

Legal Committee Meeting
Tuesday, November 15, 2022 2:00 PM
ESU No. 3
6949 South 110th Street
Omaha, NE 68128

1. Call to Order
Committee Chair
2. Roll Call
Committee Chair
3. Consent Agenda Items
Committee Chair
 - 3.1. Coop Contracts
Committee Chair
 - 3.1.1. Special Buy agreement with Scholastic
Committee Chair
 - 3.1.2. Special Buy agreement with Capstone
Committee Chair
 - 3.1.3. Extension to Special Buy agreement with Staples
Committee Chair
 - 3.1.4. Special Buy agreement with Newsela
Committee Chair
 - 3.1.5. Special Buy Agreement for Global Grid for Learning (GG4L)
Committee Chair
 - 3.1.6. Special Buy agreement with WeVideo
Committee Chair
4. Agenda Item
Committee Chair
 - 4.1. COOP
Committee Chair
 - 4.1.1. Coop Strategic Plan
Committee Chair
 - 4.1.2. Approve Interlocal Agreement with Loup Basin Public Health Department
Committee Chair
 - 4.1.3. Approve Interlocal Agreement with Panhandle Public Health District
Committee Chair
 - 4.1.4. Staff Written Reports
Committee Chair
 - 4.1.4.1. Peterson Report
Committee Chair
 - 4.1.4.2. Colleen Lentz (Data)
 - 4.2. Legislative Updates
Committee Chair

- 4.2.1. Bromm's Updates
Curt and Jason Bromm
- 4.2.1.1. Non-Public Support
Committee Chair
- 4.2.1.2. Cybersecurity
Committee Chair
- 4.2.2. Legislative Day 2023
Committee Chair
- 4.3. Policies and Procedures
Committee Chair
- 5. Next Meetings Agenda Items
Committee Chair
- 6. Adjournment
Committee Chair

NEBRASKA OPEN MEETINGS ACT

84-1407. Act, how cited. Sections 84-1407 to 84-1414 shall be known and may be cited as the Open Meetings Act.

84-1408. Declaration of intent; meetings open to public. It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret. Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

84-1409. Terms, defined. For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders, and (iii) the Judicial Resources Commission or subcommittees or subgroups of the commission;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Virtual conferencing means conducting or participating in a meeting electronically or telephonically with interaction among the participants subject to subsection (2) of section 84-1412.

84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as: (a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body; (b) Discussion regarding deployment of security personnel or devices; (c) Investigative proceedings regarding allegations of criminal misconduct; (d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting; (e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or (f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length. Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

84-1411. Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; virtual conferencing authorized; requirements; emergency meeting without notice; appearance before public body.

(1)(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public. (b) (i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website. (ii) In the case of the governing body of a city of the second class or village or such body's advisory committee, such notice shall be published by: (A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website; or (B) Posting written notice in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting. (iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public

body.(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee. (d) Each public body shall record the methods and dates of such notice in its minutes. (e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or (ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (2)(b) of this section are met: (i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity; (ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act; (iii) The governing body of a public power district having a chartered territory of more than one county in this state; (iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state; (v) An educational service unit; (vi) The Educational Service Unit Coordinating Council; (vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act; (viii) A community college board of governors; (ix) The Nebraska Brand Committee; (x) A local public health department; (xi) A metropolitan utilities district; (xii) A regional metropolitan transit authority; and (xiii) A natural resources district. (b) The requirements for holding a meeting by means of virtual conferencing are as follows: (i) Reasonable advance publicized notice is given as provided in subsection (1) of this section, including providing access to a dial-in number or link to the virtual conference; (ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used; (iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and (iv) Except as otherwise provided in this subdivision or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, the organization may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing. The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.

(3) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(7)(a) Notwithstanding subsections (2) and (5) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in subsection (1) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body. (b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (4) of this section shall be complied with in conducting such meetings. (c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsection (5) of section 84-1413. (8) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (2)(a) of this section may hold a meeting by virtual conferencing if: (a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body; (b) No action is taken by the public body at the virtual meeting; and (c) The public body complies with subdivisions (2)(b)(i) and (2)(b)(ii) of this section.

84-1412. Meetings of public body; rights of public; public body; powers and duties.

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each

meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if: (a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction; (b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience; (c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance; (d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state; (e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and (f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the in-state location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

84-1413. Meetings; minutes; roll call vote; secret ballot; when; agenda and minutes; required on website; when.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written or kept as an electronic record and shall be available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing or keeping the minutes is absent due to a serious illness or emergency.

(6) Beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public website the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the website at least twenty-four hours before the meeting of the governing body. Minutes shall be placed on the website at such time as the minutes are available for inspection as provided in subsection (5) of this section. This information shall be available on the public website for at least six months.

84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

84-1415. Open Meetings Act; requirements; waiver; validity of action. No motion, resolution, rule, regulation, ordinance, or formal action made, adopted, passed, or taken at a meeting as defined in section 84-1409 of a public body as defined in such section shall be invalidated because such motion, resolution, rule, regulation, ordinance, or formal action was made, adopted, passed, or taken at a meeting or meetings on or after March 17, 2020, and on or before April 30, 2021, pursuant to a Governor's Executive Order which waived certain requirements of the Open Meetings Act.

Revised
4-2022



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2022-2025 SPECIAL BUY AGREEMENT

THIS AGREEMENT is entered into by and between the Nebraska ESUCC Cooperative Purchasing ("Cooperative"), and Scholastic Library Publishing, Inc. ("Contractor"). The Cooperative is an organization founded in 1968 with the purpose of providing the Educational Service Unit (ESU) member school districts ("Members") of Nebraska an opportunity to secure the maximum procurement value through cooperative synergies. The Educational Service Unit Coordinating Council (ESUCC) Advisory group serves as the steering committee for new and future cooperative buys statewide under its direction. A chief executive officer coordinates the statewide purchasing agreement between service units and their school districts and other serviceable entities. The Director manages the program with the guidance of the ESUCC, Advisory Board, and the Fiscal Agent. Nebraska ESUCC Cooperative Purchasing serves 17 ESUs that provide a statewide network of educational opportunities to approximately 244 school districts and more than 325,000 students.

In consideration of mutual covenants, the parties agree as follows:

- 1. Scope of the Contract.** The Contractor shall provide Members the opportunity to purchase the goods and/or services as defined in **Exhibit A**, which is attached hereto and incorporated herein by this reference, at the prices set forth in this Agreement and its Exhibits.
- 2. Payment Terms/Payment Schedule.** Members shall pay for services rendered and/or for accepted goods on the terms and payment schedule as set forth in **Exhibit B** which is attached hereto and incorporated herein by this reference. Prices listed in Exhibit B shall remain in effect during the term of this Agreement unless agreed otherwise by the parties in writing.
- 3. Administrative Fee.** Contractor shall submit to the Cooperative as an administrative fee a sum equal to two percent (2%) of the total gross dollar volume, less freight of all goods and services and excluding annual support and maintenance purchased by the Cooperative, ESUs, and Members. This fee will be submitted to the Cooperative on a quarterly basis beginning three months from the Effective Date of this Agreement for all transactions completed and paid during said quarter.
- 4. Term.** This Agreement is effective on November 1, [REDACTED], 2022 ("Effective Date") and shall continue until 12:00 midnight (CST) on October 31, [REDACTED], 2025, unless terminated earlier as provided by this Agreement or by law.
- 5. Governing Law; Designation of Forum.** This Agreement is governed by and construed in accordance with the laws of the State of Nebraska. Any action to

enforce this Agreement must be brought in the state or federal courts of the State of Nebraska. Mandatory and exclusive venue for any disputes shall be in Sarpy County, Nebraska.

6. Termination.

- A. The Cooperative may terminate this Agreement in whole or part if funding from federal, state, or other sources for the Cooperative or its Members is not obtained and continued at levels sufficient to allow for purchase of the good and/or services in the indicated quantities or term. The Cooperative shall notify the Contractor as soon as practicable if funds to meet the Cooperative's or Members' obligations become unavailable. The determination of the Cooperative as to the insufficiency of funds is conclusive.
- B. Each party may terminate this Agreement if the other party breaches or is in default of any material obligation hereunder which default is incapable of cure, or which, being capable of cure, has not been cured within 30 days after receipt of written notice of such default or such additional cure period as the non-defaulting party may authorize in writing.
- C. Each party may terminate this Agreement by written notice if federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
- D. The Cooperative may terminate this Agreement, in whole or in part, by written notice to the Contractor and may regard the Contractor in default of this Agreement if the Contractor becomes:
 - (1) Insolvent;
 - (2) Makes a general assignment for the benefit of creditors;
 - (3) Files a voluntary petition of bankruptcy;
 - (4) Suffers or permits the appointment of a receiver for its business or assets;
 - (5) Becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign; or
 - (6) Has wound up or liquidated, voluntarily or otherwise.
- E. The Cooperative may terminate this Agreement, in whole or in part, immediately, without notice, if the Contractor is debarred or suspended from performing services on any public contracts.
- F. The parties may terminate this Agreement without cause by mutual written consent or by either party with a minimum of 90 days written notice.
- G. Upon the termination for any reason or expiration of this Agreement, the Contractor promptly must return to the Cooperative all papers, materials and other property of the Cooperative then in its possession, including but

not limited to all work in progress as is appropriate in its then existing form to the Cooperative.

7. Indemnification.

- A. The Contractor hereby waives and agrees to indemnify and save harmless the Cooperative and the ESUs and their officials, agents, employees, and volunteers (hereinafter collectively referred to as "Indemnities"), against any and all [third party](#) claims of injuries, death, damage to property, liabilities, judgments, costs and expenses which may otherwise accrue against Indemnities in consequence of the granting of this Agreement or which may otherwise result therefrom.
- B. The Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith.
- C. If any judgment shall be rendered against the Cooperative or the ESUs in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same.
- D. Any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify and save harmless and defend the Indemnities as herein provided.
- E. The Contractor's obligation to indemnify and save harmless any Indemnities will survive the expiration or termination of this Agreement by either party for any reason.

8. Insurance. Contractor shall secure and keep in force during the term of this Agreement the following insurance coverages from insurance companies or government self-insurance pools authorized to do business in Nebraska:

- A. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per person and \$5,000,000 per occurrence; and
- B. If applicable, workers compensation coverage meeting all statutory requirements.

The Contractor shall furnish a certificate of insurance to the undersigned Cooperative representative prior to commencement of this Agreement. Failure to provide insurance as required in this agreement is a material breach of contract entitling the Cooperative to terminate this Agreement immediately.

9. Public Records. The Contractor acknowledges that the Cooperative must comply with NEB. REV. STAT. § 84-712 through § 84-713 and release public records as defined law upon request, which may include this Agreement and all records created and maintained in relation to this Agreement.

- 10. Publicity.** The Cooperative does not endorse the goods or services of the Contractor. Except for listing the Cooperative as a client during the term of this Agreement, news releases or other publicity concerning this Agreement must not be made by the Contractor without the prior written approval of the Cooperative.
- 11. Drug/Alcohol/Tobacco/Weapons Free Workplace.** The Contractor and all subcontractors, if any, shall not manufacture, sell, distribute, dispense, possess or use controlled substances or marijuana, as defined by Nebraska law, during the performance of this Agreement while on Cooperative, ESU, or Member premises or at Cooperative, ESU, or Member related functions. The Contractor and all subcontractors, if any, shall not possess any weapon, as defined by Nebraska law and the federal "Drug-Free Schools Act," on Cooperative, ESU, or Member property or at Cooperative, ESU, or Member related functions. The Contractor and all subcontractors, if any, also shall adhere to all Cooperative, ESU, and Member policies and regulations that prohibit the possession, distribution, sale, dispensation, or use of any alcohol or tobacco products while on Cooperative, ESU, or Member premises or at Cooperative, ESU, or Member related functions. Failure to comply with this provision may be considered a material breach. The Cooperative may suspend or terminate the Contractor, subcontractor, or both if it violates these laws, regulations, or policies or this provision.
- 12. Nondiscrimination.** The Contractor and all subcontractors, if any, shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.
- 13. Independent Contractor.** Contractor is an independent contractor under this contract and is not a Cooperative, ESU, or Member employee for any purpose. The Contractor retains sole and absolute discretion in the manner and means of carrying out Contractor's activities and responsibilities under this Agreement, except to the extent specified in this Agreement.
- 14. Employment Eligibility Verification.** The Contractor shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Contractor employs or contracts with any subcontractor in connection with this Agreement, the Contractor shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.
- 15. Taxpayer Identification.** Contractor's federal employer identification number is: 06-1226353.
- 16. Sales Tax.** The Cooperative, ESUs, and Members are exempt from sales tax and shall not pay any sales tax under this Agreement. The Cooperative, ESUs and/or Members will provide the Contractor with applicable sales tax exemption certificates upon written request.

- 17. Notice.** Each party giving any Notice ("Notice") under this Agreement must give written Notice by personal delivery, registered or certified Mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid.) Notice shall be sent to the following addressees at the following addresses:

Cooperative: ESUCC
Attn: Kraig Lofquist
6949 South 110th Street
LaVista, NE 68128

With copy to:

ESUCC Cooperative Purchasing
Attn: Craig Peterson
PO Box 858
412 W. 14th Ave
Holdrege, NE 68949

Contractor: [Scholastic Library Publishing, Inc](#)
[Attn: Kathy Brown](#)
[557 Broadway New York, NY 10012](#)

Notice is effective only if the party giving the Notice has complied with this section.

- 18. Warranties and Specifications.** Contractor shall be responsible for providing to Members all manufacturer warranties on all goods and services. Contractor shall provide Members with all attachments normally supplied by the manufacturer and/or supplier. Complete product specification sheets or brochures must be provided to Members, ESUs, or the Cooperative upon request.
- 19. Entire Agreement.** The Agreement is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.
- 20. Amendments and Modifications.** The parties may amend or modify this Agreement only by a signed, written agreement by both parties that identifies itself as an amendment or modification to this Agreement. No other alternations in the terms of this agreement shall be valid or binding.
- 21. Waivers.** The parties may waive any provision in this Agreement only by a writing executed by the party or parties against whom the waiver is sought to be enforced. No failure or delay: (1) In exercising any right or remedy, **or** (2) In requiring the satisfaction of any condition under this Agreement, **and** (3) No act, omission, or course of dealing between the parties operates as a waiver or estoppel of any right, remedy or condition. A waiver made in writing on one occasion is effective

only in that instance and only for the purpose stated. A waiver once given is not to be construed as a waiver on any future occasion or against any other Person.

- 22. Severability.** If any provision of this Agreement is determined to be unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain enforceable.
- 23. Counterparts.** The parties may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other parties to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other parties. In proving this Agreement, a party must produce or account only for the executed counterpart of the party to be charged.
- 24. Force Majeure.** Neither party shall be liable for any loss or damage suffered by the other party, directly or indirectly, as a result of the non performing party's failure to perform, or delay in performing, any of its obligations contained in this contract (except any obligations to make payments for services rendered or accepted goods received before the failure to perform or the delay in performance), where, in the opinion of the Cooperative, such failure or delay is cause by circumstances beyond the non performing party's control or which make performance commercially impracticable, including but not limited to fire, flood, storm or other natural disaster, explosion, accident, war, riot, civil disorder, government regulations or restrictions of any kind or any acts of any government, alien enemy, judicial action, power failure, acts of God, or other natural circumstances. This Force Majeure provision excludes economic hardship, changes in market conditions, and insufficiency of funds on the part of Contractor.
- 25. Assignment.** This Agreement binds the parties and their respective successors and assignees. The Contractor shall not assign or otherwise dispose of this Agreement or any duty, right, or responsibility contemplated in this Agreement to any other person without the previous written consent of the Cooperative.
- 26. Subcontractors.** The Contractor shall not subcontract services or any part of this Agreement without the prior written consent of the Cooperative.
- 27. Captions.** The descriptive headings of the Articles, Sections and subsections of this Agreement are for convenience only, do not constitute a part of this Agreement, and do not affect this Agreement's construction or interpretation.
- 28. Rights and Remedies Cumulative.** Any enumeration of the Cooperative's rights and remedies set forth in this Agreement is not exhaustive. The Cooperative's exercise of any right or remedy under this Agreement does not preclude the exercise of any other right or remedy. All of the Cooperative's rights and remedies are cumulative and are in addition to any other right or remedy set forth in this

Agreement, any other agreement between the parties, or which may now or subsequently exist at law or in equity, by statute or otherwise.

29. Relationship Among Parties. This Agreement creates no relationship of joint venture, partnership, limited partnership, agency, or employer- employee between the parties, and the parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither party has any right or authority to assume or to create any obligation or responsibility on behalf of the other party except as may from time to time be provided by written instrument signed by both parties.

30. Rules of Construction. The parties hereto have each been represented by counsel, or had the opportunity to be represented, during the negotiation and execution of this Agreement, and therefore waive application of any law or rule of construction providing that ambiguities in the contract will be construed against the party drafting such contract.

31. Piggyback Clause. For the term of the Agreement and any mutually agreed extensions, other public agencies may purchase, lease-purchase, or rent the identical item(s) at the same price and upon the same terms and conditions as provided in this Agreement. The term "public agencies" means any county, city, village, school district, or agency of any state government or of the United States; any drainage district, sanitary and improvement district, or other municipal corporation or political subdivision of Nebraska; and any political subdivision of another state.

32. Attachments. Attachments to this Agreement include the following:

- Exhibit A – Scope of Goods or Services to be provided to ESUCC and Members
- Exhibit B – Payment Terms & Schedule
- Exhibit C – Summary of Project Deliverables

IN WITNESS WHEREOF the parties have executed this Agreement on the date last date written below.

CONTRACTOR

COOPERATIVE

By: 

By: _____

Name: Toni Abrahams

Name: Kraig Lofquist

Title: VP of Operations

Title: Executive Director

Date: 11/3/2022

Date: _____

EXHIBIT "A"

SCOPE OF GOODS OR SERVICES TO BE PROVIDED TO MEMBERS

<<VENDOR-INSERT SCOPE OF GOODS>>

(Digital): Scholastic Go, TrueFlix, Teachables, ScienceFlix, Watch & Learn Library

(Print) Children's Press, Franklin Watts, and selected Scholastic titles

EXHIBIT "B"

1. Contractor's Pricing

Contractor's Pricing Model under this Agreement is:

To receive the below discounts/Prices, purchase order must be emailed to KMBrown@Scholastic.com or TRoller1@Scholastic.com.

Digital

10% off Education Pricing Grid (prices are subject to change annually in August but discount will remain unchanged. Please see next pages for individual Digital pricing.<<VENDOR-INSERT PRICING>>

Print

32% off list price (Reinforced Library Binding) Children's Press, Franklin Watts, and selected Scholastic titles

40% off list price (Trade binding) selected Scholastic titles

Free "Standard" Marc Records

Free "Standard" Library Processing

"Standard"=requires no data manipulation

Free shipping and handling on orders of \$350 or more. For orders less than \$350, there is a 5% charge.



To receive the below prices, purchase orders must be emailed to KMBrown@Scholastic.com or TRoller1@Scholastic.com

School Pricing 2023-2025

ALL PRICING IS CONFIDENTIAL

# of schools	Annual list price per school	Nebraska ESUCC Cooperative Purchasing Price 2023 (until 7/31/2023)	Nebraska ESUCC Cooperative Purchasing Price 2024 (until 7/31/2024)	Nebraska ESUCC Cooperative Purchasing Price 2025 (until 7/31/2025)
1	\$1,968	\$843	\$860	\$877
2 to 5	\$1,968	\$689	\$702	\$716
6 to 10	\$1,968	\$633	\$645	\$658
11 to 50	\$1,968	\$550	\$561	\$572
51 - 100	\$1,968	\$504	\$514	\$524
100+	\$1,968	\$458	\$467	\$477



# of schools	Annual list price per school	Nebraska ESUCC Cooperative Purchasing Price 2023 (until 7/31/2023)	Nebraska ESUCC Cooperative Purchasing Price 2024 (until 7/31/2024)	Nebraska ESUCC Cooperative Purchasing Price 2025 (until 7/31/2025)
1	\$1,070	\$645	\$658	\$671
2 to 5	\$1,070	\$583	\$595	\$607
6 to 10	\$1,070	\$520	\$530	\$541
11 to 50	\$1,070	\$452	\$461	\$471
51 to 100	\$1,070	\$382	\$390	\$397
100+	\$1,070	\$314	\$320	\$326



# of schools	Annual list price per school	Annual price per Middle & High School (Grade 6-Up)	Nebraska ESUCC Cooperative Purchasing Price 2023 (until 7/31/2023)	Nebraska ESUCC Cooperative Purchasing Price 2024 (until 7/31/2024)	Nebraska ESUCC Cooperative Purchasing Price 2025 (until 7/31/2025)
1	\$1,345		\$665	\$678	\$692
2 to 5	\$1,345		\$655	\$668	\$682
6 to 10	\$1,345		\$634	\$647	\$659
11 to 50	\$1,345		\$609	\$621	\$633
51 to 100	\$1,345		\$554	\$565	\$577
100+	\$1,345		\$452	\$462	\$471
		Annual Price per Elementary School (Grade K-5)	Nebraska ESUCC Cooperative Purchasing Price 2023 (until 7/31/2023)	Nebraska ESUCC Cooperative Purchasing Price 2024 (until 7/31/2024)	Nebraska ESUCC Cooperative Purchasing Price 2025 (until 7/31/2025)
			\$634	\$647	\$659
			\$577	\$588	\$600
			\$518	\$529	\$539
			\$455	\$464	\$473
			\$386	\$394	\$402
			\$312	\$318	\$325

SCHOLASTIC Teachables

Printables, Lessons, Mini-Books, and More!

# of schools	Annual list price per school	Nebraska ESUCC Cooperative Purchasing Price 2023 (until 7/31/2023)	Nebraska ESUCC Cooperative Purchasing Price 2024 (until 7/31/2024)	Nebraska ESUCC Cooperative Purchasing Price 2025 (until 7/31/2025)
1	\$1,019	\$458	\$467	\$477
2 to 5	\$1,019	\$444	\$453	\$462
6 to 10	\$1,019	\$421	\$429	\$438
11 to 50	\$1,019	\$374	\$381	\$389
51 to 100	\$1,019	\$327	\$334	\$340
100+	\$1,019	\$280	\$286	\$292

Watch & Learn LIBRARY

# of schools	Annual list price per school	Nebraska ESUCC Cooperative Purchasing Price 2023 (until 7/31/2023)	Nebraska ESUCC Cooperative Purchasing Price 2024 (until 7/31/2024)	Nebraska ESUCC Cooperative Purchasing Price 2025 (until 7/31/2025)
1	\$2,039	\$689	\$702	\$716
2 to 5	\$2,039	\$654	\$667	\$680
6 to 10	\$2,039	\$621	\$633	\$646
11 to 50	\$2,039	\$551	\$562	\$573
51 to 100	\$2,039	\$480	\$490	\$500
100+	\$2,039	\$458	\$467	\$477



To receive the below prices, purchase orders must be emailed to KMBrown@Scholastic.com or TRoller1@Scholastic.com

Public Library Pricing 2023-2025

ALL PRICING IS CONFIDENTIAL

Population served	BookFlix Standard Pricing	Nebraska ESUCC Cooperative Purchasing Price 2023 (until 7/31/2023)	Nebraska ESUCC Cooperative Purchasing Price 2024 (until 7/31/2024)	Nebraska ESUCC Cooperative Purchasing Price 2025 (until 7/31/2025)
Less than 7,500	\$1,307	\$840	\$857	\$874
7,501-15,000	\$1,607	\$1,033	\$1,054	\$1,075
15,001-30,000	\$2,929	\$1,882	\$1,920	\$1,958
30,001-50,000	\$4,119	\$2,647	\$2,700	\$2,754
50,001-75,000	\$6,252	\$4,018	\$4,098	\$4,180
75,001-150,000	\$8,240	\$5,295	\$5,401	\$5,509
150,001-200,000	\$10,438	\$6,708	\$6,842	\$6,979
200,001-250,000	\$12,361	\$7,943	\$8,102	\$8,264
250,001-375,000	\$15,697	\$10,087	\$10,289	\$10,495
375,001-500,000	\$19,229	\$12,356	\$12,603	\$12,856
500,001-625,000	\$23,939	\$15,383	\$15,691	\$16,004
625,001-750,000	\$28,779	\$18,493	\$18,863	\$19,240
750,001-1,000,000	\$34,338	\$22,066	\$22,507	\$22,957
1,000,001-1,250,000	\$37,936	\$24,378	\$24,865	\$25,362
1,250,001-1,500,000	\$41,207	\$26,480	\$27,009	\$27,549

1,500,001-1,750,000	\$45,327	\$29,127	\$29,710	\$30,304
1,750,001-2,000,000	\$48,075	\$30,893	\$31,511	\$32,141
2,000,001-2,250,000	\$50,822	\$32,658	\$33,311	\$33,978



Public Library Pricing 2022-2025

ALL PRICING IS CONFIDENTIAL

Population served			
	Nebraska ESUCC Cooperative Purchasing Price 2023 (until 7/31/2023)	Nebraska ESUCC Cooperative Purchasing Price 2024 (until 7/31/2024)	Nebraska ESUCC Cooperative Purchasing Price 2025 (until 7/31/2025)
1-5,000	\$1,066	\$1,088	\$1,109
5,001-10,000	\$1,517	\$1,548	\$1,579
10,001-20,000	\$1,966	\$2,005	\$2,045
20,001-50,000	\$3,582	\$3,654	\$3,727
50,001-100,000	\$6,781	\$6,916	\$7,055
100,001-150,000	\$10,545	\$10,756	\$10,971
150,001-200,000	\$14,440	\$14,729	\$15,024
200,001-300,000	\$20,035	\$20,436	\$20,844
300,001-400,000	\$26,640	\$27,173	\$27,716
400,001-500,000	\$33,248	\$33,913	\$34,591
500,001-600,000	\$39,431	\$40,220	\$41,024
600,001-700,000	\$45,196	\$46,100	\$47,022
700,001-800,000	\$50,960	\$51,979	\$53,019
800,001-900,000	\$56,725	\$57,859	\$59,016
900,001-1,000,000	\$62,489	\$63,739	\$65,013
1,000,001-1,100,000	\$66,431	\$67,760	\$69,115
1,100,001-1,200,000	\$70,301	\$71,707	\$73,141
1,200,001-1,300,000	\$75,146	\$76,649	\$78,182

1,300,001-1,400,000	\$80,132	\$81,734	\$83,369
1,400,001-1,500,000	\$85,047	\$86,748	\$88,483
1,500,001-1,600,000	\$89,962	\$91,761	\$93,597
1,600,001-1,700,000	\$94,878	\$96,776	\$98,711
1,700,001-1,800,000	\$99,793	\$101,789	\$103,824
1,800,001-1,900,000	\$104,709	\$106,804	\$108,940
1,900,001-2,000,000	\$109,624	\$111,817	\$114,053



