+ Students	\$ 24.95	7500	22500	<b>25% Gratis</b>	\$748,500.00	<b>\$187,125.00</b>	\$18.71	\$ 561,375.00
<i>Pricing for 20,000 Packs, Scholastic contributes 20% Gratis</i>								
My Books Every Day 20,000-29,999 Students	\$ 24.95	4000	16000	<b>20% Gratis</b>	\$499,000.00	<b>\$99,800.00</b>	\$19.96	\$ 399,200.00
<i>Pricing for 15,000 Packs, Scholastic contributes 15% Gratis</i>								
My Books Every Day 15,000-19,999 Students	\$ 24.95	2250	12750	<b>15% Gratis</b>	\$374,250.00	<b>\$56,137.50</b>	\$21.21	\$ 318,112.50
<b>Pricing for 47,951K Packs: My Books Every Day Shipping to Student Homes</b>								
<i>Best Price 30,000+ Packs, Scholastic contributes 25% Gratis</i>								
<b>My Books Every Day</b> THEME- Open a World of Possible. <i>The learning pack includes 5 high interest and culturally responsive books, one student journal, and one family guide. The learning packs support grade level skills and family literacy skills to support reading at home.</i>	\$ 24.95	11987.75	35963.25	<b>25% Gratis</b>	\$1,196,377.45	<b>\$299,094.36</b>	\$18.71	\$ 897,283.09
<b>Totals</b>					<b>\$1,196,377.45</b>			
<b>Scholastic Contribution</b>						<b>\$299,094.36</b>		
<p>*State law requires sales tax be added to your order unless we have sales tax exemption certificate on file.</p> <p>Tax on this quote may be your estimated tax, <b>actual tax will be charged at the time of shipping</b>. Scholastic terms are FOB shipping point unless otherwise noted on the purchase order. If tax has been added to your order and you are exempt from sales tax, please fax your "sales tax exemption certificate" to 1-800-560-6815 or mail to Scholastic Inc., 2931 E. McCarty Street, Jefferson City, MO., 65101.</p> <p><b>THANK YOU FOR YOUR BUSINESS!</b></p>								
							<b>Subtotal</b>	<b>\$ 897,283.09</b>
							<b>S&amp;H</b>	<b>Included</b>
							<b>*Tax</b> ____%	
							<b>TOTAL</b>	<b>\$ 897,283.09</b>