

Board Office Use: Legislative File Info.	
File ID Number	16-2678
Introduction Date	1/11/2017
Enactment Number	
Enactment Date	



**OAKLAND UNIFIED
SCHOOL DISTRICT**

Community Schools, Thriving Students

Memo

To Board of Education

From Dr. Devin Dillon, Deputy Superintendent
Tamara Arroyo, Executive Director, Education Effectiveness

Board Meeting Date January 11, 2017

Subject Agreement with Schoolbinder, Inc. and Oakland Unified School District

Action Requested Approval of Agreement – Schoolbinder, Inc. and Oakland Unified School District

Background Vendor will provide online platform for teachers, leaders and BTSA Support Program and to add new features to the services from time to time, including but not limited to new observation tools, reports, and visual and system-level enhancements.

Discussion This platform will allow teacher, leaders and BTSA Support Program staff to create reports to enhance teaching in the classroom.

Recommendation Approval of Agreement – Schoolbinder, Inc. and Oakland Unified School District from July 1, 2016 to June 30, 2017 in an amount not to exceed \$134,028.00.

Fiscal Impact Funding Resource: Licensing-

Attachments

- Schoolbinder, Inc. Agreement



CONTRACT JUSTIFICATION FORM
This Form Shall Be Submitted to the Board Office
With *Every* Consent Agenda Contract.

Legislative File ID No. 16-2678

Department: Deputy Superintendent Academics

Vendor Name: Schoolbinder, Inc.

Contract Term: Start Date: 7/1/16 End Date: 6/30/17

Annual Cost: \$ 134,028

Approved by: Dr. Dillon

Is Vendor a local Oakland business? Yes No

Why was this Vendor selected?

Continuing partnership to support TGDS, BTSA

Summarize the services this Vendor will be providing.

Provide online platform for our teachers, leader and BTSA Support Programs.

Was this contract competitively bid? Yes No

If No, answer the following:

1) How did you determine the price is competitive?

Industry standard.

2) Please check the competitive bid exception relied upon:

- Educational Materials**
- Special Services** contracts for financial, economic, accounting, legal or administrative services
- CUPCCAA exception** (Uniform Public Construction Cost Accounting Act)
- Professional Service Agreements** of less than \$87,800 (increases a small amount on January 1 of each year)
- Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
- Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternate energy supply sources)
- Emergency** contracts [requires Board resolution declaring an emergency]
- Technology** contracts
 - electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$87,800 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
 - contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
 - Western States Contracting Alliance Contracts (WSCA)
 - California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
- "Piggyback" Contracts** with other governmental entities
- Perishable Food**
- Sole Source**
- Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
- Other, please provide specific exception**

SCHOOLBINDER, INC.
SERVICE LICENSING AGREEMENT

This Schoolbinder, Inc. Service Licensing Agreement (this "**Agreement**") is entered by and between Schoolbinder, Inc. ("**Schoolbinder**," "**we**," "**us**," or "**our**") with offices at 25 Broadway, Floor 9, New York, NY 10004, and Oakland Unified School District ("**OUSD**") located at 1000 Broadway, Suite 680, Oakland, CA 94607. This Agreement shall contain the terms and conditions that govern OUSD's access to and use of the Service (as defined below), and takes effect on the date last executed below (the "**Effective Date**").

In consideration of the agreements and representations contained herein, the parties hereby agree as follows:

1. SERVICES.

1.1. LICENSE. We hereby grant to OUSD a limited, revocable, non-exclusive, non-sublicensable, non-transferrable license ("**License**") to do the following during the Term: (i) access and use the Service solely in accordance with this Agreement; and (ii) copy and use the TeachBoost Content solely in connection with OUSD's permitted use of the Service.