Public Library Pricing 2022-2025

ALL PRICING IS CONFIDENTIAL

Population served	TrueFlix Standard Pricing	Nebraska ESUCC Cooperative Purchasing Price 2023 (until 7/31/2023)	Nebraska ESUCC Cooperative Purchasing Price 2024 (until 7/31/2024)	Nebraska ESUCC Cooperative Purchasing Price 2025 (until 7/31/2025)
		Less than 7,500	\$790	\$653
7,501-15,000	\$972	\$803	\$819	\$835
15,001-30,000	\$1,771	\$1,463	\$1,493	\$1,522
30,001-50,000	\$2,491	\$2,058	\$2,100	\$2,142
50,001-75,000	\$3,781	\$3,124	\$3,186	\$3,250
75,001-150,000	\$4,984	\$4,118	\$4,200	\$4,284
150,001-200,000	\$6,312	\$5,215	\$5,320	\$5,426
200,001-250,000	\$7,476	\$6,176	\$6,300	\$6,426
250,001-375,000	\$9,493	\$7,843	\$8,000	\$8,160
375,001-500,000	\$11,298	\$9,334	\$9,521	\$9,711
500,001-625,000	\$14,478	\$11,961	\$12,201	\$12,445
625,001-750,000	\$17,405	\$14,380	\$14,667	\$14,961
750,001-1,000,000	\$20,768	\$17,158	\$17,501	\$17,851
1,000,001-1,250,000	\$22,944	\$18,956	\$19,335	\$19,722
1,250,001-1,500,000	\$24,921	\$20,590	\$21,002	\$21,422
1,500,001-1,750,000	\$27,413	\$22,649	\$23,102	\$23,564
1,750,001-2,000,000	\$29,075	\$24,022	\$24,503	\$24,993
2,000,001-2,250,000	\$30,737	\$25,395	\$25,903	\$26,421



Public Library Pricing 2022-2025

ALL PRICING IS CONFIDENTIAL

Population served	ScienceFlix Standard Pricing	Nebraska ESUCC Cooperative Purchasing Price 2023 (until 7/31/2023)	Nebraska ESUCC Cooperative Purchasing Price 2024 (until 7/31/2024)	Nebraska ESUCC Cooperative Purchasing Price 2025 (until 7/31/2025)
		Less than 7,500	\$845	\$698
7,501-15,000	\$1,040	\$859	\$876	\$894
15,001-30,000	\$1,894	\$1,565	\$1,596	\$1,628
30,001-50,000	\$2,664	\$2,201	\$2,245	\$2,290
50,001-75,000	\$4,043	\$3,341	\$3,407	\$3,476
75,001-150,000	\$5,329	\$4,403	\$4,491	\$4,581
150,001-200,000	\$6,749	\$5,576	\$5,688	\$5,802
200,001-250,000	\$7,993	\$6,604	\$6,736	\$6,871
250,001-375,000	\$10,150	\$8,386	\$8,554	\$8,725
375,001-500,000	\$12,079	\$9,979	\$10,179	\$10,383
500,001-625,000	\$15,480	\$12,790	\$13,046	\$13,307
625,001-750,000	\$18,609	\$15,375	\$15,682	\$15,996
750,001-1,000,000	\$22,204	\$18,345	\$18,712	\$19,086
1,000,001-1,250,000	\$24,530	\$20,267	\$20,672	\$21,085
1,250,001-1,500,000	\$26,646	\$22,015	\$22,455	\$22,904
1,500,001-1,750,000	\$29,310	\$24,216	\$24,700	\$25,194
1,750,001-2,000,000	\$31,086	\$25,683	\$26,197	\$26,721
2,000,001-2,250,000	\$32,862	\$27,151	\$27,694	\$28,248



Public Library Pricing 2022-2025

ALL PRICING IS CONFIDENTIAL

Population served	Standard Pricing	Nebraska ESUCC Cooperative Purchasing Price 2023 (until 7/31/2023)	Nebraska ESUCC Cooperative Purchasing Price 2024 (until 7/31/2024)	Nebraska ESUCC Cooperative Purchasing Price 2025 (until 7/31/2025)
Less than 7,500	\$1,080	\$496	\$506	\$516
7,501-15,000	\$1,404	\$644	\$657	\$670
15,001-30,000	\$1,825	\$838	\$855	\$872
30,001-50,000	\$2,373	\$1,089	\$1,111	\$1,133
50,001-75,000	\$3,085	\$1,416	\$1,444	\$1,473
75,001-150,000	\$4,010	\$1,841	\$1,877	\$1,915
150,001-200,000	\$5,213	\$2,393	\$2,441	\$2,489
200,001-250,000	\$6,777	\$3,111	\$3,173	\$3,236
250,001-375,000	\$8,810	\$4,044	\$4,125	\$4,207
375,001-500,000	\$11,453	\$5,257	\$5,362	\$5,469
500,001-625,000	\$14,889	\$6,834	\$6,971	\$7,110
625,001-750,000	\$17,866	\$8,201	\$8,365	\$8,532
750,001-1,000,000	\$21,440	\$9,841	\$10,038	\$10,238
1,000,001-1,250,000	\$25,728	\$11,809	\$12,045	\$12,286
1,250,001-1,500,000	\$28,300	\$12,990	\$13,250	\$13,515
1,500,001-1,750,000	\$31,131	\$14,289	\$14,575	\$14,866
1,750,001-2,000,000	\$34,244	\$15,718	\$16,032	\$16,353
2,000,001-2,250,000	\$37,668	\$17,290	\$17,635	\$17,988



Public Library Pricing 2022-2025

ALL PRICING IS CONFIDENTIAL

Population served	Standard Pricing	Nebraska ESUCC Cooperative Purchasing Price		
		2023 (until 7/31/2023)	2024 (until 7/31/2024)	2025 (until 7/31/2025)
Less than 7,500	\$1,999	\$917	\$935	\$954
7,501-15,000	\$2,597	\$1,192	\$1,216	\$1,240
15,001-30,000	\$3,377	\$1,550	\$1,581	\$1,612
30,001-50,000	\$4,390	\$2,015	\$2,055	\$2,096
50,001-75,000	\$5,706	\$2,619	\$2,672	\$2,725
75,001-150,000	\$7,418	\$3,405	\$3,473	\$3,543
150,001-200,000	\$9,644	\$4,427	\$4,515	\$4,605
200,001-250,000	\$12,537	\$5,755	\$5,870	\$5,987
250,001-375,000	\$16,298	\$7,481	\$7,631	\$7,783
375,001-500,000	\$21,188	\$9,725	\$9,920	\$10,118
500,001-625,000	\$27,544	\$12,643	\$12,896	\$13,154
625,001-750,000	\$33,053	\$15,171	\$15,475	\$15,784
750,001-1,000,000	\$39,664	\$18,206	\$18,570	\$18,941
1,000,001-1,250,000	\$47,596	\$21,847	\$22,284	\$22,729
1,250,001-1,500,000	\$52,356	\$24,031	\$24,512	\$25,002
1,500,001-1,750,000	\$57,591	\$26,434	\$26,963	\$27,502
1,750,001-2,000,000	\$63,351	\$29,078	\$29,659	\$30,253
2,000,001-2,250,000	\$69,686	\$31,986	\$32,625	\$33,278

Please Note:

Renewals are subject to price increases.

All prices include remote access.

Pricing good through July 31, 2025.

2. **Payment Terms/ Payment Schedule**

- A. Members will pay Contractor for all undisputed amounts for the goods and/or services identified in Exhibit A and provided by Contractor under this Agreement within sixty (60) days of receipt of invoice, provided that goods/services have been accepted by the Member as hereinafter provided.
- B. The procedure for billing and payment for services or products and deliverables shall be as specified in this exhibit.

3. **Acceptance of Services or Products:**

- A. The Contractor shall deliver any goods, perform any services or both in accordance with the schedule set forth in any RFP, the time specified in a purchase order issued by the Cooperative, ESU, or Member, or this Agreement (whichever is later).
- B. Unless otherwise agreed to by the parties, the Contractor shall provide written notification of completion of any deliveries, or performances of services or both, to the Member ("Delivery Notice").
- C. Members shall have sixty (60) days from the date of receipt of the Delivery Notice to provide the Contractor with written notification of acceptance or rejection due to unsatisfactory performance or nonconforming goods.
- D. If the Member issues a rejection notice, the Contractor shall as quickly as is practicable, correct or replace all deficiencies at its expense. The Cooperative shall not unreasonably withhold or delay its acceptance or rejection.

4. **Title and Risk of Loss:**

- A. Title and risk of loss for goods shall remain with the Contractor until goods are accepted by the Member, ESU, or Cooperative.
- B. Insurance during shipment and until the goods are accepted by the Cooperative, ESU, or Member is the responsibility of the Contractor.

EXHIBIT "C"

SUMMARY OF PROJECT DELIVERABLES

<<TO BE COMPLETED BY VENDOR>>

1. Order Delivery Method Options

1. Members will submit orders direct to Vendor
2. ESUCC Marketplace is the preferred method for order placement

2. Electronic Orders

- a. Vendor Capable of receiving orders electronically? Yes: No:
- b. If "Yes", Order receipt method: Email: KMBrown@Scholastic.com
cXML: [n/a](#)
 - i. If "Email" address to deliver orders to: KMBrown@Scholastic.com
 - ii. If "cXML" provide the following IT contact information
Contact (First, Last name): [n/a](#)
Contact email address: [n/a](#)
Contact Phone: [n/a](#)
- c. If "No, Alternate method will be determined

3. Sales Representative Contact

- a. First, Last name: [Tina Roller](#)
- b. Title: [n/a](#)
- c. Phone: [800-387-1437 X6354](#)
- d. Email: TRoller1@Scholastic.com

4. Invoice Method

- a. Vendor invoices Members direct

5. Sales Reporting

- a. Vendor to submit quarterly sales report to ESUCC at coop@esucc.org
- b. Vendor contact information for sales report questions:
Contact (First, Last name): [Kathy Brown](#)
Contact email address: KMBrown@Scholastic.com
- c. Sales report must include the following
 - Member Name
 - Member City
 - List Price
 - Member Cost
 - Member Savings
 - Admin Fee Amount Due
- d. ESUCC Admin Fee
 - Vendor must submit payment of Admin Fee to ESUCC quarterly
 - Admin Fee is equal to percentage of total sales (as defined in **Administration Fee** section of agreement)
 - Remit Admin Fee payment to:
ESUCC
1292 East 4th Street
Ainsworth, NE 69210

6. Product Information URL: [n/a](#)



2022-2025 SPECIAL BUY AGREEMENT

THIS AGREEMENT is entered into by and between the Nebraska ESUCC Cooperative Purchasing ("Cooperative") and **Coughlan Companies LLC dba Capstone** ("Contractor"). Educational Service Unit Coordinating Council (ESUCC) was created in statute to coordinate the activities of Nebraska's 17 Educational Service Units. The Educational Service Unit Coordinating Council was created by LB 603 in 2007 and officially came into existence on July 1, 2008. Cooperative Purchasing is a Project of ESUCC that has been in existence since 1968 with the purpose of providing the Educational Service Unit (ESU) member school districts ("Members") of Nebraska an opportunity to secure the maximum procurement value through cooperative synergies. The Educational Service Unit Coordinating Council (ESUCC) Advisory group serves as the steering committee for new and future cooperative buys statewide under its direction. A chief executive officer coordinates the statewide purchasing agreement between educational service units and their school districts and other serviceable entities. The Director of Cooperative Purchasing manages the program with the guidance of the ESUCC, Advisory Board, and the Fiscal Agent. ESUCC serves 17 ESUs that provide a statewide network of educational opportunities to approximately 244 school districts and more than 325,000 students.

In consideration of mutual covenants, the parties agree as follows:

- 1. Scope of the Contract.** The Contractor shall provide Members the opportunity to purchase the goods and/or services as defined in **Exhibit A**, which is attached hereto and incorporated herein by this reference, at the prices set forth in this Agreement and its Exhibits.
- 2. Payment Terms/Payment Schedule.** Members shall pay for services rendered and/or for accepted goods on the terms and payment schedule as set forth in **Exhibit B** which is attached hereto and incorporated herein by this reference. Prices listed in Exhibit B shall remain in effect during the term of this Agreement unless agreed otherwise by the parties in writing.
- 3. Administrative Fee.** Contractor shall submit to the Cooperative as an administrative fee a sum equal to two percent (2%) of the total gross dollar volume, less freight of all goods and services and excluding annual support and maintenance purchased by the Cooperative, ESUCC, ESUs, and Members. This fee will be submitted to ESUCC on a quarterly basis beginning three months from the Effective Date of this Agreement for all transactions completed and paid during said quarter.

4. **Term.** This Agreement is effective on [REDACTED], 2022 (“Effective Date”) and shall continue until 12:00 midnight (CST) on [REDACTED], 2025, unless terminated earlier as provided by this Agreement or by law.
5. **Governing Law; Designation of Forum.** This Agreement is governed by and construed in accordance with the laws of the State of Nebraska. Any action to enforce this Agreement must be brought in the state or federal courts of the State of Nebraska. Mandatory and exclusive venue for any disputes shall be in Sarpy County, Nebraska.
6. **Student Privacy Protections.**
- A. **Definition of Data.** Data include all Personally Identifiable Information (PII), Member Data, and other non-public information. Data include, but are not limited to, student data, metadata, and user content.
 - B. **Definition of Member Data.** Member Data includes all PII and other information that is not intentionally made generally available by the Cooperative, ESUCC, ESUs, or its Members on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and student and personnel data and metadata.
 - C. **Definition of Personally Identifiable Information.** Personally Identifiable Information includes but is not limited to: personal identifiers such as name, address, phone number, date of birth, Social Security number, and student or personnel identification number; “personal information” as used in Neb. Rev. Stat. § 84-712.05 and personally identifiable information contained in student education records as that term is defined in the Family Educational Rights and Privacy Act, 20 USC 1232g.
 - D. **Definition of User.** User means a participant, instructor, or administrator of the Cooperative, ESUCC, or its Members who are authorized with login credentials by the Cooperative or its Members to use the goods and/or services provided by this Agreement.
 - E. **Data De-Identification.** Contractor may use deidentified Data for product development, research, or other purposes. De-identified Data will have all direct and indirect personal identifiers removed. This includes, but is not limited to, name, ID numbers, date of birth, demographic information, location information, and school ID. Furthermore, Contractor agrees not to attempt to re-identify deidentified Data and not to transfer de-identified Data to any party unless that party agrees not to attempt reidentification.
 - F. **Marketing and Advertising.** Contractor will not use any Data to advertise or market to students or their parents. Advertising or marketing may be directed to the Cooperative, ESUCC, Members, or their school districts only if student information is properly de-identified.”
 - G. **Modification of Terms of Service.** Contractor will not change how Data are collected, used, or shared under the terms of this Agreement in any way without

advance notice to and consent from the Cooperative, the Members, and the affected school district(s).

- H. **Data Collection.** Contractor will only collect Data necessary to fulfill its duties as outlined in this Agreement.
- I. **Data Use.** Contractor will use Data only for the purpose of fulfilling its duties and providing services under this Agreement, and for improving services under this Agreement.
- J. **Data Mining.** Contractor is prohibited from mining Data for any purposes other than those agreed to by the parties. Data mining or scanning of user content for the purpose of advertising or marketing to students or their parents is prohibited.
- K. **Data Sharing.** Data cannot be shared with any additional parties without prior written consent of the User except as required by law. [The Cooperative understands that Contractor will utilize service providers to perform services under the Agreement, and those service providers will be subject to the terms of this Agreement.](#)
- L. **Data Transfer or Destruction.** Contractor will ensure that all Data in its possession and in the possession of any subcontractors, or agents to which the Contractor may have transferred Data, are destroyed or transferred to the Cooperative under the direction of the Cooperative when the Data are no longer needed for their specified purpose, at the request of the Member.
- M. **Rights and License in and to Data.** Parties agree that all rights, including all intellectual property rights, shall remain the exclusive property of the Member, and Contractor has a limited, nonexclusive license solely for the purpose of performing its obligations as outlined in the Agreement. This Agreement does not give Contractor any rights, implied or otherwise, to Data, content, or intellectual property, except as expressly stated in the Agreement. This includes the right to sell or trade Data.
- N. **Access.** Any Data held by Contractor will be made available to a Member upon request by the Member.
- O. **Security Controls.** Contractor will store and process Data in accordance with industry best practices. This includes appropriate administrative, physical, and technical safeguards to secure Data from unauthorized access, disclosure, and use. Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. Contractor will also have a written incident response plan, to include prompt notification of the Member in the event of a security or privacy incident, as well as best practices for responding to a breach of PII. Contractor agrees to share its incident response plan upon request.
- P. **Response to Legal Orders, Demands or Requests for Data.** Except as otherwise expressly prohibited by law, Contractor will:

- (1) Promptly notify the Cooperative and Members of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking Data;
- (2) Consult with the Cooperative and Members regarding its response;
- (3) Cooperate with the Cooperative's and Member's reasonable requests in connection with efforts by them to intervene and quash or modify the legal order, demand or request; and
- (4) Upon the Cooperative's or a Member's request, provide them with a copy of its response.

7. Termination.

A. The Cooperative may terminate this Agreement in whole or part if funding from federal, state, or other sources for the Cooperative or its Members is not obtained and continued at levels sufficient to allow for purchase of the good and/or services in the indicated quantities or term. The Cooperative shall notify the Contractor as soon as practicable if funds to meet the Cooperative's or Members' obligations become unavailable. The determination of the Cooperative as to the insufficiency of funds is conclusive.

B. Each party may terminate this Agreement if the other party breaches or is in default of any material obligation hereunder which default is incapable of cure, or which, being capable of cure, has not been cured within 30 days after receipt of written notice of such default or such additional cure period as the nondefaulting party may authorize in writing.

C. Each party may terminate this Agreement by written notice if federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.

D. The Cooperative may terminate this Agreement, in whole or in part, by written notice to the Contractor and may regard the Contractor in default of this Agreement if the Contractor becomes:

- (1) Insolvent;
- (2) Makes a general assignment for the benefit of creditors;
- (3) Files a voluntary petition of bankruptcy;
- (4) Suffers or permits the appointment of a receiver for its business or assets;
- (5) Becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign; or
- (6) Has wound up or liquidated, voluntarily or otherwise.

E. The Cooperative may terminate this Agreement, in whole or in part, immediately, without notice, if the Contractor is debarred or suspended from performing services on any public contracts.

F. The parties may terminate this Agreement without cause by mutual written consent or by either party with a minimum of 90 days written notice.

G. Upon the termination for any reason or expiration of this Agreement, the Contractor promptly must return to the Cooperative all papers, materials and other property of the Cooperative then in its possession, including but not limited to all work in progress as is appropriate in its then existing form to the Cooperative.

8. Indemnification.

A. The Contractor hereby waives and agrees to indemnify and save harmless the Cooperative, ESUCC, and the ESUs and their officials, agents, employees, and volunteers (hereinafter collectively referred to as "Indemnities"), against any and all claims of injuries, death, damage to property, liabilities, judgments, costs and expenses excluding punitive and/or special damages which may otherwise accrue against Indemnities in consequence of the granting of this Agreement or which may otherwise result therefrom.

B. The Contractor shall, at his or her own expense, appear, defend and pay all reasonable charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith.

C. If any judgment shall be rendered against the Cooperative, ESUCC, or the ESUs in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same.

D. Any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify and save harmless and defend the Indemnities as herein provided.

E. The Contractor's obligation to indemnify and save harmless any Indemnities will survive the expiration or termination of this Agreement by either party for any reason.

9. Insurance. Contractor shall secure and keep in force during the term of this Agreement the following insurance coverages from insurance companies or government self-insurance pools authorized to do business in Nebraska:

A. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per person and \$5,000,000 per occurrence; and

B. If applicable, workers compensation coverage meeting all statutory requirements.

The Contractor shall furnish a certificate of insurance to the undersigned Cooperative representative prior to commencement of this Agreement. Failure to provide

insurance as required in this agreement is a material breach of contract entitling the Cooperative to terminate this Agreement immediately.

- 10. Public Records.** The Contractor acknowledges that the Cooperative, ESUCC, ESUs, and Members must comply with Neb. Rev. Stat. § 84-712 through § 84-713 and release public records as defined law upon request, which may include this Agreement and all records created and maintained in relation to this Agreement.
- 11. Publicity.** The Cooperative does not endorse the goods or services of the Contractor. Except for listing the Cooperative as a client during the term of this Agreement, news releases or other publicity concerning this Agreement must not be made by the Contractor without the prior written approval of the Cooperative.
- 12. Drug/Alcohol/Tobacco/Weapons Free Workplace.** The Contractor and all subcontractors, if any, shall not manufacture, sell, distribute, dispense, possess or use controlled substances or marijuana, as defined by Nebraska law, during the performance of this Agreement while on Cooperative, ESUCC, ESU, or Member premises or at Cooperative, ESUCC, ESU, or Member related functions. The Contractor and all subcontractors, if any, shall not possess any weapon, as defined by Nebraska law and the federal "Drug-Free Schools Act," on Cooperative, ESUCC, ESU, or Member property or at Cooperative, ESUCC, ESU, or Member related functions. The Contractor and all subcontractors, if any, also shall adhere to all Cooperative, ESUCC, ESU, and Member policies and regulations that prohibit the possession, distribution, sale, dispensation, or use of any alcohol or tobacco products while on Cooperative, ESUCC, ESU, or Member premises or at Cooperative, ESUCC, ESU, or Member related functions. Failure to comply with this provision may be considered a material breach. The Cooperative may suspend or terminate the Contractor, subcontractor, or both if it violates these laws, regulations, or policies or this provision.
- 13. Nondiscrimination.** The Contractor and all subcontractors, if any, shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.
- 14. Independent Contractor.** Contractor is an independent contractor under this contract and is not a Cooperative, ESUCC, ESU, or Member employee for any purpose. The Contractor retains sole and absolute discretion in the manner and means of carrying out Contractor's activities and responsibilities under this Agreement, except to the extent specified in this Agreement.
- 15. Employment Eligibility Verification.** The Contractor shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Contractor employs or contracts with any subcontractor in connection with this Agreement, the Contractor shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system

to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

16. Taxpayer Identification. Contractor's federal employer identification number is: 82-4045107

17. Sales Tax. The Cooperative, ESUCC, ESUs, and Members are exempt from sales tax and shall not pay any sales tax under this Agreement. The Cooperative, ESUCC, ESUs, and/or Members will provide the Contractor with applicable sales tax exemption certificates upon written request.

18. Notice. Each party giving any Notice ("Notice") under this Agreement must give written Notice by personal delivery, registered or certified Mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid.) Notice shall be sent to the following addressees at the following addresses:

Cooperative: ESUCC
Attn: Kraig Lofquist
6949 South 110th Street
LaVista, NE 68128

With copy to:

ESUCC Cooperative Purchasing
Attn: Craig Peterson
PO Box 858
412 W. 14th Ave
Holdrege, NE 68949

Contractor: Coughlan Companies LLC dba Capstone
Connie Ruyter, Proposal Manager
1710 Roe Crest Drive
North Mankato, MN 56003

Notice is effective only if the party giving the Notice has complied with this section.

19. Warranties and Specifications. Contractor shall be responsible for providing to Members all manufacturer warranties on all goods and services. Contractor shall provide Members with all attachments normally supplied by the manufacturer and/or supplier. Complete product specification sheets or brochures must be provided to Members, ESUs, ESUCC, or the Cooperative upon request.

20. Entire Agreement. The Agreement is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters

contained in this Agreement are expressly merged into and superseded by this Agreement.

- 21. Amendments and Modifications.** The parties may amend or modify this Agreement only by a signed, written agreement by both parties that identifies itself as an amendment or modification to this Agreement. No other alternations in the terms of this agreement shall be valid or binding.
- 22. Waivers.** The parties may waive any provision in this Agreement only by a writing executed by the party or parties against whom the waiver is sought to be enforced. No failure or delay: (1) In exercising any right or remedy, **or** (2) In requiring the satisfaction of any condition under this Agreement, **and** (3) No act, omission, or course of dealing between the parties operates as a waiver or estoppel of any right, remedy or condition. A waiver made in writing on one occasion is effective only in that instance and only for the purpose stated. A waiver once given is not to be construed as a waiver on any future occasion or against any other Person.
- 23. Severability.** If any provision of this Agreement is determined to be unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain enforceable.
- 24. Counterparts.** The parties may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other parties to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other parties. In proving this Agreement, a party must produce or account only for the executed counterpart of the party to be charged.
- 25. Force Majeure.** Neither party shall be liable for any loss or damage suffered by the other party, directly or indirectly, as a result of the non performing party's failure to perform, or delay in performing, any of its obligations contained in this contract (except any obligations to make payments for services rendered or accepted goods received before the failure to perform or the delay in performance), where, in the opinion of the Cooperative, such failure or delay is cause by circumstances beyond the non performing party's control or which make performance commercially impracticable, including but not limited to fire, flood, storm or other natural disaster, explosion, accident, war, riot, civil disorder, government regulations or restrictions of any kind or any acts of any government, alien enemy, judicial action, power failure, acts of God, or other natural circumstances. This Force Majeure provision excludes economic hardship, changes in market conditions, and insufficiency of funds on the part of Contractor.
- 26. Assignment.** This Agreement binds the parties and their respective successors and assignees. The Contractor shall not assign or otherwise dispose of this Agreement

or any duty, right, or responsibility contemplated in this Agreement to any other person without the previous written consent of the Cooperative.

- 27. Subcontractors.** The Contractor shall not subcontract services or any part of this Agreement without the prior written consent of the Cooperative.
- 28. Captions.** The descriptive headings of the Articles, Sections and subsections of this Agreement are for convenience only, do not constitute a part of this Agreement, and do not affect this Agreement's construction or interpretation.
- 29. Rights and Remedies Cumulative.** Any enumeration of the Cooperative's rights and remedies set forth in this Agreement is not exhaustive. The Cooperative's exercise of any right or remedy under this Agreement does not preclude the exercise of any other right or remedy. All of the Cooperative's rights and remedies are cumulative and are in addition to any other right or remedy set forth in this Agreement, any other agreement between the parties, or which may now or subsequently exist at law or in equity, by statute or otherwise.
- 30. Relationship Among Parties.** This Agreement creates no relationship of joint venture, partnership, limited partnership, agency, or employer- employee between the parties, and the parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither party has any right or authority to assume or to create any obligation or responsibility on behalf of the other party except as may from time to time be provided by written instrument signed by both parties.
- 31. Rules of Construction.** The parties hereto have each been represented by counsel, or had the opportunity to be represented, during the negotiation and execution of this Agreement, and therefore waive application of any law or rule of construction providing that ambiguities in the contract will be construed against the party drafting such contract.
- 32. Piggyback Clause.** For the term of the Agreement and any mutually agreed extensions, other public agencies may purchase, lease-purchase, or rent the identical item(s) at the same price and upon the same terms and conditions as provided in this Agreement. The term "public agencies" means any county, city, village, school district, or agency of any state government or of the United States; any drainage district, sanitary and improvement district, or other municipal corporation or political subdivision of Nebraska; and any political subdivision of another state.
- 33. Attachments.** Attachments to this Agreement include the following:
 - Exhibit A – Scope of Goods or Services to be provided to ESUCC and Members
 - Exhibit B – Payment Terms & Schedule
 - Exhibit C – Summary of Project Deliverables
 - Exhibit D - Vendor Software License Agreement

IN WITNESS WHEREOF the parties have executed this Agreement on the last date written below.

CONTRACTOR

COOPERATIVE

By: _____

By: _____

Name: Connie Ruyter _____

Name: Kraig Lofquist _____

Title: Proposal Manager _____

Title: Executive

Director _____

Date: _____

Date: _____

EXHIBIT "A"

SCOPE OF GOODS OR SERVICES TO BE PROVIDED TO MEMBERS

<<VENDOR-INSERT SCOPE OF GOODS>>

See below. Went to next page

Exhibit A: Capstone Product Overview for ESUCC

Capstone Connect Product Overview

At the core of Capstone Connect is an intuitive, easy-to-use standards alignment search tool that provides thousands of resources and helps teachers find the exact content they need from a comprehensive collection that consists of the following:

- PebbleGo Database Products
- Capstone Interactive eBook Bundles
- Instructional Materials
- Capstone Connect Admin Tool

Our proposal will take you through each of these components of Capstone Connect and how the standard alignment search tool allows you to connect all the components within Capstone Connect.

