



Board Office Use: Legislative File Info.	
File ID Number	23-1532
Introduction Date	6/28/23
Enactment Number	23-1265
Enactment Date	6/28/2023 os

## Board Cover Memorandum

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent  
Preston Thomas, Chief Systems and Services Officer  
Susan Beltz, Chief Technology Officer

**Meeting Date** June 28, 2023

**Subject** Approval of Resolution No. 2324-0006 Determining and Declaring that Oakland Unified School District Can Enter into Amendment No. 1 to Master Subscription Services and Licenses Agreement Between Illuminate Education, Inc. and Oakland Unified School District for Licensing, Upgrades, and Support for the Illuminate DnA Assessment Platform Without Competitive Bidding; and of Amendment No. 1 to Master Subscription Services and Licenses Agreement with Illuminate Education, Inc.

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**Ask of the Board**  Approve Amendment  
 Ratify Amendment

**Background and Recommendation** The Oakland Unified School District has successfully used Illuminate as its assessment data management system since 2015-16 and is using this firm going forward for the same services as previously provided.

This amendment extends the 2022-23 agreement (Enactment Number 22-1753) at an additional cost not to exceed \$98,269.80 for a total amended contract amount of \$193,678.80.

Illuminate Education, Inc. is a web-based and longitudinal system that enhances the District's ability to analyze trends, use data to shape curriculum and instruction, and create assessments that provide immediate feedback on student progress. The system was deployed District-wide in 2015-16 as a replacement for the District's Edusoft system, which lacked many of the online assessment and reporting features needed by OUSD.

To avoid redundant data entry and the errors associated with this approach, a one-way data exchange has been implemented between the District Student Information System (SIS), namely Aeries, and Illuminate. Student and teacher

demographic data and master schedule information is entered into Aeries and transferred to Illuminate on a nightly basis, which enables teachers to access their rosters in Illuminate.

The Agreement includes hosting, maintenance and associated support for the Illuminate system, including the one-way data exchange between Aeries and Illuminate. As noted above, the software has been successfully used by Oakland Unified since the 2015-16 school year. The current agreement renews the same services as provided under the prior Agreement for the current fiscal year.

In order to provide these services, Illuminate Education, Inc. requires access to certain District student data. Accordingly, the District and Illuminate Education, Inc. executed a data sharing agreement as part of the 2021-22 renewal effective July 1, 2021 and subsequently ratified by the Board on August 25, 2021 as Legistar File ID 21-1546. This data sharing agreement remains in effect as long as OUSD and Illuminate Education, Inc. are bound by an underlying services agreement and ensures that the vendor will take all precautions to safeguard our students' data.

<b>Term</b>	Start Date: July 1, 2022	End Date: June 30, 2024
<b>Not-To-Exceed Amount</b>	\$193,678.80, including \$95,409 for 2022-23 (Enactment Number 22-1753) and \$98,269.80 for 2023-24 (Additional amount of this Amendment No. 1)	
<b>Competitively Bid</b>	No. See attached Resolution No. 2324-0006 Determining and Declaring that OUSD Can Enter into Amendment No. 1 to Master Subscription Services and Licenses Agreement Between Illuminate Education, Inc. and Oakland Unified School District for Licensing, Upgrades, and Support for the Illuminate DnA Assessment Platform Without Competitive Bidding	
<b>In-Kind Contributions</b>	No in-kind contributions beyond basic oversight and support of the vendor relationship.	
<b>Funding Source(s)</b>	\$98,269.80 from 2023-24 Funding Resource 010-1100-0-0000-7700-5846-999-9860-1605-9999-99999: State Lottery, Data Processing, License Agreements, Districtwide	
<b>Attachment(s)</b>	<ul style="list-style-type: none"><li>● Resolution No. 2324-0006</li><li>● Amendment No. 1</li><li>● Original Agreement, Enactment No. 22-1753</li></ul>	

**RESOLUTION OF THE  
BOARD OF EDUCATION OF THE  
OAKLAND UNIFIED SCHOOL DISTRICT**

**Resolution No. 2324-0006**

**Determining and Declaring that OUSD Can Enter into Amendment No. 1 to Master Subscription Services and Licenses Agreement Between Illuminate Education, Inc. and Oakland Unified School District for Licensing, Upgrades, and Support for the Illuminate DnA Assessment Platform Without Competitive Bidding**