1.2. MODIFICATIONS. We may make commercially reasonable changes to support and secure the Service and to add new features to the Service from time to time, including but not limited to new observation tools, reports, and visual and system-level enhancements ("**Modifications**"). If we make a Modification or material change to the Service, we will inform OUSD and the User Accounts *via* conspicuous notice on the TeachBoost Site after User Accounts sign in to the Service, provided that OUSD and the User Accounts have subscribed with Schoolbinder to be informed about such material change. All Modifications to the Service are included in the License for the entirety of the Term at no additional fee other than those defined in Section 2.

2. TERM AND FEES.

2.1. TERM. This License shall be for a term beginning on the July 1, 2016 and continuing until the earlier of: (i) June 30, 2017 or (ii) the Agreement is terminated as set forth herein (the "**Term**"). This Agreement will remain in effect for the entirety of the Term.

2.2. RENEWAL. At the end of the Term, OUSD may renew this Agreement and the License for an additional Term at the then-current License Fee. OUSD must notify Schoolbinder of its intention to renew this Agreement and License in writing at least fifteen (15) days prior to the end of the then-current Term. The Term will not automatically renew and the current License Fee is not guaranteed for any subsequent renewals, Terms, or new agreements.

- 2.3. LICENSE FEE.** OUSD shall pay a total license fee for the License of \$134,028.00 (the "**License Fee**"). This amount is broken out by line item in the attached Invoice and shall be payable within thirty (30) days from the Effective Date. Payments shall be made by check made out to "Schoolbinder, Inc." and mailed to Schoolbinder, Inc., Attn: Jason DeRoner, 25 Broadway, Floor 9, New York, NY 10004.
- 2.4. CUSTOM DEVELOPMENT FEE.** OUSD shall pay a fee of \$200.00 USD per hour for each hour of software and/or feature development work requested by OUSD to be implemented and included in the Service. All work created by Schoolbinder under this provision shall immediately become part of the Service and subject to the license ownership provisions in Section 6. OUSD shall obtain no right, title, or interest to any work performed and created by us under this provision. The parties must agree in writing to the scope and duration of work subject to this custom development fee prior to the start of any such work. Schoolbinder has the right to reject any custom development request by OUSD and has no obligation to agree to such request.
- 2.5. USE OF THE SERVICE.** OUSD has no obligation to use the Service and may cease using the Service at any time for any reason (or no reason).

3. USE OF THE SERVICE.

- 3.1. USER ACCOUNTS.** To access the Service, OUSD and its End Users, including any agents and employees, must create a TeachBoost Account associated with a valid, unique email address ("**User Account**"). Unless explicitly permitted, OUSD and its End Users may create up to 3,000 User Accounts but may only create one account per email address. OUSD is responsible for all activities that occur under its accounts, regardless of whether the activities are undertaken by it, its employees, or a third party (including its contractors or agents) and, except to the extent caused by our breach of this Agreement, we and our affiliates are not responsible for unauthorized access to User Accounts. OUSD will contact us immediately if it believes an unauthorized third party may be using an account or if account information is lost or stolen.
- 3.2. INSTALLATION.** There is no installation or configuration necessary to use the Service. The Service is a browser-based web application implemented for common systems, including personal computers and tablets. The use of the Service requires access to the TeachBoost Site. After receiving the details to access the Service, OUSD and its End Users can confirm their accounts and sign-in *via* the TeachBoost Site. The Service is normally compatible with major operating systems, including Microsoft Windows, Apple OS X, and Ubuntu, and the following web browsers and versions: Google Chrome 30 and above, Mozilla Firefox 10 and above, Internet Explorer 9 and above, Safari 6 and above, Opera 16 and above, iOS 7 and above, and Android 4 and above.

3.3. SUPPORT TO OUSD. We will provide real-time web-based technical support by chat, email, and telephone during weekdays from 9:00am to 6:00pm Eastern Time. We will also provide technical support via the support section of the Service where User Accounts may submit support tickets; tickets will be responded to in order of importance and as soon as practically possible, with a target response time of less than 24 hours.