PebbleGo Database Product Overview

- PebbleGo is a curricular content hub specifically designed for K-2 students. Packed with informational articles, ready-made activities, and literacy supports for students of all abilities, it boosts engagement and fosters independent learning in core subject areas. Your students will love exploring PebbleGo time and time again.
- PebbleGo Spanish, a Spanish match to PebbleGo, is a curricular content hub specifically designed for K-2 students. Packed with informational articles, ready-made activities, and literacy supports for students of all abilities, it boosts engagement and fosters independent learning in core subject areas.
- Read More is an option to add to your existing PebbleGo subscription that provides two read-aloud eBooks connected to each article in the PebbleGo Animals and PebbleGo Science modules.
- PebbleGo Next extends that critical thinking and research in an engaging format that is age-appropriate into grades 3-5. PebbleGo Next supports digital citizenship and college & career readiness for your students.

PEBBLEGO

PebbleGo supports literacy and builds a foundation for a lifetime of learning. PebbleGo employs reading strategies to strengthen emergent readers' literacy and research skills through a streamlined interface, audio supports, and easy-to-read articles. PebbleGo features expertly leveled and fully narrated text, animated highlighting, glossary words, visual searching, educational videos, and

games, and encompassing activities which teach students how to cite articles, create reports, and share what they have learned.

PEBBLEGO DATABASES CONTENT OVERVIEW

- **Animals including Dinosaurs:** Articles that support animal classification, behavior, and habitat lessons.
 - Special features include range maps and downloadable templates to label animal parts, scientifically accurate dinosaur illustrations and downloadable templates.
 - Fall 2020 Dinosaurs will be included in the Animals Database and not sold separately.
- **Biographies:** Research the lives of important inventors, explorers, African Americans, Hispanic Americans, women, and more.
 - Special features include a timeline for every subject and cross-referenced subjects
- **Science:** Covers physical, life, and earth & space science along with engineering, technology, and the applications of science. Meets Next Generation Science Standards.
 - Special features include two videos for most articles
- **Social Studies:** Learn about the world around you with a diverse array of topics, including families, maps, and holidays.
 - Special features include twelve different categories exploring a diverse array of curriculum-based content
- **Health:** Age-appropriate articles connected to state and nation health standards in health, wellness, and safety. Content includes topics that build positive social emotional skills, that support the Collaborative for Academic, Social, and Emotional Learning (CASEL) framework.

PEBBLEGO SPANISH BUNDLE DATABASE CONTENT OVEWVIEW

- **Animales:** Animal articles that support animal classification, behavior, and habitat lessons.
- **Estudios Sociales:** Social Studies articles that introduce young researchers to the world around them.
- **Biografías:** Biographies help students learn more about current and historical figures that have influenced the United States.
- **Ciencia:** Science includes concepts like weather, seasons, Earth science, and space.
- **Salud:** Health topics that include health, wellness, and safety.

READ MORE FEATURE

Read More is an option to add to your existing PebbleGo subscription that provides two read-aloud eBooks connected to each article in the PebbleGo Animals and PebbleGo Science modules.

PEBBLEGO NEXT

Built upon the keystones of PebbleGo, PebbleGo Next maintains all the features you love about the original PebbleGo with content suitable for researchers ready to graduate to the next step. PebbleGo Next is designed for upper elementary students, grades 3-5, who are more proficient in navigating technology but still need some extra support, utilizing curriculum-aligned articles with more robust information for older students.

PEBBLEGO NEXT DATABASES CONTENT OVERVIEW

- **Science:** Covers physical, life, and earth & space science along with engineering, technology, and the applications of science. Meets Next Generation Science Standards.
 - Special features include links to the Capstone science lab for videos of experiments kids can try on their own.
- **Social Studies:** Articles that examine the world cultures, global issues, Economics, Geography, Technology & Society, and the United States.
- **States Studies and American Indian History:** Hit all the highlights from geography, history, government, famous people and more.
 - Special features include timelines for every state and activities for very article including recipes and state flag downloadables.
 - Explore the richness of American Indian life, both traditional and present day.
 - Special features include timelines for every tribe and mapped culture area articles and tribe view drilldowns (both traditional and present locations).
- **Biographies:** Biographies research and exploration! Robust and diverse, these curriculum-connected articles span the following topics: advocates and history makers, artists and authors, athletes, business leaders, composers and entertainers, explorers and pioneers, scientists and inventors, and world leaders.

Content Maps

Full content maps of all articles available: <https://www.pebblego.com/resources/content-maps>

Capstone Interactive eBooks Product Overview

NAVIGATION FEATURES – CAPSTONE INTERACTIVE EBOOKS

AUDIO

Capstone Interactive eBooks feature built-in audio support with:

- Natural-voice audio to model pronunciation and fluency
- Administrator can turn read-aloud function on-and-off
- Test-to-speech highlighting for learning your students can see and hear
- Audio available in hundreds of titles in English and Spanish

ACCESS

- 24/7, 365 days a year
- Unlimited circulation
- Content in an ad-free, safe website
- Multi-platform compatibility, whether it's a laptop, desktop computer, or iPad

PebbleGo Create with Buncee

PEBBLEGO CREATE WITH BUNCEE OVERVIEW

PebbleGo Create is an all-new tool that can be added to any PebbleGo subscription. PebbleGo Create is an intuitive digital workspace for students to demonstrate learning and share their knowledge from PebbleGo. By pairing student-centered active learning with engaging curriculum-connected content, students can retain more essential concepts key to academic success.

Key Areas of PebbleGo Create

- Students can creatively demonstrate their knowledge acquisition directly from an article.
- Teachers can easily view and access a student's work!
- Simple onboarding set: PebbleGo Create allows schools to seamlessly sync rosters with popular SIS tools like Google Classroom and Microsoft Azure AD (i.e., Microsoft).

EXHIBIT "B"

1. Contractor's Pricing

Contractor's Pricing Model under this Agreement is:

<<VENDOR-INSERT PRICING>>

See below – next page

Exhibit B: Capstone ESUCC Digital Price Sheet

Capstone Digital Product Price List

Products Included in Price List

- PebbleGo Database Products
- PebbleGo Create
- Capstone Connect Digital Program
- Capstone Interactive eBooks

PEBBLEGO PRODUCTS

	<u>Bronze</u>	<u>Silver</u>	<u>Gold</u>	<u>Platinum</u>
	<u>All 5 PebbleGo Modules</u>	<u>All 5 PebbleGo + 1 Add-on Product</u>	<u>All 5 PebbleGo + 2 Add-on Product</u>	<u>All 5 PebbleGo + 3 Add-on Product</u>
<u>ESUCC Price</u>	<u>\$1,299.00</u>	<u>\$1,799.00</u>	<u>\$1,999.00</u>	<u>\$2,399.00</u>
<u>Small School Pricing*</u>	<u>\$779.40</u>	<u>\$1079.40</u>	<u>\$1199.40</u>	<u>\$1439.40</u>

Small School Pricing*

Small School Pricing is available for elementary sites that have less than 250 students. Note: Small school pricing does not include additional multi-site pricing options.

Add-On Products:

1. PebbleGo Next (all 4)
2. PebbleGo Spanish Bundle
3. Read More for Animals and Science (both modules)

Note: Pricing is for a one-year subscription per site/building.

Multi-Site Pricing

Multi-site pricing is for sites that are purchased on the same purchase order.

	0%	5%	10%	15%	20%	25%	30%	35%	40%	
	1 site	2-10 sites	11-20 sites	21-30 sites	31-40 Sites	41-50 sites	51-60 sites	61-70 sites	71-80 sites	80+ sites
Bronze	\$1,299.00	\$1,234.05	\$1,169.10	\$1,104.15	\$1,039.20	\$974.25	\$909.30	\$844.35	\$779.40	Call for Quote
Silver	\$1,799.00	\$1,709.05	\$1,619.10	\$1,529.15	\$1,439.20	\$1,349.25	\$1,259.30	\$1,169.35	\$1,079.40	Call for Quote
Gold	\$1,999.00	\$1,899.05	\$1,799.10	\$1,699.15	\$1,599.20	\$1,499.25	\$1,399.30	\$1,299.35	\$1,199.40	Call for Quote
Platinum	\$2,399.00	\$2,279.05	\$2,159.10	\$2,039.15	\$1,919.20	\$1,799.25	\$1,679.30	\$1,559.35	\$1,439.40	Call for Quote

PebbleGo Database Options

- Animals/Dinosaurs, Science, Biographies, Social Studies, Health

PebbleGo Next Database Options

- States and American Indian Studies, Science, Social Studies, Biographies

Spanish Bundle Contains

- Animales, Ciencias, Biografias, Estudios Sociales, Salud

Read More Add-on Product

- Read More Animals, Read More Science

**Note: Must own/purchase corresponding PebbleGo Database*

PEBBLEGO CREATE

PebbleGo Create is part of the PebbleGo family of products. PebbleGo Create may be added to any one or more modules of PebbleGo K-2 Databases. PebbleGo Create cannot be purchased separately.

<u>PebbleGo Create</u>	<u>\$500.00</u>
-------------------------------	------------------------

CAPSTONE CONNECT

0%	5%	10%	15%	20%	25%	30%	35%	40%	
<u>1 site</u>	<u>2-10 sites</u>	<u>11-20 sites</u>	<u>21-30 sites</u>	<u>31-40 Sites</u>	<u>41-50 sites</u>	<u>51-60 sites</u>	<u>61-70 sites</u>	<u>71-80 sites</u>	<u>80+ sites</u>
<u>\$5,999</u>	<u>\$5,699</u>	<u>\$5,399</u>	<u>\$5,099</u>	<u>\$4,799</u>	<u>\$4,499</u>	<u>\$4,199</u>	<u>\$3,899</u>	<u>\$3,599</u>	<u>Call for Quote</u>

CAPSTONE INTERACTIVE EBOOKS

<u>Perpetual License</u>	<u>List Price</u>	<u>BOGO Price**</u>
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<u>Capstone Interactive eBooks</u>	<u>\$39.99</u>	<u>\$19.99</u>
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**BOGO Price Note: Buy One, Get One Free Pricing is based on current School/Library Pricing. Pricing may increase in the future, but the BOGO pricing discount will be offered.

Titles can be viewed at <https://www.capstonepub.com/librarians/ebooks/interactive-ebooks>

2. Payment Terms/ Payment Schedule

- A. Members will pay Contractor for all undisputed amounts for the goods and/or services identified in Exhibit A and provided by Contractor under this Agreement within thirty (30) days of receipt of invoice, provided that goods/services have been accepted by the Member as hereinafter provided.
- B. The procedure for billing and payment for services or products and deliverables shall be as specified in this exhibit.

3. Acceptance of Services or Products:

- A. The Contractor shall deliver any goods, perform any services or both in accordance with the schedule set forth in any RFP, RFQ, the time specified in a purchase order issued by the Cooperative, ESUCC, ESU, or Member, or this Agreement (whichever is later).
- B. Unless otherwise agreed to by the parties, the Contractor shall provide written notification of completion of any deliveries, or performances of services or both, to the Member ("Delivery Notice").
- C. Members shall have sixty (60) days from the date of receipt of the Delivery Notice to provide the Contractor with written notification of acceptance or rejection due to unsatisfactory performance or nonconforming goods.
- D. If the Member issues a rejection notice, the Contractor shall as quickly as is practicable, correct or replace all deficiencies at its expense. The Cooperative shall not unreasonably withhold or delay its acceptance or rejection.

4. Title and Risk of Loss:

- A. Title and risk of loss for goods shall remain with the Contractor until goods are accepted by the Member, ESU, ESUCC, Cooperative.
- B. Insurance during shipment and until the goods are accepted by the Cooperative, ESUCC, ESU, or Member is the responsibility of the Contractor.

EXHIBIT "C"

SUMMARY OF PROJECT DELIVERABLES

<<TO BE COMPLETED BY VENDOR>>

1. Order Delivery Method Options

1. Members will submit orders direct to Vendor
2. ESUCC Marketplace is the preferred method for order placement

2. Electronic Orders

- a. Vendor Capable of receiving orders electronically? Yes: No:
- b. If "Yes", Order receipt method: Email: cXML:
 - i. If "Email" address to deliver orders to: Support@capstonepub.com,
 - ii. If "cXML" provide the following IT contact information
Contact (First, Last name): _____
Contact email address: _____
Contact Phone: _____
- c. If "No, Alternate method will be determined

3. Sales Representative Contact

- a. First, Last name: Beth Daniels, and Caroline Brockhaus Runion BK Educational Resources
- b. Title: Sales Consultant
- c. Phone: Beth: 314-374-4878 Caroline: 314-956-8373-
- d. Email: _____ beth@bkedresources.com,
Caroline@bkedresources.com-

4. Invoice Method

- a. Vendor invoices Members direct

5. Sales Reporting

- a. Vendor to submit quarterly sales report to ESUCC at coop@esucc.org
- b. Vendor contact information for sales report questions:
Contact (First, Last name): Connie Ruyter
Contact email address: bids@capstonepub.com
- c. Sales report must include the following
 - Member Name
 - Member City
 - List Price
 - Member Cost
 - Member Savings
 - Admin Fee Amount Due
- d. ESUCC Admin Fee
 - Vendor must submit payment of Admin Fee to ESUCC quarterly
 - Admin Fee is equal to percentage of total sales (as defined in **Administration Fee** section of agreement)
 - Remit Admin Fee payment to:
ESUCC
1292 East 4th Street

Ainsworth, NE 69210

6. **Product Information URL:** <https://www.pebblego.com/capstone-connect>

EXHIBIT "D"

SOFTWARE LICENSE AGREEMENT

<<VENDOR-INSERT SOFTWARE LICENSE AGREEMENT>>

Capstone Product End User License Agreement

Last Updated: January 28, 2022

Please read this Agreement carefully. You must agree to the terms of this Product License Agreement to access Capstone Digital Products.

This Product License Agreement, and any additional terms of use provided in the Legal Center (located at <https://www.capstonepub.com/support/legal-central>), or in connection with or otherwise listed in a particular Capstone Digital Product (collectively, the "Agreement"), together with the Capstone Privacy Policies (located at <https://www.capstonepub.com/support/privacy-central>), apply to and govern your access, purchase, and use of the Capstone Digital Products (defined below). This Agreement is a legal agreement between you (as defined below) and Coughlan Companies LLC d/b/a Capstone, on behalf of itself, its subsidiaries, affiliated companies, joint venturers, business partners, licensors, employees, agents, and third-party information providers (collectively, "Capstone").

As used in this agreement, "you" and "your" refer to you, the individual requesting and receiving the right to use the Capstone Digital Products, and the entity on whose behalf you are accessing or using the Capstone Digital Products. The individual entering into this agreement, by their access or use of Capstone Digital Products, does so on behalf of themselves and such entity, and you represent that you are duly authorized to bind yourself and such entity to the terms of this agreement.

Please particularly note the following provisions: User Content, User Content Representations and Warranties, Data Retention and Backups, Disclaimer of Warranties, Limitation of Liability, Indemnification.

DO NOT UPLOAD OR SUBMIT INFORMATION TO THE CAPSTONE DIGITAL PRODUCTS THAT YOU DO NOT HAVE PERMISSION OR THE RIGHT TO USE.

- 1. Applicable Products.** These terms apply to your access and use of the following digital software, educational platforms and tools offered by Capstone (collectively, the "Capstone Digital Products," each a "Capstone Digital Product"):

PebbleGo (Including Add-Ons and Mobile Applications)

Capstone Interactive

Capstone Connect

PebbleGo Create with Buncee

Buncee (Including all Buncee products and Mobile Applications)

Raintree (Including Raintree Online and Engage Literacy)

No Nonsense Literacy

The Capstone Digital Products to which you are receiving access and a license to use pursuant to these terms are identified in the corresponding purchase order, order form, invoice, online store purchase choice, or online subscription or license choice (collectively, "Order"). The scope of any license granted to you hereunder is limited to the Capstone Digital Product, license model, and term indicated in the Order by and between you and Capstone.

2. Acceptance of Terms. This Agreement will be binding on you upon the earliest of: (i) your execution, submission, or other acceptance of an Order (including any free trial), either electronically or in writing, or (ii) your installation, access, or use of a Capstone Digital Product or any related documentation. IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT, DO NOT INSTALL, ACCESS, OR USE A CAPSTONE DIGITAL PRODUCT. If you and Capstone are parties to Terms, a User License Agreement, or other agreement related to the Capstone Digital Products dated prior to the "Last Updated" date above, including any previous terms between you and Buncee LLC, you hereby agree that your access and use of the Capstone Digital Products after the last version of this Agreement is posted and presented to you when you log in to your account constitutes your acceptance of this Agreement in lieu of and superseding any prior terms and conditions related to your use of the Capstone Digital Products.

3. Eligibility. The Capstone Digital Products are offered and available for purchase by persons who are 18 years of age or older. By entering into an Order, you represent and warrant that you are 18 years of age or older and otherwise meet all of the eligibility requirements contained herein. Capstone makes no representation that the information or materials on or linked through the Capstone Digital Products are appropriate or available for use in locations outside of the United States. Those who choose to access the Capstone Digital Products from outside of the United States do so on their own initiative and at their own risk and are responsible for compliance with all applicable laws, rules and regulations in their respective location in doing so.

4. User Types. You are eligible to purchase a license to the Capstone Digital

Products solely as one of the following user types, provided that not all types are available for all Capstone Digital Products:

- Parent/Legal Guardian: A “Parent/Legal Guardian” user type means an adult purchasing a license to a Capstone Digital Product for use by a child under the age of 18. Verifiable consent from the child’s parent or legal guardian is required in order for any child to use a Capstone Digital Product in connection with this user type. Please review the Children’s Privacy Policy located at <https://www.capstonepub.com/support/privacy-central/childrens-privacy-policy> to learn more about how Capstone collects, discloses, and uses information provided by children under the age of 13 in the United States and under the age of 16 in the European Union. You are responsible for complying with all of Capstone’s requests made in order to verify your consent for a child to use a Capstone Digital Product. Children may not use any Capstone Digital Products until we receive and process this verifiable consent.
- Educator: An “Educator” user type means a teacher or school administrator who is authorized by the individual’s school and/or school district to subscribe to a Capstone Digital Product. As an Educator, you represent and warrant that you are a teacher or school administrator with permission and authorization from a school or district to subscribe to a Capstone Digital Product and that you are authorized to facilitate the access and use of a Capstone Digital Product by students. You agree to, upon request by Capstone, promptly execute and deliver, or cause any third party, including parent or legal guardian, to execute and deliver, any documentation, consents, or other acts as Capstone may deem necessary or desirable to provide the Capstone Digital Products and you the licenses granted hereunder.
- School/District: A “School/District” user type means a school or district administrator purchasing a license to use a Capstone Digital Product for use by a school (i.e., multiple teachers and students) or school district (i.e., multiple schools and their teachers and students). As a School/District user type, you represent and warrant that you have permission and authorization from the school and/or district to subscribe to a Capstone Digital Product and that you are authorized to facilitate the access and use of a Capstone Digital Product by students. You agree to, upon request by Capstone, promptly execute and deliver, or cause any third party, including parent or legal guardian, to execute and deliver, any documentation, consents, or other acts as Capstone may deem necessary or desirable to provide the Capstone Digital Products and you the licenses granted hereunder.

- General Adult: A “General Adult” user type means you are a person over the age of 18 who wants to enjoy a Capstone Digital Product for your own personal benefit. The license granted herein is limited to your sole use of a Capstone Digital Product.

5. Account Creation and Credentialing.

- a. You must register and create an account in order to access and use the Capstone Digital Products. You may need to provide certain registration details or other information on behalf of yourself or other users to create an account and to otherwise access and use the Capstone Digital Products. It is a condition of your access and use of the Capstone Digital Products that all the information you provide to register with the Capstone Digital Products is correct, current, and complete. You further agree you will not in any way misrepresent your identity at any time when accessing or using a Capstone Digital Product. You agree that all information you provide to register with the Capstone Digital Products is governed by our Privacy Policies located at <https://www.capstonepub.com/support/privacy-central>, and you consent to all accounts we take with respect to your information consistent with our Privacy Policies. Where it is reasonable to do so, or permitted by law, we may rely on implied consent.
- b. Educators are, and Schools/Districts may designate, administrative users (“Admin Users”). Admin Users can create additional authorized user accounts for their students, faculty or other individuals (“Authorized Users”) and assign certain permissions to such additional accounts. You are liable for all use of the Capstone Digital Products by your Authorized Users and the conduct of your Authorized Users shall be considered your conduct for the purposes of the rights and obligations hereunder. Depending on the level of permissions assigned to your user account, you may not have access to or be able to view or use all of the functions or features of the Capstone Digital Products.

6. Account Security. You are responsible for maintaining the security and confidentiality of all usernames, passwords, and other login credentials used in connection with Capstone Digital Products and you must immediately notify Capstone if any usernames, passwords, or other login credentials are accessed by or disclosed to any unauthorized person. It is your responsibility to change any passwords immediately if you suspect or feel the security of any account you use or manage has been compromised. You may not permit others to use your account, unless permitted by the terms of this Agreement, and you may not sell, trade, or otherwise transfer your account to another party. We have the right to disable any username, password, or other identifier, whether chosen by you or provided by us, at any time if, in our opinion, you have violated any

provision of this Agreement or we suspect the security of any account has been compromised.

7. User Content. Certain Capstone Digital Products allow you and your Authorized Users to upload, post, share, submit, or contribute information, text, data, photographs, and other content (collectively, "User Content"), including through invitations and shared forums. In uploading, posting or sharing such User Content, you grant Capstone and our affiliates, licensors, and service providers, and each of their and our respective licensees, successors, and assigns, and all other Capstone Digital Products users, a non-exclusive, sublicensable, transferable, perpetual, worldwide, royalty-free license to use, display, access, view, store, and/or download User Content, and post or forward User Content to others, for the purpose of providing you the Capstone Digital Products, exercising our rights or obligations under this Agreement, or any other use described in our Privacy Policies. You also acknowledge and agree that Capstone does not control other users' acts or User Content submissions. We do not specifically collect any User Content and disclaim all warranties and liabilities for User Content. We are not responsible and disclaim all liability for any action taken by any third party with respect to your User Content that you have made public or otherwise available to third parties.

8. User Content Representations and Warranties. You represent and warrant that you or your Authorized Users own or control all rights in and to the User Content and have the right to grant the license granted above and that all of your or your Authorized Users' User Content does and will comply with all applicable laws, rules, and regulations, and the terms of this Agreement. You also represent and warrant that you have obtained all applicable consents and permissions needed to provide Capstone with any information provided by you or your Authorized Users to Capstone, and that you have a lawful basis for providing such information to Capstone, in connection with your use of Capstone Digital Products, including, without limitation, any personal information as defined under applicable law provided to Capstone. You agree to cooperate with Capstone and take such action as reasonably requested by Capstone with respect to any information provided by you to Capstone.

DO NOT UPLOAD OR SUBMIT INFORMATION TO THE CAPSTONE DIGITAL PRODUCTS THAT YOU DO NOT HAVE PERMISSION OR THE RIGHT TO USE. THE UPLOAD OR SUBMISSION TO THE CAPSTONE DIGITAL PRODUCTS OF ANY USER CONTENT THAT VIOLATES, OR IS ALLEGED TO VIOLATE, THE INTELLECTUAL OR PROPRIETARY RIGHTS OF ANY THIRD PARTY IS A MATERIAL VIOLATION OF THE TERMS OF THIS AGREEMENT AND THE LIMITATIONS ON CAPSTONE'S LIABILITY AND YOUR INDEMNIFICATION OBLIGATIONS HEREIN APPLY TO ANY CLAIMS RELATED TO SUCH CONDUCT.

9. User Content Standards. You understand and acknowledge that you are responsible for any User Content you or your Authorized Users upload, post, share, submit, or contribute, and you, not Capstone, have full responsibility for such content, including its legality, reliability, accuracy, and appropriateness. Capstone is not responsible or liable to any third party for the content or accuracy of any User Content posted by you or any other user of the Capstone Digital Products. Capstone may, in its sole discretion, deny any application to post or share User Content. The following standards apply to any and all User Content. User Content must in its entirety comply with all applicable federal, state, local, and international laws and regulations, and must not:

a. Contain any material that is defamatory, obscene, indecent, abusive, offensive, harassing,

violent, hateful, inflammatory, or otherwise objectionable.

- b. Promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age.
- c. Infringe any patent, trademark, trade secret, copyright, or other Intellectual Property or other rights of any other person.
- d. Violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with this Agreement or the Capstone Privacy Policies.
- e. Be likely to deceive any person.
- f. Promote any illegal activity, or advocate, promote, or assist any unlawful act.
- g. Contain any alcohol-related or mature content without appropriate age-based restrictions.
- h. Cause annoyance, inconvenience, or needless anxiety or be likely to upset, embarrass, alarm, or annoy any other person.
- i. Impersonate any person or misrepresent your identity or affiliation with any person or organization.
- j. Give the impression that they emanate from or are endorsed by Capstone or any other person or entity, if this is not the case.
- k. Contain any information about a person under 18 years of age without parent or legal guardian permission in the case of a General Adult user.
- l. Criticize Capstone, the Capstone Digital Products, or the service of any of Capstone's operational partners

b.

10. Technical Data; Children's Information; Student Information.

- a. Technical Data. For the purposes of this Agreement, "User Content" does not include any aggregated or statistical technical data related to your, or your Authorized Users', access or use of the Capstone Digital Products. Such data may be used by Capstone to manage and improve the performance of its services, for statistical analysis, and for research, commercial, and development purposes.
- b. Children's Information. All information collected from or about children in connection with a Capstone Digital Product ("Child Data") is used, disclosed, shared, and processed by Capstone in accordance with its Privacy Policies, including its Children's Privacy Policy, the terms of which are located at <https://www.capstonepub.com/support/privacy-central/childrens-privacy-policy>. You hereby agree and consent to Capstone's use, disclosure, sharing, and processing of Child Data in accordance with its Privacy Policies located at <https://www.capstonepub.com/support/privacy-central>.
- c. Student Information. To the extent that you provide, or facilitate the provision, of any information relating to students, including Education Records as defined by the Family Educational and Privacy Rights Act (20 U.S.C. § 1232g; 34 CFR Part 99) ("FERPA"), to Capstone, you represent and warrant that you: (i) have complied, and will comply, with all applicable laws, rules and regulations applicable to you and such information; (ii) have obtained, and will obtain, all rights, consents (including prior consents), and permissions required to provide such information and Education Records to Capstone; and (iii) have provided, and will provide, all notices with respect to such information as required by

applicable law. You will ensure that all information held by Capstone pertaining to any students, including any Education Records, is accurate and only provide to Capstone (including in the form of User Content) the information that is necessary for Capstone to receive in order to further the institutional service or function for which you are using the Capstone Digital Product and your educational purposes.

11. Data Retention and Backups. Information regarding students, including information from Education Records, will be retained by Capstone only to the extent necessary to fulfill its obligations under this Agreement and Capstone may take steps to destroy such data when it determines, in its discretion, that the data is no longer needed for the purposes for which it was disclosed. In any event, Capstone reserves the right to delete and destroy information from or related to your, or your Authorized Users', account(s), including but not limited to User Content and information from or related to Education Records, thirty-six (36) months from the date of the earliest to occur of the following: (i) termination or expiration of this Agreement, (ii) your failure to pay fees in accordance with the terms of this Agreement, or (iii) a user account shows no user activity for a period of six (6) months. Notwithstanding the foregoing, Capstone may retain copies of data related to your use of the Capstone Digital Products, including User Content, to the extent it deems is necessary to comply with applicable laws, resolve disputes, enforce its legal agreements or policies, or verify and validate any requests made by you. You are solely responsible for maintaining a backup or copy of the entire contents of your, or your Authorized Users', account(s), including all User Content and other information (including student information) provided, submitted, uploaded, or transmitted by you to Capstone or the Capstone Digital Products, or created by you or your Authorized Users using the Capstone Digital Products. You acknowledge and agree that it is your, and, as applicable, the Educator's and/or the School/District's, sole responsibility to maintain and retain any student information, including Education Records, pursuant to and in accordance with any laws, rules, regulations, policies, or obligations applicable to you and/or your School/District. You have no right to make any claim against Capstone in connection with the deletion (whether by Capstone or a third party) of any User Content, account information, student information or other data associated with your use of the Capstone Digital Products.