**WHEREAS**, the District approved the Master Subscription Services and Licenses Agreement with Illuminate Education, Inc. for 2022-2023 for the DnA Assessment Platform, which has served as the core assessment system since 2015-16;

**WHEREAS**, Illuminate is a web-based and longitudinal system that enhances the District's ability to analyze trends, use data to shape curriculum and instruction, and create assessments that provide immediate feedback on student progress;

**WHEREAS**, the District's current contract with Illuminate Education, Inc. expires June 30, 2023 ("Illuminate Contract");

**WHEREAS**, the District now wishes to enter an amendment to extend the existing Illuminate DnA Assessment Platform software and services provided by Illuminate Education, Inc. for one (1) year, through June 30, 2024;

**WHEREAS**, the prior Edusoft assessment system cost the District \$234,699.80 per year and lacked many of the online assessment and reporting features needed by OUSD;

**WHEREAS**, the District has made significant investments in Illuminate, including development of the one-way integration between Illuminate and Aeries, along with ingest of state and prior District assessment data, and training of District staff;

**WHEREAS**, switching to another assessment system would be expected to incur significant one-time external and internal costs above and beyond software licensing and support;

**WHEREAS**, competitive bidding is not required where "the nature of the subject of the contract is such that [bidding] would be unavailing or would not produce an advantage, and the advertisement for competitive bid would thus be undesirable, impractical, or impossible" (*Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631, 635-6); and

**WHEREAS**, *Graydon* also held that bidding is not required "where competitive proposals work an incongruity and are unavailing as affecting the final result, or where competitive proposals do not produce any advantage, or where it is practically impossible to obtain what is required and to observe such form, competitive bidding is not applicable" (*id.* at 636).

**NOW, THEREFORE, BE IT RESOLVED**, the Board determines and declares that it would be cost-prohibitive and would risk a gap in the completion of mission-critical assessment activities, to discontinue use of Illuminate for 2023-24;

**BE IT FURTHER RESOLVED**, the Board determines and declares that going out to bid would not produce any advantage, would result in wasted taxpayer funds, and would substantially impair the District's ability to complete student assessments and measure student academic progress;

**BE IT FURTHER RESOLVED**, the Board determines and declares that there is no need for the District to competitively bid the products and services sought in and provided by the one-year extension of the Illuminate Contract; and

**BE IT FURTHER RESOLVED**, the Board determines and declares that it can enter into the amendment to extend the existing Illuminate DnA Assessment Platform software and services provided by Illuminate Education, Inc. for one (1) year, through June 30, 2024, without the need for competitive bidding.

**PASSED AND ADOPTED** by the Board of Education of the Oakland Unified School District this 28th day of June, 2023, by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: VanCedric Williams, Valerie Bachelor, Clifford Thompson, Benjamin "Sam" Davis , Vice President Clifford Thompson, President Mike Hutchinson

NOES: None

ABSTAINED: None

RECUSED: None

ABSENT: Student Director Gallegos Chavez, Student Director Linh Le

**CERTIFICATION**

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on June 28, 2023.

Legislative File	
File ID Number:	23-1532
Introduction Date:	6/28/23
Enactment Number:	23-1265
Enactment Date:	6/28/2023
By:	os

**OAKLAND UNIFIED SCHOOL DISTRICT**



Mike Hutchinson  
President, Board of Education



Kyla Johnson-Trammell  
Superintendent and Secretary, Board of Education



**AMENDMENT NO. 1**  
to  
**Master Subscription Licenses & Services Agreement**

This Amendment amends the attached legal agreement (“Original Agreement”) and any prior amendments (“Prior Amendments,” together with Original Agreement, “(Amended) Agreement”), incorporated herein by reference, which includes the following information:

- The (Amended) Agreement is between the Oakland Unified School District (“OUSD”) and the below named entity or individual (“VENDOR,” together with OUSD, “PARTIES”):  
Illuminate Education, Inc.
- The Parties entered into the Original Agreement on the below date:  
July 1, 2022
- The Enactment Number of the Original Agreement is below:  
22-1753

The PARTIES hereby agree to amend the (Amended) Agreement as stated herein.