3.4. THIRD PARTY CONTENT. Third Party Content, such as professional development resources or software applications provided by third parties and other service providers, may be made available directly to OUSD by other companies or individuals under separate terms and conditions, including separate fees and charges. Because we may not have reviewed, tested, or screened the Third Party Content, use of any Third Party Content in connection with or alongside the Service is at OUSD's sole risk.

4. DATA STORAGE AND ACCESS.

4.1. DATA STORAGE AND SECURITY. The Service, TeachBoost Content, and OUSD Content will be stored and served remotely at an industry-leading third-party data center outside Schoolbinder's offices specializing in data security and management. We will use our best efforts and industry-standard practices to securely store and protect the TeachBoost Content and OUSD Content. We reserve the right to select this third party data center and will notify OUSD in writing thirty (30) days before any change in vendor.

4.2. ACCESS TO DATA AND THE SERVICE. OUSD and its End Users may access the Service *via* the TeachBoost Site, authenticated by their User Account, on any Internet-connected device. We will use our best efforts and industry-standard practices to provide access to the Service on an uninterrupted basis but make no warranty that the Service will be available on an entirely uninterrupted or error-free basis. In the event of any significant interruption in the Service, we will immediately notify OUSD in writing about the interruption and our efforts in restoring the Service, and will route all available resources continuously into restoring the Service as soon as possible.

4.3. BACKUP AND DATA RECOVERY. The TeachBoost Content, OUSD Content, and the databases used by the Service will be backed-up from the third-party data center on a nightly, weekly, and monthly basis ("**Backups**"). These Backups will be co-located and stored in a hardened, secure, and fire-proof facility, and will be made available to OUSD for data recovery and storage purposes when requested by OUSD in writing.

5. CONFIDENTIALITY.

5.1. STUDENT AND SCHOOL DATA. Schoolbinder and its affiliates, contractors, and partners shall comply with all applicable laws and regulations governing the privacy and protection of Personally Identifiable Information and student data,

including as set forth in its Privacy Policy, the federal Family Educational Rights and Privacy Act ("FERPA"), the New York Education Law, and the regulations promulgated thereunder. We shall use Personally Identifiable Information only to provide the Service, perform additional account and support services for OUSD, and contact End Users directly. Personally Identifiable Information and student data will not be disclosed to any third party without the prior consent of the individual and/or the parent of the affected pupil (or the person otherwise identified as the holder of the pupil's educational rights). OUSD agrees that parental consent has been obtained for the use of all student data and information transmitted to and from the Service and any third party service provider or contractor.

5.2. FERPA. The parties acknowledge that (a) OUSD Content may include Personally Identifiable Information from education records that are subject to FERPA ("**FERPA Records**"); and (b) to the extent that OUSD Content includes FERPA Records, Schoolbinder will be considered a "School Official" (as that term is used in FERPA and its implementing regulations) and will comply with FERPA.

5.3. TEACHBOOST CONFIDENTIAL INFORMATION. OUSD may use TeachBoost Confidential Information only in connection with its use of the Service as permitted under this Agreement. OUSD will not disclose TeachBoost Confidential Information during the Term or at any time during the 5-year period following the end of the Term. OUSD will take all reasonable measures to avoid disclosure, dissemination, or unauthorized use of TeachBoost Confidential Information, including, at a minimum, those measures taken to protect its own confidential information of a similar nature.

6. PROPRIETARY RIGHTS.

6.1. OUSD CONTENT. As between the parties, OUSD or its licensors own all right, title, and interest in and to OUSD Content. By making available any OUSD Content on or through the Service, OUSD grants to Schoolbinder a worldwide, irrevocable, perpetual, non-exclusive, transferable, royalty-free license, with the right to sublicense, to use, view, copy, adapt, modify, distribute, license, sell, transfer, publicly display, publicly perform, transmit, stream, broadcast, and otherwise exploit such OUSD Content *only on, through, or by means of the Service*, and OUSD consents to our use of OUSD Content to provide the Service to OUSD and its End Users. We may disclose OUSD Content only to provide the Service to OUSD or its End Users or to comply with any request of a governmental or regulatory body (including subpoenas or court orders).