12. General License Grant. Subject to the terms and conditions of this Agreement, Capstone grants to you and your Authorized Users, for the term of this Agreement, a limited, non-exclusive, non-transferable, non-assignable, and revocable license to access, view, and use the Capstone Digital Products solely for your internal, non-commercial use, and in the case of an Educator or School/District, in connection with and limited to your educational purposes related to your Authorized Users' studies and work.

13. Additional License Terms and Limitations: The Order will specify the Capstone Digital Product you are authorized to access and use pursuant to this Agreement. Depending on the terms of the Order, the additional terms and limitations below apply. [For more information about the features and functionality specific of each Capstone Digital Product, please review our product details here.]

- Buncee Free and Buncee Premium. A Buncee Free and Buncee Premium subscription is only available to a General Adult or Parent/Legal Guardian user. Buncee Free subscribers are limited to one (1) Buncee Board and do not have access to the following: Classroom student/teacher dashboards, assignment and grading functionality, premium media functionality such as record video and record audio, free response and multiple choice questions, 360 degree images, ability to add a QR code or import a URL, ability to save as a JPEG or PDF, and all Schools & Districts functionality.
- Buncee Classroom. A Buncee Classroom subscription is only available to Educators and Schools/Districts. The Educator or School/District must provide the information required to create student accounts by either: (i) Manually entering student names, usernames and passwords, or (ii) Manually uploading the applicable roster data in .csv format, or (iii) Manually creating a class and providing a class code to students. You, the Educator and/or School/District, represent and warrant that you have permission and authorization from the school and/or district to use Buncee as part of your curriculum. By agreeing to this Agreement and our Privacy Policies, you are responsible for compliance with our terms and Privacy Policies. You are responsible for monitoring all content of your school or district and ensuring fully compliance with the terms of this Agreement.
- Buncee Schools and Districts. A Buncee Schools and Districts subscription is only available to Educators and Schools/Districts. The School/District must provide the information required to create teacher and student accounts by either: (i) Syncing the School/District's roster data through Google Classroom or Microsoft Office 365 with the Buncee application, or (ii) Manually uploading the applicable roster data in .csv format. You, the Admin User, control all creation and sharing options for the district, school(s), user types and all users. When you register a school or district, you will be issued a URL that is unique to that school or district. You, the administrator, represent and warrant that you have permission and authorization from the school and/or district to use Buncee as part of your curriculum. By agreeing to this Agreement and our Privacy Policies, you are responsible for compliance with our terms and Privacy Policies. You are responsible for monitoring all content of your school or district and ensuring

fully compliance with the terms of this Agreement. You agree to, upon request by Capstone, promptly execute and deliver, or cause any third party, including parent or legal guardian, to execute and deliver, any documentation, consents, or other acts as Capstone may deem necessary or desirable to provide the Capstone Digital Products and you the licenses granted hereunder.

- PebbleGo. A PebbleGo subscription is only available to Educators and Schools/Districts. When you purchase a PebbleGo license, you are not able to create accounts or logins for students. All faculty and students must use the designated School/District username and password assigned to you by Capstone. You are responsible for any and all use of your designated School/District username and password.
- Capstone Connect. A Capstone Connect subscription is only available to Educators and Schools/Districts. When you purchase a Capstone Connect license, you are not able to create accounts or logins for students. All faculty must use the designated School/District username and password assigned to you by Capstone. You are responsible for any and all use of your designated School/District username and password. Capstone Connect hosts a large online source of K-5 eBook bundles, nonfiction articles, and instructional support united by a single search. It serves as a hub that holds the District's/School's Capstone Digital Products. If applicable, you may be permitted to download software Capstone makes available to you ("Capstone Applications") that may be downloaded and installed by you on a mobile, computer, or other supported electronic device ("Supported Device") and permits you to access, download, purchase, or use e-books and other digital content available through Capstone's digital store and other services ("Capstone Content"). Upon your download or access of Capstone Content and payment of any applicable fees (including applicable taxes), Capstone, or the third party offering the Capstone Content via the Capstone Digital Product, grants you a non-exclusive right to view, use, and display such Capstone Content an unlimited number of times, solely through the Capstone Applications or as otherwise permitted as part of the Capstone Digital Products, solely on the number of Supported Devices specified in the Order, and solely for your personal, non-commercial use. Capstone Content is licensed, not sold, to you by the Capstone or the third-party content provider. In the event a third party is supplying the Capstone Content via Capstone, additional terms from such third party may apply and be included in the Capstone Content. Risk of loss for Capstone Content transfers when you download or access the Capstone Content. You are not entitled via this Agreement to any updates to any Capstone Content and the licenses granted by Capstone hereunder may terminate in the event a third-party

content provider terminates its license to Capstone to provide you the Capstone Content. Capstone Content is also subject to change and pictures, images, and text may be modified and updated by Capstone or this third-party content providers at any time. There is no guarantee that the Capstone Content you purchase will be available to you indefinitely in the form in which you first accessed or downloaded it; Capstone reserves the right to modify such content at any time in order to comply with our obligations to our licensors.

- Capstone Interactive. A Capstone Interactive license is only available to Educators and Schools/Districts. When you purchase a Capstone Interactive license, you are not able to create accounts or logins for students. All faculty and students must use the designated School/District username and password assigned to you by Capstone. You are responsible for any and all use of your designated School/District username and password. If applicable, you may be permitted to download software Capstone makes available to you (“Capstone Applications”) that may be downloaded and installed by you on a mobile, computer, or other supported electronic device (“Supported Device”) and permits you to access, download, purchase, or use e-books and other digital content available through Capstone’s digital store and other services (“Capstone Content”). Upon your download or access of Capstone Content and payment of any applicable fees (including applicable taxes), Capstone, or the third party offering the Capstone Content via the Capstone Digital Product, grants you a non-exclusive right to view, use, and display such Capstone Content an unlimited number of times, solely through the Capstone Applications or as otherwise permitted as part of the Capstone Digital Products, solely on the number of Supported Devices specified in the Order, and solely for your personal, non-commercial use. Capstone Content is licensed, not sold, to you by the Capstone or the third-party content provider. In the event a third party is supplying the Capstone Content via Capstone, additional terms from such third party may apply and be included in the Capstone Content. Risk of loss for Capstone Content transfers when you download or access the Capstone Content. You are not entitled via this Agreement to any updates to any Capstone Content and the licenses granted by Capstone hereunder may terminate in the event a third-party content provider terminates its license to Capstone to provide you the Capstone Content. Capstone Content is also subject to change and pictures, images, and text may be modified and updated by Capstone or this third-party content providers at any time. There is no guarantee that the Capstone Content you purchase will be available to you indefinitely in the form in which you first accessed or downloaded it; Capstone reserves the right to modify such content at any time in order to comply with our obligations to our licensors.

- PebbleGo Create with Buncee. A PebbleGo Create with Buncee subscription is only available to Educators and Schools/Districts. In order for a School/District to use PebbleGo Create with Buncee, the School/District must provide the information required to create teacher and student accounts by either: (i) Syncing the School/District’s roster data through Google Classroom or Microsoft Office 365 with the PebbleGo Create with Buncee application, or (ii) Manually uploading the applicable roster data in .csv format. When you, the Administrator, register a school or district, you will be issued a URL that is unique to that school or district. You represent and warrant that you have permission and authorization from the school and/or district to use Buncee as part of your curriculum. By agreeing to this Agreement and our Privacy Policies, you are responsible for compliance with our terms and Privacy Policies. You are responsible for monitoring all content of your school or district and ensuring fully compliance with the terms of this Agreement. You agree to, upon request by Capstone, promptly execute and deliver, or cause any third party, including parent or legal guardian, to execute and deliver, any documentation, consents, or other acts as Capstone may deem necessary or desirable to provide the Capstone Digital Products and you the licenses granted hereunder.
- Building Specific Site License. A Building Specific Site License is only available to Educators and Schools/Districts. If the Order specifies a particular Building (as defined below), the Order shall be deemed a “Building Specific Site License.” For the purposes of this Agreement, if you have obtained a Building Specific Site License, you are granted the above limited license solely for access, view, and use at the Building in accordance with the terms of this Agreement. A “Building” is defined as having a unique mailing address and principal, director, or manager. You are solely responsible for providing the required facilities, hardware, software (including third-party software), services and systems (including telecommunications and bandwidth, internet, electrical and physical systems), for you, your students and your faculty to access, view, and use the Capstone Digital Products. If this Agreement is executed by a representative of a district or multi-site entity, this license applies to all the Buildings identified in the Order. A Building Specific Site License allows all the students that attend, and the faculty that work in, the Building identified in the Order to access, view, and use the identified Capstone Digital Products. All such persons are deemed “Authorized Users.” Those students and faculty of the identified Building also may, if permitted by the specific Capstone Digital Product, view, access, and use the Capstone Digital Product at home solely in accordance with the limitations and terms of this Agreement. Individuals who cease to be students or faculty of the Building shall have no ongoing right to view, access, or use Capstone Digital

Products under the license granted hereunder and such viewing, access, or use of the Capstone Digital Products by those students or faculty must contemporaneously, immediately cease. In the case of consortium, district, regional center, state, or other entities consisting of multiple institutional Buildings of any type, a site license is required for each Building with students or faculty accessing, viewing, or using Capstone Digital Products.

- Raintree (Including Raintree Online and Engage Literacy). A Raintree license is available to a General Adult, Parent/Legal Guardian, or Educators and Schools/Districts. When you purchase a Raintree license, you are not able to create accounts or logins for students. All individuals, faculty and students must use the designated username and password assigned to you. You are responsible for any and all use of your designated username and password. If applicable, you may be permitted to download software Capstone makes available to you (“Capstone Applications”) that may be downloaded and installed by you on a mobile, computer, or other supported electronic device (“Supported Device”) and permits you to access, download, purchase, or use e-books and other digital content available through Capstone’s digital store and other services (“Capstone Content”). Upon your download or access of Capstone Content and payment of any applicable fees (including applicable taxes), Capstone, or the third party offering the Capstone Content via the Capstone Digital Product, grants you a non-exclusive right to view, use, and display such Capstone Content an unlimited number of times, solely through the Capstone Applications or as otherwise permitted as part of the Capstone Digital Products, solely on the number of Supported Devices specified in the Order, and solely for your personal, non-commercial use. Capstone Content is licensed, not sold, to you by the Capstone or the third-party content provider. In the event a third party is supplying the Capstone Content via Capstone, additional terms from such third party may apply and be included in the Capstone Content. Risk of loss for Capstone Content transfers when you download or access the Capstone Content. You are not entitled via this Agreement to any updates to any Capstone Content and the licenses granted by Capstone hereunder may terminate in the event a third-party content provider terminates its license to Capstone to provide you the Capstone Content. Capstone Content is also subject to change and pictures, images, and text may be modified and updated by Capstone or this third-party content providers at any time. There is no guarantee that the Capstone Content you purchase will be available to you indefinitely in the form in which you first accessed or downloaded it; Capstone reserves the right to modify such content at any time in order to comply with our obligations to our licensors.
- No Nonsense Literacy. A No Nonsense Literacy subscription is available to

a General Adult, Parent/Legal Guardian, or Educators and Schools/Districts. When you purchase a No Nonsense Literacy license, you are not able to create accounts or logins for students. All individuals and faculty must use the designated username and password assigned to you. You are responsible for any and all use of your designated username and password. If applicable, you may be permitted to download software Capstone makes available to you ("Capstone Applications") that may be downloaded and installed by you on a mobile, computer, or other supported electronic device ("Supported Device") and permits you to access, download, purchase, or use e-books and other digital content available through Capstone's digital store and other services ("Capstone Content"). Upon your download or access of Capstone Content and payment of any applicable fees (including applicable taxes), Capstone, or the third party offering the Capstone Content via the Capstone Digital Product, grants you a non-exclusive right to view, use, and display such Capstone Content an unlimited number of times, solely through the Capstone Applications or as otherwise permitted as part of the Capstone Digital Products, solely on the number of Supported Devices specified in the Order, and solely for your personal, non-commercial use. Capstone Content is licensed, not sold, to you by the Capstone or the third-party content provider. In the event a third party is supplying the Capstone Content via Capstone, additional terms from such third party may apply and be included in the Capstone Content. Risk of loss for Capstone Content transfers when you download or access the Capstone Content. You are not entitled via this Agreement to any updates to any Capstone Content and the licenses granted by Capstone hereunder may terminate in the event a third-party content provider terminates its license to Capstone to provide you the Capstone Content. Capstone Content is also subject to change and pictures, images, and text may be modified and updated by Capstone or this third-party content providers at any time. There is no guarantee that the Capstone Content you purchase will be available to you indefinitely in the form in which you first accessed or downloaded it; Capstone reserves the right to modify such content at any time in order to comply with our obligations to our licensors.

14. Availability. Capstone will not be liable if for any reason all or any part of the Capstone Digital Products is unavailable at any time or for any period. From time to time, we may restrict access to some parts of the Capstone Digital Products, or the entire Capstone Digital Products, to users, including registered users. Except as otherwise agreed upon in a separate service level agreement, Capstone does not make any representations or guarantees regarding uptime or availability of the Capstone Digital Products. Capstone may block, limit or terminate your access to the Capstone Digital Products for any reason, including if: (i) you or your Authorized Users violate this Agreement; (ii) you or

your Authorized Users violate any applicable law or regulation relating to your or your Authorized Users' use of the Capstone Digital Products; (iii) you or your Authorized Users engage in any conduct which Capstone, in its sole discretion, believes is offensive, harmful, defamatory or otherwise harmful to Capstone or others; or (iv) you breach any other agreement with us.

15. Downloads. The Capstone Digital Products may allow you to download for print or digitally copy a reasonable portion of certain Capstone Content, User Content, or other content of the Capstone Digital Products for personal, non-commercial use. Such download or copy is permissible only in accordance with any terms provided in connection with such content, the fair use doctrine under U.S. Copyright laws, and the terms of this Agreement. Capstone may withdraw its consent to download or copy any content at any time for any reason.

16. Pricing and Payment.

- a. By entering into this Agreement, you agree to be bound by the payment terms set forth in the Order. Failure to abide by the payment terms set forth in the Order may result in Capstone, at Capstone's discretion, automatically terminating this Agreement including without limitation all your license to access and use any Capstone Digital Products. Any acceptance of partial payment, reduced payment, or late payment by Capstone shall not constitute a waiver as to Capstone's right to recover full amounts due under the payment terms and Capstone's right to terminate this Agreement for non-payment.
- b. In order to purchase access to a Capstone Digital Product, you may be asked to supply certain relevant information, including your credit or payment card number and expiration date or similar payment information, your billing address, and shipping information. You represent and warrant that you have the right to use any credit or payment card or other payment mechanism that you submit in connection with the purchase of a Capstone Digital Product license and that you have all authority necessary to make such purchase using the credit card or payment mechanism that you submit. By submitting such information, you grant Capstone the right to provide such information to third parties for the purposes of facilitating your purchase. You acknowledge and agree that Capstone is not responsible for how any third-party credit card or other payment method processor transmits, stores, uses or shares your information.
- c. The pricing and availability of the Capstone Digital Products is subject to change. Errors will be corrected where discovered, and we reserve the right to revoke any stated offer and correct any errors, inaccuracies, or omissions including after an Order has been submitted and whether or not

your credit card or other payment mechanism has been charged.

17. Restrictions on Use. You may not do any of the following, nor may you permit any Authorized User or any third party, to do any of the following: (i) exceed the limited license rights granted in this Agreement including, without limitation, the sharing of passwords or other login credentials with those not given explicit rights to access and view Capstone Digital Products under this Agreement; (ii) remove any proprietary notices, labels, or marks from Capstone Digital Products; (iii) sell, transfer, lend, lease, license, or sublicense Capstone Digital Products; (iv) copy, distribute, modify, or otherwise create derivative works of Capstone Digital Products (or any content therein), except as permitted herein, (v) display or perform Capstone Digital Products outside the Building, or circumvent any digital rights management or copyright management protection associated with Capstone Digital Products; (vi) translate, reverse engineer, decompile or disassemble Capstone Digital Products or the hardware, executable software, software source code, or any other technology used as a means for delivering the Capstone Digital Products or securing Capstone's rights in the Capstone Digital Products including without limitation any digital rights management or copyright protection; (vii) use any manual or automated software, devices, scripts, robots, or other means to access, "scrape," "crawl," or "spider" any web pages or other services contained in the Capstone Digital Products; or (viii) falsely state, impersonate, or otherwise misrepresent your identity. In addition, You agree and are responsible for ensuring that neither you nor your Authorized Users will use any website, ftp site, media, or other methods or materials provided by Capstone for Your access and viewing of Capstone Digital Products for any purpose beyond what is explicitly permitted by this Agreement. You also agree and are responsible for ensuring that you and your Authorized Users only use the Capstone Digital Products for lawful purposes and you represent and warrant that you or your Authorized Users will not use any Capstone Digital Product in violation of any applicable law.

18. Ownership. As between you and Capstone, Capstone and its licensors are the owners of all Intellectual Property rights in and to Capstone Digital Products, including all Buncee or PebbleGo Create with Buncee templates, images, and text that are provided and available to you via the Capstone Digital Products. Capstone assumes no ownership of any User Content. The entire contents and design of the Capstone Digital Products are protected by U.S. and international copyright law. Capstone names, images, and logos and all related product and service names, design marks, and slogans, including BUNCREE, PEBBLEGO, RAINTREE and NO NONSENSE LITERACY are the trademarks or service marks, or copyrights, of Capstone. All rights reserved. You are not authorized to use any Capstone name or mark in any advertisement, publicity, or in any other commercial manner without prior written consent of Capstone. All other trademarks and images appearing in connection with the Capstone Digital Products are the property of their respective owners. "Intellectual Property" shall mean all of the following, whether registered or unregistered anywhere in the world: all inventions, whether patentable or not, patents and applications for patents; all copyrights, copyright registrations

and copyright applications, copyrightable works and works of authorship, and all other corresponding rights; all trade dress and trade names, logos, trademarks and service marks and related registrations and applications, all design rights, all other indicia of commercial source or origin, and all goodwill associated with any of the foregoing; and, all trade secrets and confidential information of any kind. The license granted under this Agreement is not a sale of Capstone Digital Products or any copy of Capstone Digital Products and does not grant you any ownership rights to or in any copies of Capstone Digital Products or Capstone Content. Ownership of Capstone Digital Products, Capstone Content, and copies thereof, and all Intellectual Property rights therein, will at all times remain with Capstone (or its licensors, as applicable), regardless of who may be deemed the owner of the tangible media in or on which Capstone Digital Products or Capstone Content may be copied, encoded or otherwise fixed.

19. Claims of Copyright Infringement. We take claims of copyright infringement seriously. We will respond to notices of alleged copyright infringement that comply with applicable law. If you believe any materials accessible on or from the Capstone Digital Products infringe your copyright, you may request removal of those materials in accordance with our Copyright Policy located at <https://www.capstonepub.com/support/legal-central/copyright>, the terms of which is hereby incorporated by reference.

20. Social Media Links and Functionality. You may have the option to share or post information or content from the Capstone Digital Products to your personal or professional social media accounts (“Public Posts”). You make any Public Posts at your own risk: third-party social media sites are governed by the terms and privacy policies of such applicable third-parties. All Public Posts are at your discretion and controlled by you. You shall not and will not make any Public Post in any manner that violates the Intellectual Property, proprietary, or personal rights of any other person.

21. Duration of Access to Certain Content. Capstone will provide access to Capstone Digital Products in a form and format that is in the sole discretion of Capstone. Due to licensing restrictions that may apply to a Capstone Digital Product, or the content or offerings contained therein, Capstone reserves the right to remove, modify or replace any specific content (such as, without limitation, text, images, books, photographs, or videos) of the Capstone Digital Products in its sole discretion.

22. Term.

- a. License Term. The Capstone Digital Products may be offered on a monthly or annual subscription basis, as a perpetual license, or for the term otherwise specified in the Order. Any subscription and/or license is billed in advance on a monthly or annual basis (unless otherwise specified in the Order), according to the duration of the subscription and/or license, and is non-refundable. Your agreement for purchasing a license becomes binding upon agreeing to the

Order. For any upgrade or downgrade in plan level, your credit card that you provided will automatically be charged the new rate on your next billing cycle. Downgrading your plan may cause the loss of User Content, content, features, or capacity of your account. Capstone is not liable or responsible for such loss.

- b. Renewals. In the case of a subscription license, after each subscription term, the subscription term will automatically renew for the agreed upon term (e.g., 1 month or one year), unless you cancel the service before the current term runs out. The full amount for each renewal term will be charged to the payment method you have provided or is linked to your account on the first day of the renewal. You shall be responsible for any and all fees charged by Capstone for the license granted under this Agreement and for any subsequent renewals. Upon terminating a subscription, your account, any Authorized User accounts, and the Capstone Digital Products will become unusable. Users are not entitled to any refund of subscription fees. Capstone is under no further obligations to you or your Authorized Users upon your termination of the subscription.
- c. Free Trial. If you initially sign up for free trial, you must provide Capstone a valid payment method (such as a credit card) to continue using the Capstone Digital Product at the end of the trial period. If you do provide a payment method in connection with your trial subscription, and you do not cancel the subscription before the free trial ends, you will be billed monthly starting at the end of your free trial. If you do not provide Capstone a payment method in connection with your free trial subscription, your subscription to the Capstone Digital Product will be terminated at the end of the free trial period and your account will be closed.
- d. Additional Mobile App Terms. Any licenses purchased for mobile applications via the Apple App Store or the Google Play Store have to be terminated via the Apple App Store or the Google Play Store for technical reasons. Termination must occur no later than 48 hours before the extension of the subscription. Instructions for canceling a subscription are available at <https://support.apple.com/en-us/HT202039> (Apple) and <https://support.google.com/googleplay/answer/7018481?hl=en&co=GENIE.Platform%3DAndroid> (Google).

23. Termination. This Agreement will terminate automatically and immediately in the event that you violate any provision of this Agreement. Capstone also reserves the right to terminate or amend this Agreement and any of the licenses granted hereunder at any time without cause; provided that, in the event you have prepaid any fees for a Capstone Digital Product, Capstone will use commercially reasonable efforts to provide you access to a comparable

replacement Capstone product or service. Upon termination or cancellation of a license or this Agreement, your account, any Authorized User accounts, and the Capstone Digital Products will become unusable. Users are not entitled to any refund of subscription fees in the event you cancel your subscription. Capstone is under no further obligations to you or your Authorized Users upon your termination of a license or subscription.

24. Disclaimer of Warranties. CAPSTONE DIGITAL PRODUCTS AND ALL METHODS AND MEDIA THROUGH OR ON WHICH IT IS PROVIDED INCLUDING WITHOUT LIMITATION ANY HOSTING OR PROVISION OF CAPSTONE DIGITAL PRODUCTS THROUGH THE INTERNET ARE PROVIDED BY CAPSTONE AND ACCEPTED BY YOU "AS IS," "WITH ALL FAULTS," AND WITHOUT ANY WARRANTY WHATSOEVER. ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT, ARE SPECIFICALLY EXCLUDED AND DISCLAIMED BY CAPSTONE. CAPSTONE DOES NOT WARRANT THAT THE ACCESS TO CAPSTONE DIGITAL PRODUCTS OR CAPSTONE DIGITAL PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT ANY WEBSITE, APPLICATION, OR SERVER THAT MAKES CAPSTONE DIGITAL PRODUCTS AVAILABLE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. CAPSTONE DOES NOT WARRANT OR MAKE ANY REPRESENTATION REGARDING USE, OR THE RESULT OF USE, OF THE CAPSTONE DIGITAL PRODUCTS IN TERMS OF ACCURACY, RELIABILITY, OR OTHERWISE. THE CAPSTONE DIGITAL PRODUCTS MAY INCLUDE TECHNICAL INACCURACIES OR TYPOGRAPHICAL ERRORS.

25. Limitation of Liability. TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, CAPSTONE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE ARISING EITHER DIRECTLY OR INDIRECTLY FROM ANY USE OF OR INABILITY TO USE, ACCESS, OR VIEW CAPSTONE DIGITAL PRODUCTS. YOU UNDERSTAND AND AGREE THAT UNDER NO CIRCUMSTANCES WILL CAPSTONE BE LIABLE FOR ANY DAMAGES WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES, ARISING OUT OF THE USE OF OR INABILITY TO USE CAPSTONE DIGITAL PRODUCTS, INCLUDING (BUT NOT LIMITED TO) ANY UNAUTHORIZED ACCESS, ACQUISITION, USE OR DISCLOSURE OF DATA OR USER CONTENT, OR THE LOSS, DESTRUCTION, OR DELETION OF ANY DATA OR USER CONTENT, EVEN IF CAPSTONE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, REGARDLESS OF THE LEGAL

CAUSE OF ACTION ASSERTED. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. IN SUCH STATES, CAPSTONE'S LIABILITY IS LIMITED AND WARRANTIES ARE EXCLUDED TO THE GREATEST EXTENT PERMITTED BY LAW AND IN NO EVENT SHALL CAPSTONE'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS OF USE UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE AMOUNT PAID BY YOU FOR THE LICENSE TO USE THE APPLICABLE CAPSTONE DIGITAL PRODUCT(S) GRANTED HEREIN.

26. Indemnification. To the extent permitted by applicable law, You are legally responsible for your, and your Authorized Users', access, use, and viewing of the Capstone Digital Products. You are responsible for any conduct in violation of this Agreement, applicable law, or the rights granted in this Agreement, whether by you, your Authorized Users, or any third party that gains access to the Capstone Digital Products by or through your or your Authorized Users' actions or inactions. Unless You are a publicly funded, non-profit educational institution and therefore unable to legally indemnify Capstone, to the extent permitted by applicable law, you agree to indemnify, defend and hold harmless Capstone, its officers, directors, employees, successors, and assigns from and against any and all claims, losses, expenses, damages (including, but not limited to, direct, indirect, incidental, consequential, and exemplary damages), fine, liabilities, and costs (including reasonable attorneys' fees, expert fees, and other litigation or investigation costs), whether for defense or prosecution of any of Capstone's, or Capstone's licensors', Intellectual Property rights or other rights under this Agreement resulting from or arising out of your use of or inability to use Capstone Digital Products, any violation by you of this Agreement, and any User Content.

27. General Provisions.

- a. Export Control. Use of the Capstone Digital Products is subject to export and re-export control laws and regulations and required authorizations. You warrant that you are not prohibited from receiving U.S. origin products, including services or software.
- b. Entire Agreement. This Agreement, the Order, the Capstone Website Terms of Use located at <https://www.capstonepub.com/support/legal-central/website-terms-use>, and the Capstone Privacy Policies located at

<https://www.capstonepub.com/support/privacy-central>, constitute the entire agreement of the parties with respect to the subject matter hereof, and supersedes all previous written or oral agreements between the parties with respect to such subject matter.