6.2. ADEQUATE RIGHTS. OUSD represents and warrant to us that: (a) OUSD or its licensors own all right, title, and interest in and to OUSD Content; (b) OUSD has all rights in the OUSD Content necessary to grant the rights contemplated by

this Agreement; and (c) none of the OUSD Content or End Users' use of OUSD Content or the Service will violate the Terms and Conditions.

- 6.3. DISPLAY OF OUSD AND TEACHBOOST BRANDS.** Schoolbinder may display the OUSD Brand on the TeachBoost Site and within the Service, and may reference the fact that it works with OUSD and provides the Service to OUSD. OUSD may display the TeachBoost Brand on its site and materials in connection with the TeachBoost Brand Usage Guidelines. Neither party may display or use the other party's Brand beyond what is allowed in this Agreement without the other party's prior written consent.
- 6.4. LICENSE OWNERSHIP.** Schoolbinder owns all rights, title, and interest in the Service and TeachBoost Content. Except as provided in Section 1, OUSD obtains no rights under this Agreement from Schoolbinder or our licensors to the Service, including any related intellectual property rights. Some TeachBoost Content may be provided to OUSD under a separate license, such as the Apache Software License or other open source license. In the event of a conflict between this Agreement and any separate license, the separate license will prevail with respect to that TeachBoost Content.
- 6.5. LICENSE RESTRICTIONS.** Neither OUSD nor any End User may use the Service in any manner or for any purpose other than as expressly permitted by this Agreement and the Terms and Conditions. Neither OUSD nor any End User may, or may attempt to, (a) modify, alter, tamper with, repair, or otherwise create derivative works of any software included in the Service (except to the extent software included in the Service are provided to OUSD under a separate license that expressly permits the creation of derivative works), (b) reverse engineer, disassemble, or decompile the Service or apply any other process or procedure to derive the source code of any software included in the Service, (c) access or use the Service in a way intended to avoid incurring fees or exceeding usage limits or quotas, or (d) resell or sublicense the Service. All licenses granted to OUSD in this Agreement are conditional on its continued compliance with this Agreement, and will immediately and automatically terminate if OUSD does not comply with any term or condition of this Agreement. During and after the Term, OUSD will not assert, nor will it authorize, assist, or encourage any third party to assert, against us or any of our affiliates, OUSDs, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim regarding any Service OUSD has used.
- 6.6. SUGGESTIONS.** If OUSD or an End User provides any Suggestions to us or our affiliates, we will own all right, title, and interest in and to the Suggestions, even if OUSD has designated the Suggestions as confidential. We and our affiliates will be entitled to use the Suggestions without restriction. OUSD hereby irrevocably assigns to us all right, title, and interest in and to the Suggestions and agree to provide us any assistance we may require to document, perfect, and maintain our rights in the Suggestions.

7. TERMINATION.

7.1. TERMINATION FOR BREACH. Either party may suspend performance or terminate this Agreement if: (i) the other party is in material breach of the Agreement and fails to cure that breach within thirty days after receipt of written notice; (ii) the other party ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within ninety (90) days; or (iii) the other party is in material breach of this Agreement more than two times notwithstanding any cure of such breaches.

7.2. OTHER TERMINATION. OUSD may terminate this Agreement for any reason (or no reason) with thirty (30) days prior written notice to Schoolbinder, provided, however, that OUSD will remain obligated to pay any Fees for the Service which OUSD has purchased, applicable to the remainder of the then-current Term for the Service.

7.3. EFFECTS OF TERMINATION. If this Agreement terminates, then: (i) the rights granted by one party to the other will cease immediately (except as set forth in this Section); (ii) Schoolbinder will provide OUSD access to, and the ability to export, the OUSD Content for a commercially reasonable period of time; (iii) after a commercially reasonable period of time, Schoolbinder will delete OUSD Content by removing pointers to it on Schoolbinder's active servers and overwriting it over time; and (iv) upon request each party will promptly use commercially reasonable efforts to return or destroy all other Confidential Information of the other party.

7.4. REFUND UPON TERMINATION. If this Agreement terminates during the Term and after payment of the License Fee, OUSD shall be entitled to a refund of the License Fee in an amount equal to half the amount of the License Fee prorated for the duration of the Term at time of termination ("**Refunded Amount**"). Mathematically, the Refunded Amount can be calculated as follows: $1/2$ the License Fee, divided by the total number of months in the Term, multiplied by the number of remaining months in the Term. In no event shall the Refunded Amount exceed $1/2$ of the License Fee.

8. INDEMNIFICATION. OUSD agrees that in no event shall we, our affiliates and licensors, and each of their respective employees, officers, directors, and representatives be held liable for any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorney's fees) arising out of or relating to any third party claim concerning: (a) OUSD or any End Users' use of the Service (including any activities under a TeachBoost Account and use by OUSD's employees and personnel); (b) breach of this Agreement or violation of applicable law by OUSD or any End User; (c) OUSD Content or the combination of OUSD Content with other applications, content, or processes, including any claim involving alleged infringement or misappropriation of third-party rights by OUSD Content or by the use, development, design, production, advertising, or marketing of OUSD Content; or (d) a dispute

between OUSD and any End User. If we or our affiliates are obligated to respond to a third party subpoena or other compulsory legal order or process resulting from any of the causes described above, OUSD will also reimburse us for reasonable attorney's fees, as well as our employees' and contractors' time and materials spent responding to the third party subpoena or other compulsory legal order or process at our then-current hourly rates.

9. **DISCLAIMER.** The Service is provided "as is." We and our affiliates and licensors make no representations or warranties of any kind, whether express, implied, statutory or otherwise regarding the Service offerings or the Third Party Content, including any warranty that the Service or Third Party Content will be uninterrupted, error free or free of harmful components, or that any content, including OUSD Content or the Third Party Content, will be secure or not otherwise lost or damaged. Except to the extent prohibited by law, we and our affiliates and licensors disclaim all warranties, including any implied warranties of merchantability, satisfactory quality, fitness for a particular purpose, non-infringement, or quiet enjoyment, and any warranties arising out of any course of dealing or usage of trade.
10. **LIMITATION OF LIABILITY.** WE AND OUR AFFILIATES OR LICENSORS WILL NOT BE LIABLE TO OUSD FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, OR DATA), EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, NEITHER WE NOR ANY OF OUR AFFILIATES OR LICENSORS WILL BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH: (A) OUSD'S INABILITY TO USE THE SERVICE, INCLUDING AS A RESULT OF ANY (I) TERMINATION OR SUSPENSION OF THIS AGREEMENT OR OUSD'S USE OF OR ACCESS TO THE SERVICE, (II) OUR DISCONTINUATION OF ANY OR ALL OF THE SERVICE, OR, (III) WITHOUT LIMITING ANY OBLIGATIONS UNDER THIS AGREEMENT, (A) ANY UNANTICIPATED OR UNSCHEDULED DOWNTIME OF ALL OR A PORTION OF THE SERVICE FOR ANY REASON, INCLUDING AS A RESULT OF POWER OUTAGES, SYSTEM FAILURES OR OTHER INTERRUPTIONS; (B) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (C) ANY INVESTMENTS, EXPENDITURES, OR COMMITMENTS BY OUSD IN CONNECTION WITH THIS AGREEMENT OR OUSD'S USE OF OR ACCESS TO THE SERVICE OFFERINGS; OR (D) ANY UNAUTHORIZED ACCESS TO, ALTERATION OF, OR THE DELETION, DESTRUCTION, DAMAGE, LOSS OR FAILURE TO STORE ANY OF OUSD CONTENT OR OTHER DATA. IN ANY CASE, OUR AND OUR AFFILIATES' AND LICENSORS' AGGREGATE LIABILITY UNDER THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT OUSD ACTUALLY PAYS US UNDER THIS AGREEMENT FOR THE SERVICE THAT GAVE RISE TO THE CLAIM DURING THE 12 MONTHS PRECEDING THE CLAIM.