- c. No Waiver. No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default.
- d. Severability. If any provision of this Agreement is found to be invalid or unenforceable, that provision will be enforceable to the maximum extent permissible, and the other provision of the Agreement will remain in force.
- e. Force Majeure. Neither party will be liable for or considered to be in breach of or default under this Agreement on account of any delay or failure to perform as required by this Agreement as a result of any causes or conditions that are beyond the party's reasonable control and that either party is unable to overcome through the exercise of commercially reasonable diligence. If any force majeure event occurs, Capstone will give prompt notice to you and will use commercially reasonable efforts to minimize the impact of the event. This clause in no way abrogates or limits the Disclaimer of Warranty, Limitation of Liability, and Indemnification provisions otherwise set forth in this Agreement and the representations and warranties made in this Agreement.
- f. Enforcement; Governing Law. If You are a publicly funded, non-profit educational institution, this Agreement will be governed by the internal laws of the State in which You are situated, without regard to its 'conflicts of laws' rule, as identified in the Order. In all other cases, this Agreement is governed by and construed in accordance with the internal laws of the State of Minnesota without giving effect to any choice or conflict of law provision or rule. Any legal suit, action or proceeding arising out of or related to this Agreement or the Capstone Digital Products shall be instituted exclusively in the federal courts of the United States or the courts of the State of Minnesota in each case located in Mankato, Minnesota. You submit to and hereby waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.
- g. Assignment. Your rights under this Agreement are not assignable or transferable (by operation of law or otherwise). This Agreement will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. No third-party beneficiaries are

intended or shall be construed as created by virtue of this Agreement, including without limitation, the parties agree that your students and faculty are not third-party beneficiaries to this Agreement.

h. Modifications to Agreement. Capstone reserves the right to make any necessary changes, modifications, or updates to this Agreement at any time.

i. Notices; General Contact Information. For purposes of messages and notices to you about the Capstone Digital Products, we may send you an email to the email address associated with your account, or any other contact information part of the Order, in our discretion. We have no liability associated with or arising from your failure to maintain accurate contact or other information with us. If you have any questions about this Agreement, you may contact Capstone as the following address:

Coughlan Companies LLC d/b/a Capstone, 1710 Roe Crest Drive North
Mankato, MN 56003

Email: support@capstonepub.com; legal@capstonepub.com Fax: 1- 888-262-0705

If in the United Kingdom:

Raintree, 264 Banbury Road, Oxford, OX2 7DY, United Kingdom,

Email: feedback@raintree.co.uk

**EXTENSION TO 2017-2020 SPECIAL BUY AGREEMENT BETWEEN
ESUCC COOPERATIVE PURCHASING AND Staples Contract &
Commercial operating as Staples Business Advantage**

This Extension is made by and between Nebraska ESUCC Cooperative Purchasing ("Cooperative") and Staples Business Advantage ("Contractor") to the 2017-2020 Special Buy Agreement ("Agreement") signed by the Cooperative on March 10, 2017, and by the Contractor on March 13, 2017 and Addendums.

The Terms and Conditions of the Agreement are amended as follows:

No Changes to Terms and Conditions Agreement.

Exhibit "A" is amended to add the following goods or services:

No Changes to Exhibit A.

Exhibit "B" is amended to add the following pricing information:

No Changes to Exhibit B.

The Agreement permits amendment and modification by a signed, written agreement by both parties that identifies itself as an extension. The Cooperative has approved an extension and now desires to extend the Agreement for an additional term of thirty-six (36) months until February 28, 2026. Upon the signature of an authorized officer of the Cooperative and the Contractor, the Agreement is hereby extended.

COOPERATIVE

CONTRACTOR

Kraig Lofquist
Executive Director

Name: _____
Title: _____

Date: _____

Date: _____



2022-2025 SPECIAL BUY AGREEMENT

THIS AGREEMENT is entered into by and between the Nebraska ESUCC Cooperative Purchasing ("Cooperative") and Newsela ("Contractor"). Educational Service Unit Coordinating Council (ESUCC) was created in statute to coordinate the activities of Nebraska's 17 Educational Service Units. The Educational Service Unit Coordinating Council was created by LB 603 in 2007 and officially came into existence on July 1, 2008. Cooperative Purchasing is a Project of ESUCC that has been in existence since 1968 with the purpose of providing the Educational Service Unit (ESU) member school districts ("Members") of Nebraska an opportunity to secure the maximum procurement value through cooperative synergies. The Educational Service Unit Coordinating Council (ESUCC) Advisory group serves as the steering committee for new and future cooperative buys statewide under its direction. A chief executive officer coordinates the statewide purchasing agreement between educational service units and their school districts and other serviceable entities. The Director of Cooperative Purchasing manages the program with the guidance of the ESUCC, Advisory Board, and the Fiscal Agent. ESUCC serves 17 ESUs that provide a statewide network of educational opportunities to approximately 244 school districts and more than 325,000 students.

In consideration of mutual covenants, the parties agree as follows:

- 1. Scope of the Contract.** The Contractor shall provide Members the opportunity to purchase the goods and/or services as defined in **Exhibit A**, which is attached hereto and incorporated herein by this reference, at the prices set forth in this Agreement and its Exhibits.
- 2.**
- 1.3.** The Parties acknowledge that the Prior Agreement and any Addendums is hereby replaced in its entirety by this Agreement. Pursuant to the Termination paragraph of the Prior Agreement, this Agreement shall be effective, and the Prior Agreement shall be terminated, upon the execution of this Agreement by the Parties. Upon such execution, all provisions of the Prior Agreement are hereby superseded in their entirety and replaced herein and shall have no further force or effect.
- 2.4. Payment Terms/Payment Schedule.** Members shall pay for services rendered and/or for accepted goods on the terms and payment schedule as set forth in **Exhibit B** which is attached hereto and incorporated herein by this reference. Prices listed in Exhibit B shall remain in effect during the term of this Agreement unless agreed otherwise by the parties in writing.

3.5. Administrative Fee. Contractor shall submit to the Cooperative as an administrative fee a sum equal to two percent (2%) of the total gross dollar volume, less freight of all goods and services and excluding annual support and maintenance purchased by the Cooperative, ESUCC, ESUs, and Members. This fee will be submitted to ESUCC on a quarterly basis beginning three months from the Effective Date of this Agreement for all transactions completed and paid during said quarter.

4.6. Term. This Agreement is effective on , **November 16**, 2022 ("Effective Date") and shall continue until 12:00 midnight (CST) on , **November 15**, 2025, unless terminated earlier as provided by this Agreement or by law.

5.7. Governing Law; Designation of Forum. This Agreement is governed by and construed in accordance with the laws of the State of Nebraska. Any action to enforce this Agreement must be brought in the state or federal courts of the State of Nebraska. Mandatory and exclusive venue for any disputes shall be in Sarpy County, Nebraska.

6.8. Student Privacy Protections.

- A. **Definition of Data.** Data include all Personally Identifiable Information (PII), Member Data, and other non-public information. Data include, but are not limited to, student data, metadata, and user content.
- B. **Definition of Member Data.** Member Data includes all PII and other information that is not intentionally made generally available by the Cooperative, ESUCC, ESUs, or its Members on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and student and personnel data and metadata.
- C. **Definition of Personally Identifiable Information.** Personally Identifiable Information includes but is not limited to: personal identifiers such as name, address, phone number, date of birth, Social Security number, and student or personnel identification number; "personal information" as used in Neb. Rev. Stat. § 84-712.05 and personally identifiable information contained in student education records as that term is defined in the Family Educational Rights and Privacy Act, 20 USC 1232g.
- D. **Definition of User.** User means a participant, instructor, or administrator of the Cooperative, ESUCC, or its Members who are authorized with login credentials by the Cooperative or its Members to use the goods and/or services provided by this Agreement.
- E. **Data De-Identification.** Contractor may use deidentified Data for product development, research, or other purposes. De-identified Data will have all direct and indirect personal identifiers removed. This includes, but is not limited to, name, ID numbers, date of birth, demographic information, location information, and school ID. Furthermore, Contractor agrees not to attempt to re-identify deidentified Data and not to transfer de-identified Data to any party unless that party agrees not to attempt reidentification.

- F. **Marketing and Advertising.** Contractor will not use any Data to advertise or market to students or their parents. Advertising or marketing may be directed to the Cooperative, ESUCC, Members, or their school districts only if student information is properly de-identified.”
- G. **Modification of Terms of Service.** Contractor will not change how Data are collected, used, or shared under the terms of this Agreement in any way without advance notice to and consent from the Cooperative, the Members, and the affected school district(s).
- H. **Data Collection.** Contractor will only collect Data necessary to fulfill its duties as outlined in this Agreement.
- I. **Data Use.** Contractor will use Data only for the purpose of fulfilling its duties and providing services under this Agreement, and for improving services under this Agreement.
- J. **Data Mining.** Contractor is prohibited from mining Data for any purposes other than those agreed to by the parties. Data mining or scanning of user content for the purpose of advertising or marketing to students or their parents is prohibited.
- K. **Data Sharing.** Data cannot be shared with any additional parties without prior written consent of the User except as required by law.
- L. **Data Transfer or Destruction.** Contractor will ensure that all Data in its possession and in the possession of any subcontractors, or agents to which the Contractor may have transferred Data, are destroyed or transferred to the Cooperative under the direction of the Cooperative when the Data are no longer needed for their specified purpose, at the request of the Member.
- M. **Rights and License in and to Data.** Parties agree that all rights, including all intellectual property rights, shall remain the exclusive property of the Member, and Contractor has a limited, nonexclusive license solely for the purpose of performing its obligations as outlined in the Agreement. This Agreement does not give Contractor any rights, implied or otherwise, to Data, content, or intellectual property, except as expressly stated in the Agreement. This includes the right to sell or trade Data.
- N. **Access.** Any Data held by Contractor will be made available to a Member upon request by the Member.
- O. **Security Controls.** Contractor will store and process Data in accordance with industry best practices. This includes appropriate administrative, physical, and technical safeguards to secure Data from unauthorized access, disclosure, and use. Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. Contractor will also have a written incident response plan, to include prompt notification of the Member in the event of a security or privacy incident, as well as best practices for responding to a breach of PII. Contractor agrees to share its incident response plan upon request.

P. **Response to Legal Orders, Demands or Requests for Data.** Except as otherwise expressly prohibited by law, Contractor will:

- (1) Promptly notify the Cooperative and Members of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking Data;
- (2) Consult with the Cooperative and Members regarding its response;
- (3) Cooperate with the Cooperative's and Member's reasonable requests in connection with efforts by them to intervene and quash or modify the legal order, demand or request; and
- (4) Upon the Cooperative's or a Member's request, provide them with a copy of its response.

7.9. Termination.

A. The Cooperative may terminate this Agreement in whole or part if funding from federal, state, or other sources for the Cooperative or its Members is not obtained and continued at levels sufficient to allow for purchase of the good and/or services in the indicated quantities or term. The Cooperative shall notify the Contractor as soon as practicable if funds to meet the Cooperative's or Members' obligations become unavailable. The determination of the Cooperative as to the insufficiency of funds is conclusive.

B. Each party may terminate this Agreement if the other party breaches or is in default of any material obligation hereunder which default is incapable of cure, or which, being capable of cure, has not been cured within 30 days after receipt of written notice of such default or such additional cure period as the nondefaulting party may authorize in writing.

C. Each party may terminate this Agreement by written notice if federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.

D. The Cooperative may terminate this Agreement, in whole or in part, by written notice to the Contractor and may regard the Contractor in default of this Agreement if the Contractor becomes:

- (1) Insolvent;
- (2) Makes a general assignment for the benefit of creditors;
- (3) Files a voluntary petition of bankruptcy;
- (4) Suffers or permits the appointment of a receiver for its business or assets;
- (5) Becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign; or
- (6) Has wound up or liquidated, voluntarily or otherwise.

E. The Cooperative may terminate this Agreement, in whole or in part, immediately, without notice, if the Contractor is debarred or suspended from performing services on any public contracts.

F. The parties may terminate this Agreement without cause by mutual written consent or by either party with a minimum of 90 days written notice.

G. Upon the termination for any reason or expiration of this Agreement, the Contractor promptly must return to the Cooperative all papers, materials and other property of the Cooperative then in its possession, including but not limited to all work in progress as is appropriate in its then existing form to the Cooperative.

8.10. Indemnification.

A. The Contractor hereby waives and agrees to indemnify and save harmless the Cooperative, ESUCC, and the ESUs and their officials, agents, employees, and volunteers (hereinafter collectively referred to as "Indemnities"), against any and all claims of injuries, death, damage to property, liabilities, judgments, costs and expenses which may otherwise accrue against Indemnities in consequence of the granting of this Agreement or which may otherwise result therefrom.

B. The Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith.

C. If any judgment shall be rendered against the Cooperative, ESUCC, or the ESUs in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same.

D. Any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify and save harmless and defend the Indemnities as herein provided.

E. The Contractor's obligation to indemnify and save harmless any Indemnities will survive the expiration or termination of this Agreement by either party for any reason.

9.11. Insurance. Contractor shall secure and keep in force during the term of this Agreement the following insurance coverages from insurance companies or government self-insurance pools authorized to do business in Nebraska:

A. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per person and \$5,000,000 per occurrence; and

B. If applicable, workers compensation coverage meeting all statutory requirements.

The Contractor shall furnish a certificate of insurance to the undersigned Cooperative representative prior to commencement of this Agreement. Failure to provide insurance as required in this agreement is a material breach of contract entitling the Cooperative to terminate this Agreement immediately.

10.12. Public Records. The Contractor acknowledges that the Cooperative, ESUCC, ESUs, and Members must comply with Neb. Rev. Stat. § 84-712 through § 84-713 and release public records as defined law upon request, which may include this Agreement and all records created and maintained in relation to this Agreement.

11.13. Publicity. The Cooperative does not endorse the goods or services of the Contractor. Except for listing the Cooperative as a client during the term of this Agreement, news releases or other publicity concerning this Agreement must not be made by the Contractor without the prior written approval of the Cooperative.

12.14. Drug/Alcohol/Tobacco/Weapons Free Workplace. The Contractor and all subcontractors, if any, shall not manufacture, sell, distribute, dispense, possess or use controlled substances or marijuana, as defined by Nebraska law, during the performance of this Agreement while on Cooperative, ESUCC, ESU, or Member premises or at Cooperative, ESUCC, ESU, or Member related functions. The Contractor and all subcontractors, if any, shall not possess any weapon, as defined by Nebraska law and the federal "Drug-Free Schools Act," on Cooperative, ESUCC, ESU, or Member property or at Cooperative, ESUCC, ESU, or Member related functions. The Contractor and all subcontractors, if any, also shall adhere to all Cooperative, ESUCC, ESU, and Member policies and regulations that prohibit the possession, distribution, sale, dispensation, or use of any alcohol or tobacco products while on Cooperative, ESUCC, ESU, or Member premises or at Cooperative, ESUCC, ESU, or Member related functions. Failure to comply with this provision may be considered a material breach. The Cooperative may suspend or terminate the Contractor, subcontractor, or both if it violates these laws, regulations, or policies or this provision.

13.15. Nondiscrimination. The Contractor and all subcontractors, if any, shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

14.16. Independent Contractor. Contractor is an independent contractor under this contract and is not a Cooperative, ESUCC, ESU, or Member employee for any purpose. The Contractor retains sole and absolute discretion in the manner and means of carrying out Contractor's activities and responsibilities under this Agreement, except to the extent specified in this Agreement.

15.17. Employment Eligibility Verification. The Contractor shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Contractor employs or contracts with any subcontractor

in connection with this Agreement, the Contractor shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

16.18. Taxpayer Identification. Contractor's federal employer identification number is: 47-1882828

17.19. Sales Tax. The Cooperative, ESUCC, ESUs, and Members are exempt from sales tax and shall not pay any sales tax under this Agreement. The Cooperative, ESUCC, ESUs, and/or Members will provide the Contractor with applicable sales tax exemption certificates upon written request.

18.20. Notice. Each party giving any Notice ("Notice") under this Agreement must give written Notice by personal delivery, registered or certified Mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid.) Notice shall be sent to the following addressees at the following addresses:

Cooperative: ESUCC
Attn: Kraig Lofquist
6949 South 110th Street
LaVista, NE 68128

With copy to:

ESUCC Cooperative Purchasing
Attn: Craig Peterson
PO Box 858
412 W. 14th Ave
Holdrege, NE 68949

Contractor: Newsela Inc.
475 10th Ave
New York, NY 10019

Notice is effective only if the party giving the Notice has complied with this section.

19.21. Warranties and Specifications. Contractor shall be responsible for providing to Members all manufacturer warranties on all goods and services. Contractor shall provide Members with all attachments normally supplied by the manufacturer and/or supplier. Complete product specification sheets or brochures must be provided to Members, ESUs, ESUCC, or the Cooperative upon request.

20.22. Entire Agreement. The Agreement is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.

21.23. Amendments and Modifications. The parties may amend or modify this Agreement only by a signed, written agreement by both parties that identifies itself as an amendment or modification to this Agreement. No other alternations in the terms of this agreement shall be valid or binding.

22.24. Waivers. The parties may waive any provision in this Agreement only by a writing executed by the party or parties against whom the waiver is sought to be enforced. No failure or delay: (1) In exercising any right or remedy, **or** (2) In requiring the satisfaction of any condition under this Agreement, **and** (3) No act, omission, or course of dealing between the parties operates as a waiver or estoppel of any right, remedy or condition. A waiver made in writing on one occasion is effective only in that instance and only for the purpose stated. A waiver once given is not to be construed as a waiver on any future occasion or against any other Person.

23.25. Severability. If any provision of this Agreement is determined to be unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain enforceable.

24.26. Counterparts. The parties may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other parties to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other parties. In proving this Agreement, a party must produce or account only for the executed counterpart of the party to be charged.

25.27. Force Majeure. Neither party shall be liable for any loss or damage suffered by the other party, directly or indirectly, as a result of the non performing party's failure to perform, or delay in performing, any of its obligations contained in this contract (except any obligations to make payments for services rendered or accepted goods received before the failure to perform or the delay in performance), where, in the opinion of the Cooperative, such failure or delay is cause by circumstances beyond the non performing party's control or which make performance commercially impracticable, including but not limited to fire, flood, storm or other natural disaster, explosion, accident, war, riot, civil disorder, government regulations or restrictions of any kind or any acts of any government, alien enemy, judicial action, power failure, acts of God, or other natural circumstances. This Force Majeure provision excludes economic hardship, changes in market conditions, and insufficiency of funds on the part of Contractor.

26.28. Assignment. This Agreement binds the parties and their respective successors and assignees. The Contractor shall not assign or otherwise dispose of this Agreement or any duty, right, or responsibility contemplated in this Agreement to any other person without the previous written consent of the Cooperative.

27.29. Subcontractors. The Contractor shall not subcontract services or any part of this Agreement without the prior written consent of the Cooperative.

28.30. Captions. The descriptive headings of the Articles, Sections and subsections of this Agreement are for convenience only, do not constitute a part of this Agreement, and do not affect this Agreement's construction or interpretation.

29.31. Rights and Remedies Cumulative. Any enumeration of the Cooperative's rights and remedies set forth in this Agreement is not exhaustive. The Cooperative's exercise of any right or remedy under this Agreement does not preclude the exercise of any other right or remedy. All of the Cooperative's rights and remedies are cumulative and are in addition to any other right or remedy set forth in this Agreement, any other agreement between the parties, or which may now or subsequently exist at law or in equity, by statute or otherwise.

30.32. Relationship Among Parties. This Agreement creates no relationship of joint venture, partnership, limited partnership, agency, or employer- employee between the parties, and the parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither party has any right or authority to assume or to create any obligation or responsibility on behalf of the other party except as may from time to time be provided by written instrument signed by both parties.

31.33. Rules of Construction. The parties hereto have each been represented by counsel, or had the opportunity to be represented, during the negotiation and execution of this Agreement, and therefore waive application of any law or rule of construction providing that ambiguities in the contract will be construed against the party drafting such contract.

32.34. Piggyback Clause. For the term of the Agreement and any mutually agreed extensions, other public agencies may purchase, lease-purchase, or rent the identical item(s) at the same price and upon the same terms and conditions as provided in this Agreement. The term "public agencies" means any county, city, village, school district, or agency of any state government or of the United States; any drainage district, sanitary and improvement district, or other municipal corporation or political subdivision of Nebraska; and any political subdivision of another state.

33.35. Attachments. Attachments to this Agreement include the following:

- Exhibit A – Scope of Goods or Services to be provided to ESUCC and Members
- Exhibit B – Payment Terms & Schedule
- Exhibit C – Summary of Project Deliverables
- Exhibit D - Vendor Software License Agreement

IN WITNESS WHEREOF the parties have executed this Agreement on the last date written below.

CONTRACTOR

COOPERATIVE

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: Kraig Lofquist
Title: Executive Director
Date: _____

EXHIBIT "A"

SCOPE OF GOODS OR SERVICES TO BE PROVIDED TO MEMBERS

<<VENDOR-INSERT SCOPE OF GOODS>>

<u>Newsela Software Product Skus</u>
<u>Newsela PRO</u>
<u>Newsela PowerWords</u>
<u>Newsela SEL</u>
<u>Newsela Custom Collections</u>
<u>Newsela Partner Collections</u>

<u>Newsela Service Product Skus</u>
<u>Virtual</u> (3 live webinar trainings)
<u>Newsela Blended</u> (1 in-person, 2 live webinar trainings)
<u>Blended Plus</u> (2 in-person, 1 live webinar training)
<u>In-Person</u> (3 in-person trainings)
<u>Add-On Virtual Workshop</u>
<u>Add-On Consecutive In-Person Training (full day)</u>
<u>X-Small School One Virtual Pro Learning Session (Only for buildings with less than 150 students)</u>
<u>Small School Two Virtual Pro Learning Package (Only for buildings with 300 or fewer students)</u>
<u>Newsela PD Pass Service</u>

<u>Newsela ELA</u>
<u>Newsela Social Studies</u>
<u>Newsela Science</u>
<u>Newsela SEL</u>

The majority of orders will be submitted through the ESUCC Marketplace between March 1 and May 15 of each year (Annual Renewal period), ESUCC can continue to collect additional orders through the ESUCC Marketplace after this period.

EXHIBIT "B"

1. Contractor's Pricing

Contractor's Pricing Model under this Agreement is:

<<VENDOR-INSERT PRICING>>

Newsela PRO List Pricing

Building:

- Contractor agrees to apply the discounts set forth below on "Qualifying Member Purchases" which are defined as:

a Member's initial licensing of Products during the Term, to the extent that (a) such Member's license for the Products was executed after the Effective Date and (b) the licensing was generated by of the direct or indirect (marketing and promotion) contacts made by Consortium; and

a Member's renewal of a license of Products during the Term (including licenses that had been signed with Newsela prior to the execution of this Agreement), to the extent that such Member's renewal was generated by the direct or indirect (marketing and promotion) contacts made by Consortium.

Calculate District Participation. Participation will be calculated based upon the total number of participating Member schools, irrespective of whether the licenses with such Member schools are Qualifying Member Purchases. Determine District Participation Discount based upon the following:

<u>District Discounting</u>	
<u># Schools</u>	<u>Discount %</u>
<u><10</u>	<u>10%</u>

<u>10 to 29</u>	<u>15%</u>
<u>30+</u>	<u>20%</u>

- The district discount cap will be additive (Consortium Purchase Discount + District Participation Discount) up to 40%. This means that the maximum discount Newsela will provide for a district-wide deal.

- NOTE: For pre-existing Newsela customers whose renewal is a Qualifying Member Purchase, their discount upon renewal will be based off the then current pricing, discount and tier and not on the rate under their prior contract.

NOTE: Although increasing participation increases the discounted pricing as the year progresses, no retroactive discounting or credits can be applied or provided to earlier Qualifying Member Purchases.

2. Payment Terms/ Payment Schedule

- Members will pay Contractor for all undisputed amounts for the goods and/or services identified in Exhibit A and provided by Contractor under this Agreement within thirty (30) days of receipt of invoice, provided that goods/services have been accepted by the Member as hereinafter provided.
- The procedure for billing and payment for services or products and deliverables shall be as specified in this exhibit.

3. Acceptance of Services or Products:

- The Contractor shall deliver any goods, perform any services or both in accordance with the schedule set forth in any RFP, RFQ, the time specified in a purchase order issued by the Cooperative, ESUCC, ESU, or Member, or this Agreement (whichever is later).
- Unless otherwise agreed to by the parties, the Contractor shall provide written notification of completion of any deliveries, or performances of services or both, to the Member ("Delivery Notice").
- Members shall have sixty (60) days from the date of receipt of the Delivery Notice to provide the Contractor with written notification of acceptance or rejection due to unsatisfactory performance or nonconforming goods.
- If the Member issues a rejection notice, the Contractor shall as quickly as is practicable, correct or replace all deficiencies at its expense. The Cooperative shall not unreasonably withhold or delay its acceptance or rejection.

4. Title and Risk of Loss:

- A. Title and risk of loss for goods shall remain with the Contractor until goods are accepted by the Member, ESU, ESUCC, Cooperative.
- B. Insurance during shipment and until the goods are accepted by the Cooperative, ESUCC, ESU, or Member is the responsibility of the Contractor.

EXHIBIT "C"

SUMMARY OF PROJECT DELIVERABLES

<<TO BE COMPLETED BY VENDOR>>

1. Order Delivery Method Options

1. Members will submit orders direct to Vendor
2. ESUCC Marketplace is the preferred method for order placement

2. Electronic Orders

- a. Vendor Capable of receiving orders electronically? Yes: _____ No: _____
- b. If "Yes", Order receipt method: Email: _____ cXML: _____
 - i. If "Email" address to deliver orders to: _____
 - ii. If "cXML" provide the following IT contact information
Contact (First, Last name): _____
Contact email address: _____
Contact Phone: _____
- c. If "No, Alternate method will be determined

3. Sales Representative Contact

- a. First, Last name: _____
- b. Title: _____
- c. Phone: _____
- d. Email: _____

4. Invoice Method

- a. Vendor invoices Members direct

5. Sales Reporting

- a. Vendor to submit quarterly sales report to ESUCC at coop@esucc.org
- b. Vendor contact information for sales report questions:
Contact (First, Last name): _____
Contact email address: _____
- c. Sales report must include the following
 - Member Name
 - Member City
 - List Price
 - Member Cost
 - Member Savings
 - Admin Fee Amount Due
- d. ESUCC Admin Fee
 - Vendor must submit payment of Admin Fee to ESUCC quarterly
 - Admin Fee is equal to percentage of total sales (as defined in **Administration Fee** section of agreement)
 - Remit Admin Fee payment to:
ESUCC
1292 East 4th Street
Ainsworth, NE 69210

6. Product Information URL: _____

EXHIBIT "D"

SOFTWARE LICENSE AGREEMENT

<<VENDOR-INSERT SOFTWARE LICENSE AGREEMENT>>



2022-2025 SPECIAL BUY AGREEMENT

THIS AGREEMENT is entered into by and between the Nebraska ESUCC Cooperative Purchasing ("Cooperative") and Global Grid For Learning (GG4L) ("Contractor"). Educational Service Unit Coordinating Council (ESUCC) was created in statute to coordinate the activities of Nebraska's 17 Educational Service Units. The Educational Service Unit Coordinating Council was created by LB 603 in 2007 and officially came into existence on July 1, 2008. Cooperative Purchasing is a Project of ESUCC that has been in existence since 1968 with the purpose of providing the Educational Service Unit (ESU) member school districts ("Members") of Nebraska an opportunity to secure the maximum procurement value through cooperative synergies. The Educational Service Unit Coordinating Council (ESUCC) Advisory group serves as the steering committee for new and future cooperative buys statewide under its direction. A chief executive officer coordinates the statewide purchasing agreement between educational service units and their school districts and other serviceable entities. The Director of Cooperative Purchasing manages the program with the guidance of the ESUCC, Advisory Board, and the Fiscal Agent. ESUCC serves 17 ESUs that provide a statewide network of educational opportunities to approximately 244 school districts and more than 325,000 students.