11. MISCELLANEOUS.

- 11.1. **ASSIGNMENT.** OUSD will not assign this Agreement, or delegate or sublicense any of its rights under this Agreement, without our prior written consent. Any

assignment or transfer in violation of this Section 11.1 will be void. Subject to the foregoing, this Agreement will be binding upon, and inure to the benefit of the parties and their respective successors and assigns.

11.2. SEVERABILITY. If any portion of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect. Any invalid or unenforceable portions will be interpreted to effect and intent of the original portion. If such construction is not possible, the invalid or unenforceable portion will be severed from this Agreement but the rest of the Agreement will remain in full force and effect.

11.3. GOVERNING LAW; VENUE. The laws of the State of New York, without reference to conflict of law rules, govern this Agreement and any dispute of any sort that might arise between OUSD and Schoolbinder. Any dispute relating in any way to the Service or this Agreement where a party seeks aggregate relief of \$5,000 or more will be adjudicated in any state or federal court in New York County, New York. OUSD consents to exclusive jurisdiction and venue in those courts. We may seek injunctive or other relief in any state, federal, or national court of competent jurisdiction for any actual or alleged infringement of our, our affiliates, or any third party's intellectual property or other proprietary rights. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

11.4. ENTIRE AGREEMENT. This Agreement includes the Policies and is the entire agreement between OUSD and Schoolbinder regarding the subject matter of this Agreement. This Agreement supersedes all prior or contemporaneous representations, understandings, agreements, or communications between OUSD and Schoolbinder, whether written or verbal, regarding the subject matter of this Agreement. Notwithstanding any other agreement between OUSD and Schoolbinder, the security and data privacy provisions in Sections 4 and 5 of this Agreement contain our and our affiliates' entire obligation regarding the security, privacy, and confidentiality of OUSD Content and student data. We will not be bound by, and specifically object to, any term, condition or other provision which is different from or in addition to the provisions of this Agreement (whether or not it would materially alter this Agreement) and which is submitted by OUSD in any order, receipt, acceptance, confirmation, correspondence or other document. If the terms of this document are inconsistent with the terms contained in any of the Policies, the terms contained in this document will control.

12. DEFINITIONS. The following terms used in this Agreement shall have the following meanings, unless the context otherwise requires:

(a) "OUSD Content" means Content that OUSD or any End User (a) runs on the Service, (b) provides to Schoolbinder to be incorporated in the Service; (c) causes to interface with the Service, or (d) uploads to the Service under a

TeachBoost Account or otherwise transfers, processes, uses or stores in connection with an account. OUSD Content includes, but is not limited to, teacher observation notes, ratings, and data; teacher evaluation frameworks, comments, notes, and rubrics; and observation and reference materials.

- (b) **“Brand”** means the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party, respectively, as secured by such party from time to time.
- (c) **“Content”** means data, text, audio, video, images, documents, software, or other forms of digital media or materials.
- (d) **“End User”** means any individual or entity that directly, or indirectly through another user, accesses or uses the Service under a User Account as defined in Section 3.1.
- (e) **“Personally Identifiable Information”** means information about an individual that can be used to contact or identify that individual. This information may include, but is not limited to, name, email address, telephone number, mailing address, birth date, and employee identification numbers.
- (f) **“Policies”** means the Terms and Conditions, Privacy Policy, all restrictions described in the TeachBoost Content and on the TeachBoost Site, and any other policy or terms referenced in or incorporated into this Agreement. Policies do not include marketing materials referenced on the TeachBoost Site.
- (g) **“Privacy Policy”** means the privacy policy currently referenced at <http://teachboost.com/privacy>, as we may update it from time to time.
- (h) **“Service”** or **“Services”** shall mean the customized web-based software owned by Schoolbinder, commonly known as TeachBoost and located at the TeachBoost Site, along with the TeachBoost Content, the TeachBoost Marks, and any other product or service provided by us under this Agreement. The Service does not include Third Party Content.
- (i) **“Suggestions”** means all suggested improvements to the Service that OUSD provides to us in writing or by other means.
- (j) **“TeachBoost Brand Usage Guidelines”** means the policy currently available at <http://teachboost.com/brand>, as it may be updated by us from time to time
- (k) **“TeachBoost Confidential Information”** means all nonpublic information disclosed by TeachBoost, our affiliates, business partners or our or their respective employees, contractors, or agents that is designated as confidential or that, given the nature of the information or circumstances surrounding its disclosure, reasonably should be understood to be confidential. TeachBoost Confidential Information includes: (a) nonpublic information relating to our or

our affiliates or business partners' technology, OUSDs, business plans, promotional and marketing activities, finances and other business affairs; (b) third-party information that we are obligated to keep confidential; and (c) the nature, content and existence of any discussions or negotiations between OUSD and us or our affiliates. TeachBoost Confidential Information does not include any information that: (i) is or becomes publicly available without breach of this Agreement; (ii) can be shown by documentation to have been known to OUSD at the time of OUSD's receipt from us; (iii) is received from a third party who did not acquire or disclose the same by a wrongful or tortious act; or (iv) can be shown by documentation to have been independently developed by OUSD without reference to the TeachBoost Confidential Information.

- (l) **"TeachBoost Content"** means Content we or any of its affiliates make available in connection with the Service or on the TeachBoost Site to allow access to and use of the Service, including documentation; help files, sample forms and libraries; and other related information.
- (m) **"TeachBoost Marks"** means any trademarks, service marks, service or trade names, logos, and other designations of TeachBoost and its affiliates that we may make available to OUSD in connection with this Agreement.
- (n) **"TeachBoost Site"** means <http://teachboost.com> and any successor or related site designated by us.
- (o) **"Term"** means the entire term of the Agreement, described in Section 2, which will begin on the Effective Date and continue until the earlier of: (i) the end of OUSD's current academic year, (ii) August 1 of the year following the Effective Date, or (iii) the Agreement is terminated as set forth herein
- (p) **"Terms and Conditions"** means the policy currently available at <http://teachboost.com/terms>, as it may be updated by us from time to time.
- (q) **"Third Party Content"** means Content made available to OUSD by any third party on the TeachBoost Site or in conjunction with the Service.

IN WITNESS WHEREOF, the Parties by their duly authorized representatives have executed this Service License Agreement as of the Effective Date.

SCHOOLBINDER, INC.

OAKLAND UNIFIED SCHOOL DISTRICT

By: _____

By: _____

Name: Jason DeRoner

Name: Tamara Arroyo

Title: CEO

Title: Executive Director

Date: _____

Date: 12/9/16

IN WITNESS WHEREOF, the Parties by their duly authorized representatives have executed this Service License Agreement as of the Effective Date.

SCHOOLBINDER, INC.

OAKLAND UNIFIED SCHOOL DISTRICT

By: _____

By: _____

Name: Jason DeRoner

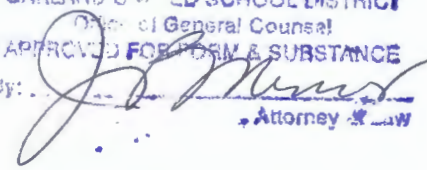
Name: Tamara Arroyo

Title: CEO

Title: Executive Director

Date: _____

Date: 12/9/16

OAKLAND UNIFIED SCHOOL DISTRICT
Office of General Counsel
APPROVED FOR FORM & SUBSTANCE
By: 
Attorney at Law