In consideration of mutual covenants, the parties agree as follows:

- 1. Scope of the Contract.** The Contractor shall provide Members the opportunity to purchase the goods and/or services as defined in **Exhibit A**, which is attached hereto and incorporated herein by this reference, at the prices set forth in this Agreement and its Exhibits.
- 2. Payment Terms/Payment Schedule.** Members shall pay for services rendered and/or for accepted goods on the terms and payment schedule as set forth in **Exhibit B** which is attached hereto and incorporated herein by this reference. Prices listed in Exhibit B shall remain in effect during the term of this Agreement unless agreed otherwise by the parties in writing.
- 3. Administrative Fee.** Contractor shall submit to the Cooperative as an administrative fee a sum equal to two percent (2%) of the total gross dollar volume, less freight of all goods and services and excluding annual support and maintenance purchased by the Cooperative, ESUCC, ESUs, and Members. This fee will be submitted to ESUCC on a quarterly basis beginning three months from the Effective Date of this Agreement for all transactions completed and paid during said quarter.

4. **Term.** This Agreement is effective on _____, 11 November 1, 2022 ("Effective Date") and shall continue until 12:00 midnight (CST) on _____, 11 November 1, 2025, unless terminated earlier as provided by this Agreement or by law.
5. **Governing Law; Designation of Forum.** This Agreement is governed by and construed in accordance with the laws of the State of Nebraska. Any action to enforce this Agreement must be brought in the state or federal courts of the State of Nebraska. Mandatory and exclusive venue for any disputes shall be in Sarpy County, Nebraska.
6. **Student Privacy Protections.**
- A. **Definition of Data.** Data include all Personally Identifiable Information (PII), Member Data, and other non-public information. Data include, but are not limited to, student data, metadata, and user content.
 - B. **Definition of Member Data.** Member Data includes all PII and other information that is not intentionally made generally available by the Cooperative, ESUCC, ESUs, or its Members on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and student and personnel data and metadata.
 - C. **Definition of Personally Identifiable Information.** Personally Identifiable Information includes but is not limited to: personal identifiers such as name, address, phone number, date of birth, Social Security number, and student or personnel identification number; "personal information" as used in Neb. Rev. Stat. § 84-712.05 and personally identifiable information contained in student education records as that term is defined in the Family Educational Rights and Privacy Act, 20 USC 1232g.
 - D. **Definition of User.** User means a participant, instructor, or administrator of the Cooperative, ESUCC, or its Members who are authorized with login credentials by the Cooperative or its Members to use the goods and/or services provided by this Agreement.
 - E. **Data De-Identification.** Contractor may use deidentified Data for product development, research, or other purposes. De-identified Data will have all direct and indirect personal identifiers removed. This includes, but is not limited to, name, ID numbers, date of birth, demographic information, location information, and school ID. Furthermore, Contractor agrees not to attempt to re-identify deidentified Data and not to transfer de-identified Data to any party unless that party agrees not to attempt reidentification.
 - F. **Marketing and Advertising.** Contractor will not use any Data to advertise or market to students or their parents. Advertising or marketing may be directed to the Cooperative, ESUCC, Members, or their school districts only if student information is properly de-identified."
 - G. **Modification of Terms of Service.** Contractor will not change how Data are collected, used, or shared under the terms of this Agreement in any way without

advance notice to and consent from the Cooperative, the Members, and the affected school district(s).

- H. **Data Collection.** Contractor will only collect Data necessary to fulfill its duties as outlined in this Agreement.
- I. **Data Use.** Contractor will use Data only for the purpose of fulfilling its duties and providing services under this Agreement, and for improving services under this Agreement.
- J. **Data Mining.** Contractor is prohibited from mining Data for any purposes other than those agreed to by the parties. Data mining or scanning of user content for the purpose of advertising or marketing to students or their parents is prohibited.
- K. **Data Sharing.** Data cannot be shared with any additional parties without prior written consent of the User except as required by law.
- L. **Data Transfer or Destruction.** Contractor will ensure that all Data in its possession and in the possession of any subcontractors, or agents to which the Contractor may have transferred Data, are destroyed or transferred to the Cooperative under the direction of the Cooperative when the Data are no longer needed for their specified purpose, at the request of the Member.
- M. **Rights and License in and to Data.** Parties agree that all rights, including all intellectual property rights, shall remain the exclusive property of the Member, and Contractor has a limited, nonexclusive license solely for the purpose of performing its obligations as outlined in the Agreement. This Agreement does not give Contractor any rights, implied or otherwise, to Data, content, or intellectual property, except as expressly stated in the Agreement. This includes the right to sell or trade Data.
- N. **Access.** Any Data held by Contractor will be made available to a Member upon request by the Member.
- O. **Security Controls.** Contractor will store and process Data in accordance with industry best practices. This includes appropriate administrative, physical, and technical safeguards to secure Data from unauthorized access, disclosure, and use. Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. Contractor will also have a written incident response plan, to include prompt notification of the Member in the event of a security or privacy incident, as well as best practices for responding to a breach of PII. Contractor agrees to share its incident response plan upon request.
- P. **Response to Legal Orders, Demands or Requests for Data.** Except as otherwise expressly prohibited by law, Contractor will:
 - (1) Promptly notify the Cooperative and Members of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking Data;
 - (2) Consult with the Cooperative and Members regarding its response;

- (3) Cooperate with the Cooperative's and Member's reasonable requests in connection with efforts by them to intervene and quash or modify the legal order, demand or request; and
- (4) Upon the Cooperative's or a Member's request, provide them with a copy of its response.

7. Termination.

A. The Cooperative may terminate this Agreement in whole or part if funding from federal, state, or other sources for the Cooperative or its Members is not obtained and continued at levels sufficient to allow for purchase of the good and/or services in the indicated quantities or term. The Cooperative shall notify the Contractor as soon as practicable if funds to meet the Cooperative's or Members' obligations become unavailable. The determination of the Cooperative as to the insufficiency of funds is conclusive.

B. Each party may terminate this Agreement if the other party breaches or is in default of any material obligation hereunder which default is incapable of cure, or which, being capable of cure, has not been cured within 30 days after receipt of written notice of such default or such additional cure period as the nondefaulting party may authorize in writing.

C. Each party may terminate this Agreement by written notice if federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.

D. The Cooperative may terminate this Agreement, in whole or in part, by written notice to the Contractor and may regard the Contractor in default of this Agreement if the Contractor becomes:

- (1) Insolvent;
- (2) Makes a general assignment for the benefit of creditors;
- (3) Files a voluntary petition of bankruptcy;
- (4) Suffers or permits the appointment of a receiver for its business or assets;
- (5) Becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign; or
- (6) Has wound up or liquidated, voluntarily or otherwise.

E. The Cooperative may terminate this Agreement, in whole or in part, immediately, without notice, if the Contractor is debarred or suspended from performing services on any public contracts.

F. The parties may terminate this Agreement without cause by mutual written consent or by either party with a minimum of 90 days written notice.

G. Upon the termination for any reason or expiration of this Agreement, the Contractor promptly must return to the Cooperative all papers, materials and other property of the Cooperative then in its possession, including but not limited to all work in progress as is appropriate in its then existing form to the Cooperative.

8. Indemnification.

A. The Contractor hereby waives and agrees to indemnify and save harmless the Cooperative, ESUCC, and the ESUs and their officials, agents, employees, and volunteers (hereinafter collectively referred to as "Indemnities"), against any and all claims of injuries, death, damage to property, liabilities, judgments, costs and expenses which may otherwise accrue against Indemnities in consequence of the granting of this Agreement or which may otherwise result therefrom.

B. The Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith.

C. If any judgment shall be rendered against the Cooperative, ESUCC, or the ESUs in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same.

D. Any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify and save harmless and defend the Indemnities as herein provided.

E. The Contractor's obligation to indemnify and save harmless any Indemnities will survive the expiration or termination of this Agreement by either party for any reason.

9. Insurance. Contractor shall secure and keep in force during the term of this Agreement the following insurance coverages from insurance companies or government self-insurance pools authorized to do business in Nebraska:

A. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of **\$1,0010,000 per person and \$52,000,000 per occurrence**; and

B. If applicable, workers compensation coverage meeting all statutory requirements.

Commented [CP1]: Justin, should this read \$2,000,000 per occurrence instead of per person? Their certificate of Liability shows "MED EXP (Any one person) \$10,000 AND each occurrence is \$2,000,000 with the GENERAL AGGREGATE \$4,000,000.

The Contractor shall furnish a certificate of insurance to the undersigned Cooperative representative prior to commencement of this Agreement. Failure to provide insurance as required in this agreement is a material breach of contract entitling the Cooperative to terminate this Agreement immediately.

10. Public Records. The Contractor acknowledges that the Cooperative, ESUCC, ESUs, and Members must comply with Neb. Rev. Stat. § 84-712 through § 84-713 and

release public records as defined law upon request, which may include this Agreement and all records created and maintained in relation to this Agreement.

- 11. Publicity.** The Cooperative does not endorse the goods or services of the Contractor. Except for listing the Cooperative as a client during the term of this Agreement, news releases or other publicity concerning this Agreement must not be made by the Contractor without the prior written approval of the Cooperative.
- 12. Drug/Alcohol/Tobacco/Weapons Free Workplace.** The Contractor and all subcontractors, if any, shall not manufacture, sell, distribute, dispense, possess or use controlled substances or marijuana, as defined by Nebraska law, during the performance of this Agreement while on Cooperative, ESUCC, ESU, or Member premises or at Cooperative, ESUCC, ESU, or Member related functions. The Contractor and all subcontractors, if any, shall not possess any weapon, as defined by Nebraska law and the federal "Drug-Free Schools Act," on Cooperative, ESUCC, ESU, or Member property or at Cooperative, ESUCC, ESU, or Member related functions. The Contractor and all subcontractors, if any, also shall adhere to all Cooperative, ESUCC, ESU, and Member policies and regulations that prohibit the possession, distribution, sale, dispensation, or use of any alcohol or tobacco products while on Cooperative, ESUCC, ESU, or Member premises or at Cooperative, ESUCC, ESU, or Member related functions. Failure to comply with this provision may be considered a material breach. The Cooperative may suspend or terminate the Contractor, subcontractor, or both if it violates these laws, regulations, or policies or this provision.
- 13. Nondiscrimination.** The Contractor and all subcontractors, if any, shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.
- 14. Independent Contractor.** Contractor is an independent contractor under this contract and is not a Cooperative, ESUCC, ESU, or Member employee for any purpose. The Contractor retains sole and absolute discretion in the manner and means of carrying out Contractor's activities and responsibilities under this Agreement, except to the extent specified in this Agreement.
- 15. Employment Eligibility Verification.** The Contractor shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Contractor employs or contracts with any subcontractor in connection with this Agreement, the Contractor shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.
- 16. Taxpayer Identification.** Contractor's federal employer identification number is:
| 46-0815269

17. Sales Tax. The Cooperative, ESUCC, ESUs, and Members are exempt from sales tax and shall not pay any sales tax under this Agreement. The Cooperative, ESUCC, ESUs, and/or Members will provide the Contractor with applicable sales tax exemption certificates upon written request.

18. Notice. Each party giving any Notice ("Notice") under this Agreement must give written Notice by personal delivery, registered or certified Mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid.) Notice shall be sent to the following addressees at the following addresses:

Cooperative: ESUCC
Attn: Kraig Lofquist
6949 South 110th Street
LaVista, NE 68128

With copy to:

ESUCC Cooperative Purchasing
Attn: Craig Peterson
PO Box 858
412 W. 14th Ave
Holdrege, NE 68949

Contractor: Global Grid For Learning (GG4L)
-1101 Marina Village PKWY ST 201
Alameda, CA 94501

Notice is effective only if the party giving the Notice has complied with this section.

19. Warranties and Specifications. Contractor shall be responsible for providing to Members all manufacturer warranties on all goods and services. Contractor shall provide Members with all attachments normally supplied by the manufacturer and/or supplier. Complete product specification sheets or brochures must be provided to Members, ESUs, ESUCC, or the Cooperative upon request.

20. Entire Agreement. The Agreement is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.

21. Amendments and Modifications. The parties may amend or modify this Agreement only by a signed, written agreement by both parties that identifies itself as an amendment or modification to this Agreement. No other alternations in the terms of this agreement shall be valid or binding.

- 22. Waivers.** The parties may waive any provision in this Agreement only by a writing executed by the party or parties against whom the waiver is sought to be enforced. No failure or delay: (1) In exercising any right or remedy, **or** (2) In requiring the satisfaction of any condition under this Agreement, **and** (3) No act, omission, or course of dealing between the parties operates as a waiver or estoppel of any right, remedy or condition. A waiver made in writing on one occasion is effective only in that instance and only for the purpose stated. A waiver once given is not to be construed as a waiver on any future occasion or against any other Person.
- 23. Severability.** If any provision of this Agreement is determined to be unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain enforceable.
- 24. Counterparts.** The parties may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other parties to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other parties. In proving this Agreement, a party must produce or account only for the executed counterpart of the party to be charged.
- 25. Force Majeure.** Neither party shall be liable for any loss or damage suffered by the other party, directly or indirectly, as a result of the non performing party's failure to perform, or delay in performing, any of its obligations contained in this contract (except any obligations to make payments for services rendered or accepted goods received before the failure to perform or the delay in performance), where, in the opinion of the Cooperative, such failure or delay is cause by circumstances beyond the non performing party's control or which make performance commercially impracticable, including but not limited to fire, flood, storm or other natural disaster, explosion, accident, war, riot, civil disorder, government regulations or restrictions of any kind or any acts of any government, alien enemy, judicial action, power failure, acts of God, or other natural circumstances. This Force Majeure provision excludes economic hardship, changes in market conditions, and insufficiency of funds on the part of Contractor.
- 26. Assignment.** This Agreement binds the parties and their respective successors and assignees. The Contractor shall not assign or otherwise dispose of this Agreement or any duty, right, or responsibility contemplated in this Agreement to any other person without the previous written consent of the Cooperative.
- 27. Subcontractors.** The Contractor shall not subcontract services or any part of this Agreement without the prior written consent of the Cooperative.
- 28. Captions.** The descriptive headings of the Articles, Sections and subsections of this Agreement are for convenience only, do not constitute a part of this Agreement, and do not affect this Agreement's construction or interpretation.

- 29. Rights and Remedies Cumulative.** Any enumeration of the Cooperative’s rights and remedies set forth in this Agreement is not exhaustive. The Cooperative’s exercise of any right or remedy under this Agreement does not preclude the exercise of any other right or remedy. All of the Cooperative’s rights and remedies are cumulative and are in addition to any other right or remedy set forth in this Agreement, any other agreement between the parties, or which may now or subsequently exist at law or in equity, by statute or otherwise.
- 30. Relationship Among Parties.** This Agreement creates no relationship of joint venture, partnership, limited partnership, agency, or employer- employee between the parties, and the parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither party has any right or authority to assume or to create any obligation or responsibility on behalf of the other party except as may from time to time be provided by written instrument signed by both parties.
- 31. Rules of Construction.** The parties hereto have each been represented by counsel, or had the opportunity to be represented, during the negotiation and execution of this Agreement, and therefore waive application of any law or rule of construction providing that ambiguities in the contract will be construed against the party drafting such contract.
- 32. Piggyback Clause.** For the term of the Agreement and any mutually agreed extensions, other public agencies may purchase, lease-purchase, or rent the identical item(s) at the same price and upon the same terms and conditions as provided in this Agreement. The term “public agencies” means any county, city, village, school district, or agency of any state government or of the United States; any drainage district, sanitary and improvement district, or other municipal corporation or political subdivision of Nebraska; and any political subdivision of another state.
- 33. Attachments.** Attachments to this Agreement include the following:

- Exhibit A – Scope of Goods or Services to be provided to ESUCC and Members
- Exhibit B – Payment Terms & Schedule
- Exhibit C – Summary of Project Deliverables
- Exhibit D - Vendor Software License Agreement

IN WITNESS WHEREOF the parties have executed this Agreement on the last date written below.

CONTRACTOR

COOPERATIVE

By: _____ Global Grid 4 Learning _____ By: _____

Name: Robert Iskander _____ Name: _____ Kraig Lofquist _____

Title: _____ CEO _____ Title:
Executive Director
Date: 11/8/22 _____ Date:

EXHIBIT "A"

SCOPE OF GOODS OR SERVICES TO BE PROVIDED TO MEMBERS

<<VENDOR-INSERT SCOPE OF GOODS>>

Nebraska ESUCC Coordinating Council

Cooperative Marketplace offering

Global Grid For Learning

<u>Bundle name</u>	<u>Description</u>	<u>Pricing</u>	<u>Logos and fliers</u>	<u>Website</u>
<u>School Passport</u> <u>Enterprise Edition</u>	<p><u>GG4Ls School Passport™ is an Integration Platform as a Service (iPaaS)</u></p> <p><u>We deliver a secure, cost effective and customized solution.</u></p> <ul style="list-style-type: none"> ● <u>Roster Data Integration and Single Sign On</u> <ul style="list-style-type: none"> -Any vendor via One Roster, API or custom CSV. -PII Shield - protects sensitive student data -LMS Integration * ● <u>Student Engagement Analytics</u> <ul style="list-style-type: none"> Capture All Learning. On all 	<p><u>Not to exceed \$2.55/Student</u></p> <p><u>(minimum order \$2500)</u></p> <p><u>One time setup fee: ranging from \$500 to \$5500/school</u></p>		<u>School Passport</u>

	<p><u>Programs, Apps, and Websites.</u></p> <p><u>* development with vendor required</u></p>			
<p><u>School Passport</u></p> <p><u>Engagement Analytics</u></p>	<p>Engagement's patented technology measures when students are actually reading and engaged with high accuracy, and calculates the reading level and subject area of every webpage.</p> <p>One click in the browser provides a fully customizable SSO launcher to all school provisioned applications.</p>	<p><u>\$1.20/student</u></p> <p><u>Minimum order: \$1200</u></p>		<p><u>Engagement</u></p>
<p><u>GG4L's Career Passport</u></p>	<p><u>Enable students to build job confidence while they earn valuable Professional Certificates through Coursera Career Academy.</u></p> <p><u>Connect students to role-specific training from industry leaders like Meta, IBM, and Google.</u></p>	<p><u>\$125/seat</u></p>		<p><u>Career Academy</u></p>

Lumen Touch

<u>Bundle name</u>	<u>Description</u>	<u>Pricing</u>	<u>Logos and fliers</u>	<u>Website</u>
<p><u>Lumen Touch</u></p> <p><u>Bright SUITE</u></p>	<p><u>With Lumen Touch you now have the opportunity of tracking your students from Early Childhood through High School and beyond in one system. This total offering brings many advantages including tremendous cost and time saving efficiencies while allowing students and teachers to embrace technology to accelerate the trajectory of learning and wellbeing of each student in a just-in-time manner. Schools and districts can deploy the total package or the individual modules allowing for a truly personalized and flexible management system that meet your individual district and school needs from Special Education to Student Information, Library and Resources Management to Student Individual Plans of Study and complete Health and Wellness Management. With Bright SUITE your district will be connecting all students to opportunities!</u></p>	<p><u>License Fee:</u></p> <p><u>\$15/student</u></p> <p><u>Hosting with Backup & Recovery:</u></p> <p><u>\$650-\$2000 depending on size of school district</u></p> <p><u>Implementation Fee:</u></p> <p><u>\$750 minimum depending on size of school district.</u></p> <p><u>Training:</u></p> <p><u>\$1400 first year minimum</u></p>		<p><u>lumentouch.com</u></p>

		\$525 following years		
Lumen Touch Bright SPED	Bright SPED is a comprehensive, federal and state compliant, special education system that manages the complexities and changing dynamics of special education reporting. It is Web based allowing connection anytime, anywhere on any device. Our interactive dashboards drive the experience for each user and avoid complex navigation while providing real time data the minute the user logs into their individualized portal.	<p>License Fee: \$2.50/student</p> <p>Hosting with Backup & Recovery: \$650-\$2000 depending on size of school district</p> <p>Implementation Fee: \$750 minimum depending on size of school district.</p> <p>Training:</p>		lumentouch.com Commented [CP2]: This may be in direct competition with our SRS program and we wouldn't want to promote it. Remove from the contract.

		<p><u>\$1400 first year minimum</u></p> <p><u>\$525 following years</u></p>		

School Day

<u>Bundle name</u>	<u>Description</u>	<u>Pricing</u>	<u>Logos and fliers</u>	<u>Website</u>
<p><u>School Day</u></p>	<p><u>Improve the well-being of your students</u></p> <p><u>When students feel good, they learn best. School Day asks students questions about their well-being, analyzes the answers and provides real-time information. Our service makes the well-being of classes and groups visible and offers pedagogical solutions and content for the development of well-being. We help students, teachers and school communities to create a healthy environment for learning.</u></p>	<p><u>License Fee:</u></p> <p><u>\$1.00 per student</u></p> <p><u>minimum order</u></p> <p><u>\$1,000</u></p>		<p><u>www.school day.com</u></p>

EXHIBIT "B"

1. Contractor's Pricing

Contractor's Pricing Model under this Agreement is:

<<VENDOR-INSERT PRICING>>

[See Above](#)

2. Payment Terms/ Payment Schedule

- A. Members will pay Contractor for all undisputed amounts for the goods and/or services identified in Exhibit A and provided by Contractor under this Agreement within thirty (30) days of receipt of invoice, provided that goods/services have been accepted by the Member as hereinafter provided.
- B. The procedure for billing and payment for services or products and deliverables shall be as specified in this exhibit.

3. Acceptance of Services or Products:

- A. The Contractor shall deliver any goods, perform any services or both in accordance with the schedule set forth in any RFP, RFQ, the time specified in a purchase order issued by the Cooperative, ESUCC, ESU, or Member, or this Agreement (whichever is later).
- B. Unless otherwise agreed to by the parties, the Contractor shall provide written notification of completion of any deliveries, or performances of services or both, to the Member ("Delivery Notice").
- C. Members shall have sixty (60) days from the date of receipt of the Delivery Notice to provide the Contractor with written notification of acceptance or rejection due to unsatisfactory performance or nonconforming goods.
- D. If the Member issues a rejection notice, the Contractor shall as quickly as is practicable, correct or replace all deficiencies at its expense. The Cooperative shall not unreasonably withhold or delay its acceptance or rejection.

4. Title and Risk of Loss:

- A. Title and risk of loss for goods shall remain with the Contractor until goods are accepted by the Member, ESU, ESUCC, Cooperative.
- B. Insurance during shipment and until the goods are accepted by the Cooperative, ESUCC, ESU, or Member is the responsibility of the Contractor.

EXHIBIT "C"

SUMMARY OF PROJECT DELIVERABLES

<<TO BE COMPLETED BY VENDOR>>

1. Order Delivery Method Options

1. Members will submit orders direct to Vendor
2. ESUCC Marketplace is the preferred method for order placement

2. Electronic Orders

- a. Vendor Capable of receiving orders electronically? Yes: No:
- b. If "Yes", Order receipt method: Email: _____ cXML: _____
 - i. If "Email" address to deliver orders to: Jennifer@gg4L.com _____
 - ii. If "cXML" provide the following IT contact information
Contact (First, Last name): _____
Contact email address: _____
Contact Phone: _____
- c. If "No, Alternate method will be determined

3. Sales Representative Contact

- a. First, Last name: Haley Medina _____
- b. Title: District Engagement Executive _____
- c. Phone: (832) 408-1090 _____
- d. Email: Haley@gg4L.com _____

4. Invoice Method

- a. Vendor invoices Members direct

5. Sales Reporting

- a. Vendor to submit quarterly sales report to ESUCC at coop@esucc.org
- b. Vendor contact information for sales report questions:
Contact (First, Last name): Steve Kindel _____
Contact email address: steve@gg4L.com _____
- c. Sales report must include the following
 - Member Name
 - Member City
 - List Price
 - Member Cost
 - Member Savings
 - Admin Fee Amount Due
- d. ESUCC Admin Fee
 - Vendor must submit payment of Admin Fee to ESUCC quarterly
 - Admin Fee is equal to percentage of total sales (as defined in **Administration Fee** section of agreement)
 - Remit Admin Fee payment to:
ESUCC
1292 East 4th Street
Ainsworth, NE 69210

Questions Contact:
Craig Peterson

308-995-0665
craig.peterson@esucc.org

EXHIBIT "D"

SOFTWARE LICENSE AGREEMENT

<<VENDOR-INSERT SOFTWARE LICENSE AGREEMENT>>

GG4L Terms of Service for Schools

We are pleased to welcome you as a member of the Global Grid for Learning and to our network of cooperating educational organizations, edtech vendors and financial sponsors who are working together to make education technology safer, more effective and more cost efficient.

Global Grid for Learning ("GG4L", "we", "us", "our") provides access to the School Passport platform to a School (school, school district, community college, university, or other educational organization) for the purposes of sharing data between the School and data consumers. Data consumers are typically cloud-based applications.

Our product, School Passport, is an iPaaS data integration hub that transmits roster and other operational data between Schools and consumers of that data on behalf of the School. Only data that is explicitly authorized by the School is made available to data consumers.

Data privacy is important to us. GG4L protects the privacy of any information we may collect through School Passport and other services and websites we own and operate. Details can be found in our Privacy Policy. It is important to note that data ownership of School data at all times and in all circumstances remains exclusively with the School. Schools have complete control of and responsibility for their data. If you have questions about or need help with your data, just ask us.

Thank you for choosing Global Grid for Learning and for joining our network of educators, technologists and sponsors who protect data privacy and serve K-12 education through better education technology.

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1. Terms

GG4L grants your School a limited, non-assignable, non-sublicensable and non-exclusive license to access and use School Passport to share School data with one or more data consumers as long as the terms of the Terms of Service, the terms of our Privacy Policy and all applicable commercial and legal obligations and terms are met.

By accessing our service you are agreeing to be bound by these terms of service, all applicable laws and regulations, and agree that you are responsible for compliance with any applicable local laws. If you do not agree with any of these terms, you are prohibited from using or

accessing the service. The content and features contained in the service are protected by applicable copyright and trademark law.

-

2. Use

Who can sign up for and use an administrative user account?

A School Passport administrative account gives you access to our service. In order to sign up and continue accessing the service you must be authorized by the School to access this service on behalf of the School and you must be legally representing the School with regards to the use of the features, functions and content of this service.

-

FERPA and COPPA Compliance

We treat your data as confidential and do not unnecessarily access it or knowingly share it in an unauthorized manner with third parties. Details can be found in our Privacy Policy.

The School is responsible for appropriate use of GG4L services and must establish internal policies to ensure FERPA and COPPA compliance. You agree to uphold your responsibilities under the Family Educational Rights and Privacy Act ("FERPA"), the Protection of Pupil Rights Amendment ("PPRA"), and the Children's Online Privacy and Protection Act.

GG4L acts as an authorized agent of the School. In this capacity our service transfers data from your School to a data consumer authorized by the School. Data transfers may contain data about children under age 13. Before authorizing use of the service or sharing data with a data consumer, it is the responsibility of the School to issue any required notifications and gain any required consent from parents or guardians of protected children.

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GG4L Access to School Owned Data

You authorize us to access your data and will provide a way for us to access the information stored in your SIS, LMS, LDAP or other applicable systems. We will access and process data only as necessary to provide our service. The School at all times owns all rights, title and interest to all of its data. As such, the School is solely responsible for all of its data. We do not own, control, or license your data except to provide the School Passport service.

We provide access to your data only to our employees and certain trusted contractors or service providers who have a legitimate need to access it in connection with providing the School Passport service. Anyone involved in the handling of your data will treat it as

confidential, will not disclose such data and will comply with these Terms of Service and our Privacy Policy.

We maintain access log(s) that record all disclosures of, or access to, your data within our possession and we will provide copies of those access log(s) to you upon your request.

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Data Consumer Access to School Owned Data

You may authorize one or more data consumers to securely access your School's data through our School Passport platform. We will not transfer data to a data consumer unless transfer is explicitly authorized by your School.

At any time, you can revoke any data consumer's access through our platform.

You acknowledge that we are not responsible for the data practices of data consumers. You are solely responsible for the consequences of providing access to and transmitting data to data consumers.

-

Removing Your Data from Our Service

You may request in writing that we delete any or all of your School's data that is in our possession at any time. We will comply with your request in a commercially reasonable time not to exceed sixty (60) business days.

If you grant access to your data to a data consumer and subsequently need that data deleted, you need to request such deletion directly from that data consumer.

-

Cancellation/Termination of School Passport's Service

Schools may at any time, and for any or no reason, terminate these Terms of Service and cancel access to our service by providing written notice.

Within seventy-two (72) hours of our receipt of such notice of termination, or earlier if commercially reasonable to do so, we will cease accessing your SIS. We will automatically delete all of your data that is currently operational within seventy-two (72) hours of our receipt of the termination notice. Data residing on backups or internal logs will be removed within sixty (60) days. We will provide notice to the School when your data has been deleted.

GG4L can cancel your access to the service any time with 30 days' notice. In addition, we can terminate your access to the service with no notice if

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- we believe you are in violation of the Terms of Service or our Privacy Policy,
- we believe that harm to a person or property is likely to occur, or
- we have reasonable evidence that representatives of your organization have violated the law.

However the service is terminated, once data has been transmitted to a data consumer, it is the School's responsibility to negotiate subsequent data processing or removal at the consumer's service directly with the data consumer.

-

3. Disclaimer

The service is provided on an 'as is' basis. GG4L makes no warranties, expressed or implied, and hereby disclaims and negates all other warranties including, without limitation, implied warranties or conditions of merchantability, fitness for a particular purpose, or non-infringement of intellectual property or other violation of rights.

Further, GG4L does not warrant or make any representations concerning the accuracy, likely results, or reliability of the use of content and features of the service or of any website or service linked or referenced by the service.

-

4. Limitations

In no event shall GG4L or its suppliers be liable for any damages (including, without limitation, damages for loss of data or profit, or due to business interruption) arising out of the use or inability to use the content and features of the service, even if GG4L or a GG4L authorized representative has been notified orally or in writing of the possibility of such damage. Because some jurisdictions do not allow limitations on implied warranties, or limitations of liability for consequential or incidental damages, these limitations may not apply to you.

-

5. Accuracy of materials

The materials appearing on the service could include technical, typographical, or photographic errors. GG4L does not warrant that any of the materials on its website are accurate, complete or current. GG4L may make changes to the content and features contained on the services at

any time without notice. However, GG4L does not make any commitment to update the materials.

-

6. Links and References to other Websites and Services

GG4L has not reviewed all of the websites and services linked to or referenced by the service and is not responsible for the contents, features or reliability of any such website or service. The inclusion of any link or reference does not imply endorsement by GG4L. Use of any such linked or referenced website or service is at the user's own risk.

-

7. Modifications

GG4L may revise these terms of service for School Passport at any time without notice. We will take reasonable steps to let users know about changes via our service. By using this service you are agreeing to be bound by the then current version of these terms of service.

If we make a significant change to this document we will ask you to re-consent to the amended terms.

-

8. Governing Law

These terms and conditions are governed by and construed in accordance with the laws of California and you irrevocably submit to the exclusive jurisdiction of the courts in that State or location.

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To contact the Global Grid for Learning Data Controller or Data Protection Officer:

Email: dataprivacy@gg4l.com

Mail: Global Grid for Learning, A Public Benefit Corporation Attn: Data Privacy

1101 Marina Village Parkway, Suite 201, Alameda, CA 94501 USA



2022-2025 SPECIAL BUY AGREEMENT

THIS AGREEMENT is entered into by and between the Nebraska ESUCC Cooperative Purchasing ("Cooperative") and **WeVideo, Inc** ("Contractor"). Educational Service Unit Coordinating Council (ESUCC) was created in statute to coordinate the activities of Nebraska's 17 Educational Service Units. The Educational Service Unit Coordinating Council was created by LB 603 in 2007 and officially came into existence on July 1, 2008. Cooperative Purchasing is a Project of ESUCC that has been in existence since 1968 with the purpose of providing the Educational Service Unit (ESU) member school districts ("Members") of Nebraska an opportunity to secure the maximum procurement value through cooperative synergies. The Educational Service Unit Coordinating Council (ESUCC) Advisory group serves as the steering committee for new and future cooperative buys statewide under its direction. A chief executive officer coordinates the statewide purchasing agreement between educational service units and their school districts and other serviceable entities. The Director of Cooperative Purchasing manages the program with the guidance of the ESUCC, Advisory Board, and the Fiscal Agent. ESUCC serves 17 ESUs that provide a statewide network of educational opportunities to approximately 244 school districts and more than 325,000 students.

In consideration of mutual covenants, the parties agree as follows:

- 1. Scope of the Contract.** The Contractor shall provide Members the opportunity to purchase the goods and/or services as defined in **Exhibit A**, which is attached hereto and incorporated herein by this reference, at the prices set forth in this Agreement and its Exhibits.
- 2. Payment Terms/Payment Schedule.** Members shall pay for services rendered and/or for accepted goods on the terms and payment schedule as set forth in **Exhibit B** which is attached hereto and incorporated herein by this reference. Prices listed in Exhibit B shall remain in effect during the term of this Agreement unless agreed otherwise by the parties in writing.
- 3. Administrative Fee.** Contractor shall submit to the Cooperative as an administrative fee a sum equal to two percent (2%) of the total gross dollar volume, less freight of all goods and services and excluding annual support and maintenance purchased by the Cooperative, ESUCC, ESUs, and Members. This fee will be submitted to ESUCC on a quarterly basis beginning three months from the Effective Date of this Agreement for all transactions completed and paid during said quarter.

4. **Term.** This Agreement is effective on **November 16**, 2022 (“Effective Date”) and shall continue until 12:00 midnight (CST) on **December 31**, 2025, unless terminated earlier as provided by this Agreement or by law.
5. **Governing Law; Designation of Forum.** This Agreement is governed by and construed in accordance with the laws of the State of Nebraska. Any action to enforce this Agreement must be brought in the state or federal courts of the State of Nebraska. Mandatory and exclusive venue for any disputes shall be in Sarpy County, Nebraska.
6. **Student Privacy Protections.**
- A. **Definition of Data.** Data include all Personally Identifiable Information (PII), Member Data, and other non-public information. Data include, but are not limited to, student data, metadata, and user content.
 - B. **Definition of Member Data.** Member Data includes all PII and other information that is not intentionally made generally available by the Cooperative, ESUCC, ESUs, or its Members on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and student and personnel data and metadata.
 - C. **Definition of Personally Identifiable Information.** Personally Identifiable Information includes but is not limited to: personal identifiers such as name, address, phone number, date of birth, Social Security number, and student or personnel identification number; “personal information” as used in Neb. Rev. Stat. § 84-712.05 and personally identifiable information contained in student education records as that term is defined in the Family Educational Rights and Privacy Act, 20 USC 1232g.
 - D. **Definition of User.** User means a participant, instructor, or administrator of the Cooperative, ESUCC, or its Members who are authorized with login credentials by the Cooperative or its Members to use the goods and/or services provided by this Agreement.
 - E. **Data De-Identification.** Contractor may use deidentified Data for product development, research, or other purposes. De-identified Data will have all direct and indirect personal identifiers removed. This includes, but is not limited to, name, ID numbers, date of birth, demographic information, location information, and school ID. Furthermore, Contractor agrees not to attempt to re-identify deidentified Data and not to transfer de-identified Data to any party unless that party agrees not to attempt reidentification.
 - F. **Marketing and Advertising.** Contractor will not use any Data to advertise or market to students or their parents. Advertising or marketing may be directed to the Cooperative, ESUCC, Members, or their school districts only if student information is properly de-identified.”

- G. **Modification of Terms of Service.** Contractor will not change how Data are collected, used, or shared under the terms of this Agreement in any way without advance notice to and consent from the Cooperative, the Members, and the affected school district(s).
- H. **Data Collection.** Contractor will only collect Data necessary to fulfill its duties as outlined in this Agreement.
- I. **Data Use.** Contractor will use Data only for the purpose of fulfilling its duties and providing services under this Agreement, and for improving services under this Agreement.
- J. **Data Mining.** Contractor is prohibited from mining Data for any purposes other than those agreed to by the parties. Data mining or scanning of user content for the purpose of advertising or marketing to students or their parents is prohibited.
- K. **Data Sharing.** Data cannot be shared with any additional parties without prior written consent of the User except as required by law.
- L. **Data Transfer or Destruction.** Contractor will ensure that all Data in its possession and in the possession of any subcontractors, or agents to which the Contractor may have transferred Data, are destroyed or transferred to the Cooperative under the direction of the Cooperative when the Data are no longer needed for their specified purpose, at the request of the Member.
- M. **Rights and License in and to Data.** Parties agree that all rights, including all intellectual property rights, shall remain the exclusive property of the Member, and Contractor has a limited, nonexclusive license solely for the purpose of performing its obligations as outlined in the Agreement. This Agreement does not give Contractor any rights, implied or otherwise, to Data, content, or intellectual property, except as expressly stated in the Agreement. This includes the right to sell or trade Data.
- N. **Access.** Any Data held by Contractor will be made available to a Member upon request by the Member.
- O. **Security Controls.** Contractor will store and process Data in accordance with industry best practices. This includes appropriate administrative, physical, and technical safeguards to secure Data from unauthorized access, disclosure, and use. Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. Contractor will also have a written incident response plan, to include prompt notification of the Member in the event of a security or privacy incident, as well as best practices for responding to a breach of PII. Contractor agrees to share its incident response plan upon request.
- P. **Response to Legal Orders, Demands or Requests for Data.** Except as otherwise expressly prohibited by law, Contractor will:

- (1) Promptly notify the Cooperative and Members of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking Data;
- (2) Consult with the Cooperative and Members regarding its response;
- (3) Cooperate with the Cooperative's and Member's reasonable requests in connection with efforts by them to intervene and quash or modify the legal order, demand or request; and
- (4) Upon the Cooperative's or a Member's request, provide them with a copy of its response.

7. Termination.

A. The Cooperative may terminate this Agreement in whole or part if funding from federal, state, or other sources for the Cooperative or its Members is not obtained and continued at levels sufficient to allow for purchase of the good and/or services in the indicated quantities or term. The Cooperative shall notify the Contractor as soon as practicable if funds to meet the Cooperative's or Members' obligations become unavailable. The determination of the Cooperative as to the insufficiency of funds is conclusive.

B. Each party may terminate this Agreement if the other party breaches or is in default of any material obligation hereunder which default is incapable of cure, or which, being capable of cure, has not been cured within 30 days after receipt of written notice of such default or such additional cure period as the nondefaulting party may authorize in writing.

C. Each party may terminate this Agreement by written notice if federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.

D. The Cooperative may terminate this Agreement, in whole or in part, by written notice to the Contractor and may regard the Contractor in default of this Agreement if the Contractor becomes:

- (1) Insolvent;
- (2) Makes a general assignment for the benefit of creditors;
- (3) Files a voluntary petition of bankruptcy;
- (4) Suffers or permits the appointment of a receiver for its business or assets;
- (5) Becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign; or
- (6) Has wound up or liquidated, voluntarily or otherwise.

E. The Cooperative may terminate this Agreement, in whole or in part, immediately, without notice, if the Contractor is debarred or suspended from performing services on any public contracts.

F. The parties may terminate this Agreement without cause by mutual written consent or by either party with a minimum of 90 days written notice.

G. Upon the termination for any reason or expiration of this Agreement, the Contractor promptly must return to the Cooperative all papers, materials and other property of the Cooperative then in its possession, including but not limited to all work in progress as is appropriate in its then existing form to the Cooperative.

8. Indemnification.

A. The Contractor hereby waives and agrees to indemnify and save harmless the Cooperative, ESUCC, and the ESUs and their officials, agents, employees, and volunteers (hereinafter collectively referred to as "Indemnities"), against any and all claims of injuries, death, damage to property, liabilities, judgments, costs and expenses which may otherwise accrue against Indemnities in consequence of the granting of this Agreement or which may otherwise result therefrom.

B. The Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith.

C. If any judgment shall be rendered against the Cooperative, ESUCC, or the ESUs in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same.

D. Any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify and save harmless and defend the Indemnities as herein provided.

E. The Contractor's obligation to indemnify and save harmless any Indemnities will survive the expiration or termination of this Agreement by either party for any reason.

9. Insurance. Contractor shall secure and keep in force during the term of this Agreement the following insurance coverages from insurance companies or government self-insurance pools authorized to do business in Nebraska:

A. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per person and \$5,000,000 per occurrence; and

B. If applicable, workers compensation coverage meeting all statutory requirements.

The Contractor shall furnish a certificate of insurance to the undersigned Cooperative representative prior to commencement of this Agreement. Failure to provide insurance as required in this agreement is a material breach of contract entitling the Cooperative to terminate this Agreement immediately.

- 10. Public Records.** The Contractor acknowledges that the Cooperative, ESUCC, ESUs, and Members must comply with Neb. Rev. Stat. § 84-712 through § 84-713 and release public records as defined law upon request, which may include this Agreement and all records created and maintained in relation to this Agreement.
- 11. Publicity.** The Cooperative does not endorse the goods or services of the Contractor. Except for listing the Cooperative as a client during the term of this Agreement, news releases or other publicity concerning this Agreement must not be made by the Contractor without the prior written approval of the Cooperative.
- 12. Drug/Alcohol/Tobacco/Weapons Free Workplace.** The Contractor and all subcontractors, if any, shall not manufacture, sell, distribute, dispense, possess or use controlled substances or marijuana, as defined by Nebraska law, during the performance of this Agreement while on Cooperative, ESUCC, ESU, or Member premises or at Cooperative, ESUCC, ESU, or Member related functions. The Contractor and all subcontractors, if any, shall not possess any weapon, as defined by Nebraska law and the federal "Drug-Free Schools Act," on Cooperative, ESUCC, ESU, or Member property or at Cooperative, ESUCC, ESU, or Member related functions. The Contractor and all subcontractors, if any, also shall adhere to all Cooperative, ESUCC, ESU, and Member policies and regulations that prohibit the possession, distribution, sale, dispensation, or use of any alcohol or tobacco products while on Cooperative, ESUCC, ESU, or Member premises or at Cooperative, ESUCC, ESU, or Member related functions. Failure to comply with this provision may be considered a material breach. The Cooperative may suspend or terminate the Contractor, subcontractor, or both if it violates these laws, regulations, or policies or this provision.
- 13. Nondiscrimination.** The Contractor and all subcontractors, if any, shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.
- 14. Independent Contractor.** Contractor is an independent contractor under this contract and is not a Cooperative, ESUCC, ESU, or Member employee for any purpose. The Contractor retains sole and absolute discretion in the manner and means of carrying out Contractor's activities and responsibilities under this Agreement, except to the extent specified in this Agreement.
- 15. Employment Eligibility Verification.** The Contractor shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Contractor employs or contracts with any subcontractor in connection with this Agreement, the Contractor shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

16. Taxpayer Identification. Contractor's federal employer identification number is: 99-0365274

17. Sales Tax. The Cooperative, ESUCC, ESUs, and Members are exempt from sales tax and shall not pay any sales tax under this Agreement. The Cooperative, ESUCC, ESUs, and/or Members will provide the Contractor with applicable sales tax exemption certificates upon written request.

18. Notice. Each party giving any Notice ("Notice") under this Agreement must give written Notice by personal delivery, registered or certified Mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid.) Notice shall be sent to the following addressees at the following addresses:

Cooperative: ESUCC
Attn: Kraig Lofquist
6949 South 110th Street
LaVista, NE 68128

With copy to:

ESUCC Cooperative Purchasing
Attn: Craig Peterson
PO Box 858
412 W. 14th Ave
Holdrege, NE 68949

Contractor: WeVideo, Inc
1975 W El Camino Real, Ste 202
Mountain View, CA 94040

Notice is effective only if the party giving the Notice has complied with this section.

19. Warranties and Specifications. Contractor shall be responsible for providing to Members all manufacturer warranties on all goods and services. Contractor shall provide Members with all attachments normally supplied by the manufacturer and/or supplier. Complete product specification sheets or brochures must be provided to Members, ESUs, ESUCC, or the Cooperative upon request.

20. Entire Agreement. The Agreement is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.

21. Amendments and Modifications. The parties may amend or modify this Agreement only by a signed, written agreement by both parties that identifies itself

as an amendment or modification to this Agreement. No other alternations in the terms of this agreement shall be valid or binding.

- 22. Waivers.** The parties may waive any provision in this Agreement only by a writing executed by the party or parties against whom the waiver is sought to be enforced. No failure or delay: (1) In exercising any right or remedy, **or** (2) In requiring the satisfaction of any condition under this Agreement, **and** (3) No act, omission, or course of dealing between the parties operates as a waiver or estoppel of any right, remedy or condition. A waiver made in writing on one occasion is effective only in that instance and only for the purpose stated. A waiver once given is not to be construed as a waiver on any future occasion or against any other Person.
- 23. Severability.** If any provision of this Agreement is determined to be unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain enforceable.
- 24. Counterparts.** The parties may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other parties to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other parties. In proving this Agreement, a party must produce or account only for the executed counterpart of the party to be charged.
- 25. Force Majeure.** Neither party shall be liable for any loss or damage suffered by the other party, directly or indirectly, as a result of the non performing party's failure to perform, or delay in performing, any of its obligations contained in this contract (except any obligations to make payments for services rendered or accepted goods received before the failure to perform or the delay in performance), where, in the opinion of the Cooperative, such failure or delay is cause by circumstances beyond the non performing party's control or which make performance commercially impracticable, including but not limited to fire, flood, storm or other natural disaster, explosion, accident, war, riot, civil disorder, government regulations or restrictions of any kind or any acts of any government, alien enemy, judicial action, power failure, acts of God, or other natural circumstances. This Force Majeure provision excludes economic hardship, changes in market conditions, and insufficiency of funds on the part of Contractor.
- 26. Assignment.** This Agreement binds the parties and their respective successors and assignees. The Contractor shall not assign or otherwise dispose of this Agreement or any duty, right, or responsibility contemplated in this Agreement to any other person without the previous written consent of the Cooperative.
- 27. Subcontractors.** The Contractor shall not subcontract services or any part of this Agreement without the prior written consent of the Cooperative.

- 28. Captions.** The descriptive headings of the Articles, Sections and subsections of this Agreement are for convenience only, do not constitute a part of this Agreement, and do not affect this Agreement's construction or interpretation.
- 29. Rights and Remedies Cumulative.** Any enumeration of the Cooperative's rights and remedies set forth in this Agreement is not exhaustive. The Cooperative's exercise of any right or remedy under this Agreement does not preclude the exercise of any other right or remedy. All of the Cooperative's rights and remedies are cumulative and are in addition to any other right or remedy set forth in this Agreement, any other agreement between the parties, or which may now or subsequently exist at law or in equity, by statute or otherwise.
- 30. Relationship Among Parties.** This Agreement creates no relationship of joint venture, partnership, limited partnership, agency, or employer- employee between the parties, and the parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither party has any right or authority to assume or to create any obligation or responsibility on behalf of the other party except as may from time to time be provided by written instrument signed by both parties.
- 31. Rules of Construction.** The parties hereto have each been represented by counsel, or had the opportunity to be represented, during the negotiation and execution of this Agreement, and therefore waive application of any law or rule of construction providing that ambiguities in the contract will be construed against the party drafting such contract.
- 32. Piggyback Clause.** For the term of the Agreement and any mutually agreed extensions, other public agencies may purchase, lease-purchase, or rent the identical item(s) at the same price and upon the same terms and conditions as provided in this Agreement. The term "public agencies" means any county, city, village, school district, or agency of any state government or of the United States; any drainage district, sanitary and improvement district, or other municipal corporation or political subdivision of Nebraska; and any political subdivision of another state.
- 33. Attachments.** Attachments to this Agreement include the following:

Exhibit A – Scope of Goods or Services to be provided to ESUCC and Members
Exhibit B – Payment Terms & Schedule
Exhibit C – Summary of Project Deliverables
Exhibit D - Vendor Software License Agreement

IN WITNESS WHEREOF the parties have executed this Agreement on the last date written below.

CONTRACTOR

COOPERATIVE

By: _____
Name: J. David Lahey _____
Title: Chief Customer Officer _____
Date: _____

By: _____
Name: Kraig Lofquist _____
Title: Executive Director _____
Date: _____

EXHIBIT "A"

SCOPE OF GOODS OR SERVICES TO BE PROVIDED TO MEMBERS

<<VENDOR-INSERT SCOPE OF GOODS>>

WeVideo Services overview -

- **WeVideo is the essential app for districts to develop the 4 Cs: critical thinking, communication, collaboration and creativity.**
 - **Multimedia ignites engagement, unlocks creativity, and fosters collaboration.**
- **WeVideo is proven to impact student outcomes with deeper learning, engagement, and Social-emotional learning**
- **WeVideo empowers teachers to:**
 - **Create assignments in seconds**
 - **Make your own instructional videos**
 - **Empower student voice**
 - **Give in the moment feedback**
 - **Support real-time collaboration.**
- **WeVideo is collaborative, simple and versatile**
 - **End to End Teacher work flow in 4 easy steps**
 - **Create animated GIFs**
 - **Amplify learning with Digital Storytelling**
 - **1.5+ Million royalty-free media to use (audio, video, & images)**
 - **Green Screen, Podcasting, Screen Recorder**
 - **Integrations, Admin panel, cloud-based device freedom, COPPA/FERPA compliant**

PlayPosit Service Overview -

- **PlayPosit provides learning for every learner, anywhere, and transform passive into active learning including:**
 - **Classroom Use**
 - **Professional Learning Use**
 - **Curriculum & Instruction**
 - **Community Engagement**
- **LMS Integrations, Google Classroom API integration, real-time data analytics, security compliant**

EXHIBIT "B"

1. Contractor's Pricing

Contractor's Pricing Model under this Agreement is:

<<VENDOR-INSERT PRICING>>

Working with Craig to get the pricing included after Board Approval.

*****Pricing is reviewed annually and can change. 2023 pricing will increase for WeVideo at 5%.**

2. Payment Terms/ Payment Schedule

- A. Members will pay Contractor for all undisputed amounts for the goods and/or services identified in Exhibit A and provided by Contractor under this Agreement within thirty (30) days of receipt of invoice, provided that goods/services have been accepted by the Member as hereinafter provided.
- B. The procedure for billing and payment for services or products and deliverables shall be as specified in this exhibit.

3. Acceptance of Services or Products:

- A. The Contractor shall deliver any goods, perform any services or both in accordance with the schedule set forth in any RFP, RFQ, the time specified in a purchase order issued by the Cooperative, ESUCC, ESU, or Member, or this Agreement (whichever is later).
- B. Unless otherwise agreed to by the parties, the Contractor shall provide written notification of completion of any deliveries, or performances of services or both, to the Member ("Delivery Notice").
- C. Members shall have sixty (60) days from the date of receipt of the Delivery Notice to provide the Contractor with written notification of acceptance or rejection due to unsatisfactory performance or nonconforming goods.
- D. If the Member issues a rejection notice, the Contractor shall as quickly as is practicable, correct or replace all deficiencies at its expense. The Cooperative shall not unreasonably withhold or delay its acceptance or rejection.

4. Title and Risk of Loss:

- A. Title and risk of loss for goods shall remain with the Contractor until goods are accepted by the Member, ESU, ESUCC, Cooperative.
- B. Insurance during shipment and until the goods are accepted by the Cooperative, ESUCC, ESU, or Member is the responsibility of the Contractor.

EXHIBIT "C"

SUMMARY OF PROJECT DELIVERABLES

<<TO BE COMPLETED BY VENDOR>>

1. Order Delivery Method Options

1. Members will submit orders direct to Vendor
2. ESUCC Marketplace is the preferred method for order placement

2. Electronic Orders

- a. Vendor Capable of receiving orders electronically? Yes: No:
- b. If "Yes", Order receipt method: Email: cXML:
 - i. If "Email" address to deliver orders to: po@wevideo.com
 - ii. If "cXML" provide the following IT contact information
Contact (First, Last name): _____
Contact email address: _____
Contact Phone: _____
- c. If "No, Alternate method will be determined

3. Sales Representative Contact

- a. First, Last name: Dena Dellere
- b. Title: Mountain Plains Account Executive
- c. Phone: 913-485-2121
- d. Email: dena@wevideo.com

4. Invoice Method

- a. Vendor invoices Members direct

5. Sales Reporting

- a. Vendor to submit quarterly sales report to ESUCC at coop@esucc.org
- b. Vendor contact information for sales report questions:
Contact (First, Last name): Dena Dellere
Contact email address: dena@wevideo.com
- c. Sales report must include the following
 - Member Name
 - Member City
 - List Price
 - Member Cost
 - Member Savings
 - Admin Fee Amount Due
- d. ESUCC Admin Fee
 - Vendor must submit payment of Admin Fee to ESUCC quarterly
 - Admin Fee is equal to percentage of total sales (as defined in **Administration Fee** section of agreement)
 - Remit Admin Fee payment to:
ESUCC
1292 East 4th Street
Ainsworth, NE 69210

6. **Product Information URL:** wevideo.com/education & <https://go.playposit.com/k12>

EXHIBIT "D"

SOFTWARE LICENSE AGREEMENT

<<VENDOR-INSERT SOFTWARE LICENSE AGREEMENT>>

Working with Craig to get the agreement attached after Board Approval.

INTERLOCAL AGREEMENT FOR COOPERATIVE PUBLIC/GOVERNMENTAL PURCHASING

This Interlocal Agreement ("Agreement") is made and entered into under the provisions of the Nebraska Interlocal Cooperation Act, NEB. REV. STAT. §§ 13-801 to 13-827 ("Act"), between the Educational Service Unit Coordinating Council, commonly known as ESUCC ("ESUCC"), and Loup Basin Public Health Department, commonly known as Loup Basin Public Health Department ("LBPHD"). The parties are referred to collectively as "Agencies."

WHEREAS, the Act, provides that two or more public agencies may enter into an agreement for joint or cooperative action, and this Agreement is made and entered into pursuant to the provisions of that Act; and

WHEREAS, each entity is a "public agency" pursuant to NEB. REV. STAT. § 13-803(2), as amended;

WHEREAS, the ESUCC and Loup Basin Public Health Department desire to jointly bid and contract, for supplies, materials, equipment, and services through the ESUCC's Cooperative Purchasing Program;

WHEREAS, each party agrees to extend to the other party the right to purchase pursuant to such bids and contracts to the extent permitted by law, and to the extent agreed upon between each party and the bidder, contractor, vendor, supplier, or service provider;

WHEREAS, the Agencies desire to make the most efficient use of their taxing authority and other powers to enable them to cooperate with each other and other entities as further agreed on the basis of mutual advantage to provide goods, services, and facilities in a manner and pursuant to forms of governmental organization that will accord the best results in terms of geographic, economic, population, and other factors that will influence the needs and development of the Agencies;

WHEREAS, the ESUCC will provide organizational and administrative structure for sourcing/bidding; provide marketing of Nebraska ESUCC Cooperative Purchasing to expand membership, awarded contracts, and commodity categories; and provide members

with current awarded vendor contracts, instructions for obtaining quotes and ordering procedures;

WHEREAS, Loup Basin Public Health Department commits to participate in the Nebraska ESUCC Cooperative Purchasing program by purchasing goods and services from awarded contracts when in the best interest of the entity and to pay awarded vendors in a timely manner per the Terms & Conditions of the contract for all goods and services received and

WHEREAS, the Agencies have passed resolutions authorizing each Agency to approve and enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is agreed by the parties as follows:

1. Recitals. The foregoing Recitals are hereby incorporated into and made a part of this Agreement.

2. No Separate Legal Entity. This Agreement does not establish a separate legal or joint entity.

3. Purpose. The purposes of this Agreement are as provided in the Recitals and paragraph 6.

4. Term. This Agreement shall remain in full force and effect until terminated or modified by mutual agreement of the parties.

5. Administration. The ESUCC Executive Director shall be responsible for administering the cooperative undertaking described in this Agreement. The Administrator may take any action authorized, either explicitly or implicitly, by the Interlocal Cooperation Act, including any action that may be necessary to perform the duties and functions as provided in this Agreement.

6. Bids and Contracts. Each party from time to time may solicit public bids and enter into contracts on its own behalf to purchase supplies, material, equipment, and services. Each of the parties agrees to extend to the other party the right to purchase pursuant to such bids and contracts to the extent permitted by law, and to the extent agreed upon between each party and the bidder, contractor, vendor, supplier, or service provider. Each of the parties shall contract directly with the

bidder, contractor, vendor, supplier, or service provider, and pay directly in accordance with its own payment procedures for its own purchases. Any purchase made pursuant to this Agreement is not a purchase from either of the parties. This Agreement shall create no obligation for either of the parties to purchase any particular good or service, nor create to either of the parties any assurance, warranty, or other obligation from the other party with respect to purchasing or supplying any good or service.

7. Manner of Acquiring, Holding, and Disposing of Real and Personal Property. The Agencies do not anticipate a need to acquire, hold, or dispose of real property to accomplish the purposes of this Agreement. The Agencies' respective governing boards shall determine the manner of acquiring, holding, or disposing of real property in the event that such a need arises. In no event shall the Administrator have the authority to acquire real property on behalf of the Agencies.

8. Financing and Budgeting. Each party will finance its respective responsibilities under this agreement through its existing internal financing and budgeting processes. The parties shall provide a copy of their respective budgets to the Administrator upon request.

9. Expenses. Unless provided otherwise herein, all expenses of this Agreement shall be shared and paid equally by the Agencies.

10. Taxes. This Agreement does not grant the Agencies any authority to levy, collect, or account for any tax authorized under sections 13-318 through 13-326 or 13-2813 through 2816.

11. Nondiscrimination. The Agencies shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

12. Employment Eligibility Verification. The Agencies shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If a party employs or contracts with any subcontractor in connection with

this Agreement, the contracting party shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

13. Termination. Either party may terminate this agreement by providing written notice to the other party not less than 60 days prior to termination. Any funds contributed to or for the benefit of this Agreement in possession of any of the Agencies upon termination of this Agreement shall be divided as nearly as practicable in proportion to the amounts contributed over the life of the Agreement. Any other personal property owned by any of the Agencies as a result of this Agreement shall be the property of the party that purchased it. In the event that the cost of the personal property was shared equally by the Agencies, the property shall be liquidated or distributed in kind upon the termination of this Agreement. If a dispute arises between the Agencies as to the value of such property or as to how it will be distributed, such property shall be sold by taking bids at public auction and selling said property to the highest bidder with the proceeds therefrom being divided equally by the Agencies. Termination shall not impair a party's obligation for its share of any outstanding indebtedness incurred under this Agreement.

14. Withdrawal. An Agency's governing board may withdraw from this Agreement by passing a resolution and submitting a copy of it to the other Agency at least 60 days in advance of the stated date of withdrawal. Withdrawal shall not impair an Agency's obligation for its share of any outstanding indebtedness.

15. Insurance. Each party shall obtain and pay for its own insurance coverage for their participation in this Agreement.

16. Notice. Each Agency giving any Notice ("Notice") under this Agreement must give written Notice by personal delivery, registered or certified Mail (in each case, return receipt requested and postage prepaid), or electronic mail (to the Agency's then executive officer or the governing board's president, with receipt confirmed). Notice shall be sent to the following addressees at the following addresses:

ESUCC: ESUCC
Attn: Executive Director

6949 South 110th Street
LaVista, NE 68128

LBPHD: _____
Attn: _____

Notice is effective only if the party giving the Notice has complied with this section.

17. Amendments and Modifications. The Agencies may amend or modify this Agreement only by a written agreement signed by both parties that identifies itself as an amendment or modification to this Agreement. No other alterations in the terms of this agreement shall be valid or binding.

18. Severability. If any provision of this Agreement is determined to be unenforceable, the remaining provisions of this Agreement shall remain in full force, if the essential terms and conditions of this Agreement for each party remain enforceable.

19. Counterparts. The Agencies may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the Agencies need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other Agencies to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each Agency to the other Agencies. In proving this Agreement, an Agency must produce or account only for the executed counterpart of the Agency to be charged.

20. Assignment. The Agencies shall not assign or otherwise dispose of this Agreement or any duty, right, or responsibility contemplated in this Agreement to any other person or entity without the previous written consent of each of the other Agencies.

21. Entire Agreement. The Agreement is the complete and

exclusive expression of the Agencies' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the Agencies on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.

**EDUCATIONAL SERVICE UNIT
COORDINATING COUNCIL**

Signature: _____ Date: _____,
Kraig Lofquist
Executive Director

Signature: _____ Date: _____,
Printed Name: _____
Title: _____

RESOLUTION

WHEREAS, on November 16, 2022, at a duly convened and scheduled meeting of the Educational Service Unit Coordinating Council, also known as the ESUCC, it was recommended and deemed advisable that the Council enter into the Interlocal Agreement with Loup Basin Public Health Department to jointly bid and contract, for supplies, materials, equipment, and services through the ESUCC's Cooperative Purchasing Program;

AND WHEREAS, consideration of the matter was a duly advertised agenda item for the said meeting of the ESUCC;

AND WHEREAS, an opportunity was afforded any interested party to comment on the matter; and the ESUCC being apprised of the various aspects of the issue;

AND WHEREAS, the Board has determined that entering into the Interlocal Agreement is in the best interests of the ESUCC and its members and is appropriate to provide for the efficient and effective operation of the ESUCC;

NOW BE IT THEREFORE RESOLVED that the ESUCC's Executive Director be authorized on behalf of the ESUCC, pursuant to this Resolution, to affix his signature to the aforementioned Interlocal Agreement and to do all things necessary to comply with said Agreement.

It was so moved by _____ and seconded by _____
_____ this 16th day of November, 2022.

Roll call vote as follows:

	Name	<u>Yes</u>	<u>No</u>
ESU 1:	Dr. Bill Heimann	___	___
ESU 2:	Dr. Ted DeTurk	___	___
ESU 3:	Dr. Dan Schnoes	___	___
ESU 4:	Gregg Robke	___	___
ESU 5:	Dr. Brenda McNiff	___	___
ESU 6:	Dr. John Skretta	___	___

ESU 7:	Dr. Larianne Polk	_____	_____
ESU 8:	Corey Dahl	_____	_____
ESU 9:	Drew Harris	_____	_____
ESU 10:	Dr. Melissa Wheelock	_____	_____
ESU 11:	John Poppert	_____	_____
ESU 13:	Dr. Laura Barrett	_____	_____
ESU 15:	Paul Calvert	_____	_____
ESU 16:	Deb Paulman	_____	_____
ESU 17:	Geraldine Erickson	_____	_____
ESU 18:	Dr. Sarah Salem	_____	_____
ESU 19:	Canyon Chism	_____	_____

INTERLOCAL AGREEMENT FOR COOPERATIVE PUBLIC/GOVERNMENTAL PURCHASING

This Interlocal Agreement ("Agreement") is made and entered into under the provisions of the Nebraska Interlocal Cooperation Act, NEB. REV. STAT. §§ 13-801 to 13-827 ("Act"), between the Educational Service Unit Coordinating Council, commonly known as ESUCC ("ESUCC"), and Panhandle Public Health District, commonly known as PPHD. The parties are referred to collectively as "Agencies."

WHEREAS, the Act, provides that two or more public agencies may enter into an agreement for joint or cooperative action, and this Agreement is made and entered into pursuant to the provisions of that Act; and

WHEREAS, each entity is a "public agency" pursuant to NEB. REV. STAT. § 13-803(2), as amended;

WHEREAS, the ESUCC and Panhandle Public Health District desire to jointly bid and contract, for supplies, materials, equipment, and services through the ESUCC's Cooperative Purchasing Program;

WHEREAS, each party agrees to extend to the other party the right to purchase pursuant to such bids and contracts to the extent permitted by law, and to the extent agreed upon between each party and the bidder, contractor, vendor, supplier, or service provider;

WHEREAS, the Agencies desire to make the most efficient use of their taxing authority and other powers to enable them to cooperate with each other and other entities as further agreed on the basis of mutual advantage to provide goods, services, and facilities in a manner and pursuant to forms of governmental organization that will accord the best results in terms of geographic, economic, population, and other factors that will influence the needs and development of the Agencies;

WHEREAS, the ESUCC will provide organizational and administrative structure for sourcing/bidding; provide marketing of Nebraska ESUCC Cooperative Purchasing to expand membership, awarded contracts, and commodity categories; and provide members with current awarded vendor contracts, instructions for obtaining quotes

and ordering procedures;

WHEREAS, Panhandle Public Health District commits to participate in the Nebraska ESUCC Cooperative Purchasing program by purchasing goods and services from awarded contracts when in the best interest of the entity and to pay awarded vendors in a timely manner per the Terms & Conditions of the contract for all goods and services received and

WHEREAS, the Agencies have passed resolutions authorizing each Agency to approve and enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is agreed by the parties as follows:

1. Recitals. The foregoing Recitals are hereby incorporated into and made a part of this Agreement.

2. No Separate Legal Entity. This Agreement does not establish a separate legal or joint entity.

3. Purpose. The purposes of this Agreement are as provided in the Recitals and paragraph 6.

4. Term. This Agreement shall remain in full force and effect until terminated or modified by mutual agreement of the parties.

5. Administration. The ESUCC Executive Director shall be responsible for administering the cooperative undertaking described in this Agreement. The Administrator may take any action authorized, either explicitly or implicitly, by the Interlocal Cooperation Act, including any action that may be necessary to perform the duties and functions as provided in this Agreement.

6. Bids and Contracts. Each party from time to time may solicit public bids and enter into contracts on its own behalf to purchase supplies, material, equipment, and services. Each of the parties agrees to extend to the other party the right to purchase pursuant to such bids and contracts to the extent permitted by law, and to the extent agreed upon between each party and the bidder, contractor, vendor, supplier, or service provider. Each of the parties shall contract directly with the bidder, contractor, vendor, supplier, or service provider, and pay directly in accordance with its own payment procedures for its own

purchases. Any purchase made pursuant to this Agreement is not a purchase from either of the parties. This Agreement shall create no obligation for either of the parties to purchase any particular good or service, nor create to either of the parties any assurance, warranty, or other obligation from the other party with respect to purchasing or supplying any good or service.

7. Manner of Acquiring, Holding, and Disposing of Real and Personal Property. The Agencies do not anticipate a need to acquire, hold, or dispose of real property to accomplish the purposes of this Agreement. The Agencies' respective governing boards shall determine the manner of acquiring, holding, or disposing of real property in the event that such a need arises. In no event shall the Administrator have the authority to acquire real property on behalf of the Agencies.

8. Financing and Budgeting. Each party will finance its respective responsibilities under this agreement through its existing internal financing and budgeting processes. The parties shall provide a copy of their respective budgets to the Administrator upon request.

9. Expenses. Unless provided otherwise herein, all expenses of this Agreement shall be shared and paid equally by the Agencies.

10. Taxes. This Agreement does not grant the Agencies any authority to levy, collect, or account for any tax authorized under sections 13-318 through 13-326 or 13-2813 through 2816.

11. Nondiscrimination. The Agencies shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

12. Employment Eligibility Verification. The Agencies shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If a party employs or contracts with any subcontractor in connection with this Agreement, the contracting party shall include a provision in the contract requiring the subcontractor to use a federal immigration

verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

13. Termination. Either party may terminate this agreement by providing written notice to the other party not less than 60 days prior to termination. Any funds contributed to or for the benefit of this Agreement in possession of any of the Agencies upon termination of this Agreement shall be divided as nearly as practicable in proportion to the amounts contributed over the life of the Agreement. Any other personal property owned by any of the Agencies as a result of this Agreement shall be the property of the party that purchased it. In the event that the cost of the personal property was shared equally by the Agencies, the property shall be liquidated or distributed in kind upon the termination of this Agreement. If a dispute arises between the Agencies as to the value of such property or as to how it will be distributed, such property shall be sold by taking bids at public auction and selling said property to the highest bidder with the proceeds therefrom being divided equally by the Agencies. Termination shall not impair a party's obligation for its share of any outstanding indebtedness incurred under this Agreement.

14. Withdrawal. An Agency's governing board may withdraw from this Agreement by passing a resolution and submitting a copy of it to the other Agency at least 60 days in advance of the stated date of withdrawal. Withdrawal shall not impair an Agency's obligation for its share of any outstanding indebtedness.

15. Insurance. Each party shall obtain and pay for its own insurance coverage for their participation in this Agreement.

16. Notice. Each Agency giving any Notice ("Notice") under this Agreement must give written Notice by personal delivery, registered or certified Mail (in each case, return receipt requested and postage prepaid), or electronic mail (to the Agency's then executive officer or the governing board's president, with receipt confirmed). Notice shall be sent to the following addressees at the following addresses:

ESUCC: ESUCC
Attn: Executive Director
6949 South 110th Street
LaVista, NE 68128

PPHD: _____
Attn: _____

Notice is effective only if the party giving the Notice has complied with this section.

17. Amendments and Modifications. The Agencies may amend or modify this Agreement only by a written agreement signed by both parties that identifies itself as an amendment or modification to this Agreement. No other alterations in the terms of this agreement shall be valid or binding.

18. Severability. If any provision of this Agreement is determined to be unenforceable, the remaining provisions of this Agreement shall remain in full force, if the essential terms and conditions of this Agreement for each party remain enforceable.

19. Counterparts. The Agencies may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the Agencies need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other Agencies to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each Agency to the other Agencies. In proving this Agreement, an Agency must produce or account only for the executed counterpart of the Agency to be charged.

20. Assignment. The Agencies shall not assign or otherwise dispose of this Agreement or any duty, right, or responsibility contemplated in this Agreement to any other person or entity without the previous written consent of each of the other Agencies.

21. Entire Agreement. The Agreement is the complete and exclusive expression of the Agencies' agreement on the matters contained in this Agreement. All prior and contemporaneous

negotiations and agreements between the Agencies on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.

**EDUCATIONAL SERVICE UNIT
COORDINATING COUNCIL**

Signature: _____ Date: _____,
Kraig Lofquist
Executive Director

Signature: _____ Date: _____,

Printed Name: _____

Title: _____

RESOLUTION

WHEREAS, on November 16, 2022, at a duly convened and scheduled meeting of the Educational Service Unit Coordinating Council, also known as the ESUCC, it was recommended and deemed advisable that the Council enter into the Interlocal Agreement with Panhandle Public Health District to jointly bid and contract, for supplies, materials, equipment, and services through the ESUCC’s Cooperative Purchasing Program;

AND WHEREAS, consideration of the matter was a duly advertised agenda item for the said meeting of the ESUCC;

AND WHEREAS, an opportunity was afforded any interested party to comment on the matter; and the ESUCC being apprised of the various aspects of the issue;

AND WHEREAS, the Board has determined that entering into the Interlocal Agreement is in the best interests of the ESUCC and its members and is appropriate to provide for the efficient and effective operation of the ESUCC;

NOW BE IT THEREFORE RESOLVED that the ESUCC’s Executive Director be authorized on behalf of the ESUCC, pursuant to this Resolution, to affix his signature to the aforementioned Interlocal Agreement and to do all things necessary to comply with said Agreement.

It was so moved by _____ (ESU #) and seconded by _____ (ESU #) this 16th day of November, 2022.

Roll call vote as follows:

	Name	<u>Yes</u>	<u>No</u>
ESU 1:	Dr. Bill Heimann	___	___
ESU 2:	Dr. Ted DeTurk	___	___
ESU 3:	Dr. Dan Schnoes	___	___
ESU 4:	Gregg Robke	___	___
ESU 5:	Dr. Brenda McNiff	___	___
ESU 6:	Dr. John Skretta	___	___

ESU 7:	Dr. Larianne Polk	_____	_____
ESU 8:	Corey Dahl	_____	_____
ESU 9:	Drew Harris	_____	_____
ESU 10:	Dr. Melissa Wheelock	_____	_____
ESU 11:	John Poppert	_____	_____
ESU 13:	Dr. Laura Barrett	_____	_____
ESU 15:	Paul Calvert	_____	_____
ESU 16:	Deb Paulman	_____	_____
ESU 17:	Geraldine Erickson	_____	_____
ESU 18:	Dr. Sarah Salem	_____	_____
ESU 19:	Canyon Chism	_____	_____

Coop Directors report to ESUCC Board
submitted by: Craig Peterson
November 16, 2022

1. Annual/Paper Buy

- a. **Definition of the Annual Buy:** This is a line item bid were vendors are awarded by line item. If there is a tie for the bid price then a Nebraska vendor wins over an out of state vendor, otherwise it goes to a coin flip. Bids are sent to registered vendors nation-wide in October. Bid Awards announced in December and January, catalogs with over 4,200 items are published and distributed schools/members in February. The orders are then aggregated by address (all teacher/staff orders for items are aggregated into one line item per address) and sent to vendors in March and April and merchandise is delivered to the Cooperative members during May through July. The product categories offered are as follows: Electronics and Related Supplies, General Supplies, Furniture, Copier Paper, Maintenance-Shop Supplies, Health & Safety Supplies, Athletic Equipment & Supplies, Hot Lunch Equipment & Supplies, Science Equipment & Supplies, and Art Equipment & Supplies.
- b. **2023 ESUCC-Annual Buy**
 - i. Bid closes on December 9, 2022 (200,300,400,500,600,700,800,850,900 sections) and January 6, 2023 (100 section).
 - ii. **2023 Annual Buy Key dates for Schools,**
 1. **Paper Buy Catalog Opens - February 2, 2023**
 2. **Paper Buy Order Deadline Schools/Members – March 9, 2023**
 3. **Annual Buy Catalog Opens - February 16, 2023**
 4. **Annual Buy Teacher/Staff deadline – April 6, 2023**
 5. **First Day for 400 Paper delivery – April 11, 2023**
 6. **First Day for Annual Buy delivery - May 23, 2023**
 7. **Delivery Deadline for 400 Paper - June 14, 2023**
 8. **Delivery Deadline Annual Buy Items - July 24, 2023**
 - iii. **Annual Buy Concerns**
 1. Last year's buy we dealt with supply chain issues, items on extended backorder and increased inflation.
 2. This year it is an unknown what we can expect. I had a conversation with a Paper vendor that shared with me prices used to be the same across the board for colored copier. This year there are constraints in certain colors so those colors are higher priced (Salmon, Orange, Bright's, etc.).
 - iv. **Training dates coming soon**

2. Special Buys

- a. **Definition Special Buy:** Contracts are negotiated agreements with exclusive pricing to ESUCC Cooperative Purchasing members. These contracts may range from one to three years. Within the agreement, terms shall be explicitly defined as to both parties' expectations and the scope of the agreement.

1. **Scholastic Library Publishing** – Provides both print and digital Library resources
 - a. Current vendor, this is a renewal and we are folding two contracts (Print Material & Digital) into one
 - b. Digital includes Scholastic Go, TrueFlix, Teachables, ScienceFlix, Watch & Learn Library and is a 10% off Education pricing.
 - c. Print includes Children’s Press, Franklin Watts, and selected Scholastic titles and is 32%-40% off list price
 - d. Includes Free “Standard” Marc records
 - e. Free “Standard” Library Processing
 - f. Free Shipping & Handling on orders \$350 or more, 5% charge for orders less than \$350
2. **Coughlan Companies LLC dba Capstone**
 - a. NLC contacted us along with ESU6 in the past to see if we could add PebbleGo to our offering. NLC estimated a \$300,000 cost to purchase for all schools in Nebraska and doesn’t have sufficient funding to purchase
 - b. Utilized by Lincoln Public Schools (and others) along with AEA’s in Iowa have purchased for all of their members
 - c. Product is a Sole source from Coughlan Companies LLC dba Capstone
 - d. Capstone Connect is an intuitive, easy-to-use standards alignment search tool that provides thousands of resources and helps teachers find the exact content they need from a comprehensive collection that consists of the following:
 - i. PebbleGo Database Products
 - ii. Capstone Interactive eBook Bundles
 - iii. Instructional Materials
 - iv. Capstone Connect Admin Tool
 - e. PebbleGo is a curricular content hub specifically designed for K-2 students. Packed with informational articles, ready-made activities, and literacy supports for students of all abilities, it boosts engagement and fosters independent learning in core subject areas. Your students will love exploring PebbleGo time and time again.
 - f. There is a 5-40% discount for multisite purchases on one PO
3. **Staples**
 - a. Current vendor, this is a renewal for Office Supply, Furniture, and Technology Catalogs
 - b. This is the only contract that we have with another national cooperative other than AEPA. It was originally signed with NJPA who since then has rebranded themselves as Sourcewell.
 - c. This will be the second extension to this contract.
 - d. Technology items was added to the agreement 11-2021

- e. Product Information URL:
<https://www.pebblego.com/capstone-connect>

4. **Newsela**

- a. Current vendor, this is a contract refresh with new product
- b. Offering Newsela Certified Educator course, 5 hours of online training then the teacher/staff receives Newsela free for a year

5. **Global Grid for Learning (GG4L)**

- a. Founded in 2018, GG4L is a membership-based collaborative providing schools and EdTech vendors a foundation for digital transformation. GG4L's School Passport® is an Integration Platform as a Service (iPaaS), offering a suite of cloud integration services to 20,000+ schools, financially sustained by hundreds of EdTech vendors. With industry-leading PII Shield protection, GG4L advocates for open standards based data integrations, governed data exchange, and strict data privacy compliance.

b. Products

- i. School Passport – Integration Platform as a Service (iPaas)
 - 1. Roster Data and SSO
 - 2. Student Engagement Analytics
- ii. Career Passport - Enable students to build job confidence while they earn valuable Professional Certificates through Coursera Career Academy
- iii. School Day - Improve the well-being of your students. When students feel good, they learn best. School Day asks students questions about their well-being, analyzes the answers and provides real-time information. Our service makes the well-being of classes and groups visible and offers pedagogical solutions and content for the development of well-being. We help students, teachers and school communities to create a healthy environment for learning.
- iv. Bright Suite and Bright SPED – these would be in conflict of SRS and I have asked they be removed.

3. **AEPA**

- a. **Definition of AEPA:** The Association of Educational Purchasing Agencies (AEPA) is a group of Educational Service Agencies/political subdivisions organized through a Memorandum of Understanding between all participating states for the purpose of securing combined volume purchasing contracts based on potential sales by qualifying customers in participating states. Of the many advantages to this unique purchasing group, are the combined human resources representing purchasing/bidding expertise, current and past vendor relationships, past experience and overall vision with regard to the needs of the qualified customers within each represented state. Nebraska is a

founding member of AEPA, which started with ten states in 2000 and now has grown to 29 states. AEPA is a voluntary run organization and asks for volunteers from the membership to complete work in Bid Oversight, Administrative Committees, Marketing, Website management, Reporting and other areas as required.

- i. **2023 AEPA Bid** Opening happened on September 13, 2022. Vendors that were responsive will move forward to the appropriate bid committees for evaluation of proposals and recommendations for awards at the AEPA Winter meeting November 28 - 30, 2022.
 1. 023-A Maintenance, Repair & Operation
 2. 023-B Custodial Supplies & Equipment
 3. 023-C Office Supplies & Equipment
 4. 023-D School & Instructional Supplies
 5. 023-E Technology BuyBack Service
 6. 023-F Audio Visual Integration Services
 7. 023-G Athletic Equipment and Supplies
- ii. Winter 2022 Meeting - The Winter meeting scheduled in Atlanta, GA November 28 – 30. The above categories for Solicitations will be recommended for approval by the AEPA member states.

4. Marketing

- a. 15 Campaigns sent since last month – If Superintendents aren't receiving emails have them send me an email and I will check their status, they may have to re-subscribe themselves if they have unsubscribed from the list.
 - i. [Voss Lighting Webinar November 9th - Still Time to Register](#) – 36.1% open rate
 - ii. [Kami - What's New](#) – 39.1% open rate
 - iii. [School Specialty - Special Needs and Sensory Rooms](#) – Scheduled at the time of this report
 - iv. [Best Plumbing -November 2022 Cool Tools](#) – Scheduled at the time of this report
 - v. [Midwest Technology - KNEX & LEGO](#) – 38.2% open rate
 - vi. [CDWG - Anywhere Cart Solutions & Webinar NOT TOO LATE](#) – 33.4% open rate
 - vii. [CDWG - Anywhere Cart Solutions & Webinar](#) – 36.1% open rate
 - viii. [AEPA - Planning for the Worst: What to Know About Catastrophe Preparedness](#) – 37.5% open rate
 - ix. [AEPA - 1-TO-1 DEVICES Blog](#) – 36.9% open rate
 - x. [Pitsco October- Build a Better Bot](#) – 35.8% open rate
 - xi. [PARTAC PEAT Beam Clay - October Flyers](#) – 38% open rate
 - xii. [Dreambox Learning - NAEP Scores](#) – 42.5% open rate
 - xiii. [Medicaleshop - Mobility Aids - October 2022](#) – 39.8% open rate
 - xiv. [Interlocal Agreement - Public Health Departments](#) – 11.8% open rate
 1. **[Re-sent] Interlocal Agreement - Public Health Departments** – 52.8% open rate
- b. If you have previously unsubscribed from receiving these emails then you can re-subscribe or have other staff subscribe by visiting the following

link <http://eepurl.com/gTsUCv>, choose the District-Building Contacts to receive Cooperative Purchasing emails about order deadlines and vendor announcements. After submitting your subscription request, check your email, you may receive email from MailChimp requiring you to confirm this submission.

5. Additional Information & Meetings

- i. Communications with the following vendors/organizations throughout the month: Pitsco Education, AEPA Reporting Committee, Iowa AEA, Formative, Medicaleshop, Loup Basin Health Department, Panhandle Health Department, Quest Forward Academy, AEPA Webiste Committee, Springshare (LibGuides), Formative, Global Grid for Learning, CDW-G, AnyWhereCart, School Specialty, Navigate360, IonWave, Greenbush KS, Red Rover, Quill, Newsela, Capstone, Scholastic,
- ii. Conferences/Webinars:
 - 1. NETA Fall Conference
 - 2. Hosted Voss Lighting Webinar– Upgrading your Facility(s) Lighting
 - 3. IonWave Webinar-Admin: System Administration
 - 4. IonWave Webinar-Contract Management: Administration
 - 5. IonWave Webinar-Creating Contracts from Awarded Bid Events
 - 6. IonWave Webinar-Contract Reporting

November 2022

Q3 2020 Sales: Q3 2022 sales **up \$3.332M** from Q3 2021

- * Special Buys: up \$1.6M
- * AEPA: up \$1.8M
- * Food & Custodial Buys: down 1M
- * Annual Buy Punch Out: up \$5K

Food Audit: 2022-23 Food program audit completed