1. **Services:**  The scope of work of the (Amended) Agreement is unchanged.  
 The scope of work of the (Amended) Agreement has changed. If the scope of work has changed: Provide brief description of revised scope of work including measurable description of expected final results, such as services, materials, products, and/or reports; select the appropriate option below:  
 Revised scope of work attached  
 VENDOR agrees to provide the following amended services:  
Click or tap here to enter text.
2. **Term (duration):**  The term of the (Amended) Agreement is unchanged  
 The term of the (Amended) Agreement has changed. If the term has changed: The parties agree to amend the below original End Date of the (Amended) Agreement to the below new End Date:

Original End Date: June 30, 2022  
New End Date: June 30, 2023

3. **Compensation:**  The not-to-exceed amount in the (Amended) Agreement is unchanged  
 The not-to-exceed amount in the (Amended) Agreement has changed. If the not-to-exceed amount has changed: The not-to-exceed amount in the (Amended) Agreement is amended as follows:  
 Increase not-to-exceed amount by:  
\$98,269.80  
 Decrease not-to-exceed amount by:  
\$N/A  
The new not-to-exceed amount under the (Amended) Agreement, as herein amended, is \$193,678.80

4. **COVID-19:** To the extent that the Amendment did not contain the following guarantees, by signing this Amendment, VENDOR agrees that:
- a. Through its execution of this Amendment, VENDOR declares that it is able to meet its obligations and perform the Services required pursuant to this Amendment in accordance with any shelter-in-place (or similar) order or curfew (or similar) order (“Orders”) issued by local or state authorities and with any social distancing/hygiene (or similar) requirements.
  - b. VENDOR agrees to notify OUSD within twelve (12) hours if VENDOR or any employee, subcontractor, agent, or representative of VENDOR (i) tests positive for COVID-19 or shows or reports symptoms consistent with COVID-19 and (ii) has been on OUSD property or has been in prolonged close contact with any OUSD student or student’s family member, staff, agents, representatives, officers, consultants, trustees, and volunteers within 48 hours of testing positive for COVID-19 or the development of symptoms consistent with COVID-19.
  - c. In addition to the requirements of subparagraph (b), VENDOR agrees to immediately adhere to and follow any OUSD directives regards health and safety protocols

including, but not limited to, providing OUSD with information regarding possible exposure of OUSD student or student's family member, staff, agents, representatives, officers, consultants, trustees, and volunteers to VENDOR or any employee, subcontractor, agent, or representative of VENDOR and information necessary to perform contact tracing, as well as complying with any OUSD testing and vaccination requirements.

d. VENDOR shall bear all costs of compliance with this Paragraph.

5. **Insurance.** To the extent that the Agreement did not contain the following insurance coverage amounts, by signing this Amendment, VENDOR agrees that it shall maintain, unless waived under the terms of the Agreement, Commercial General Liability Insurance with limits of at least one million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000) aggregate. All other terms regarding Commercial General Liability Insurance remain the same.

6. **Termination and Suspension.** To the extent that the Agreement did not contain the following provisions, by signing this Amendment, VENDOR agrees that:

- a. Notwithstanding Paragraph 14 (COVID-19) of this Amendment, or any other language of the Agreement, if there is an unforeseen emergency or an Act of God during the term of this Agreement that would prohibit or limit, at the sole discretion of OUSD, the ability of VENDOR to perform the Services, OUSD may terminate this Agreement upon seven (7) days prior written notice to VENDOR. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or seven (7) days after the notice was provided, whichever is later.
- b. If OUSD, at its sole discretion, develops health and safety concerns related to the VENDOR's provision of Services, then the OUSD Superintendent or an OUSD Chief or Deputy may, upon approval by OUSD legal counsel, issue a notice to VENDOR to suspend the Agreement, in which case VENDOR

shall stop providing Services under the Agreement until further notice from OUSD. OUSD shall compensate VENDOR for Services satisfactorily provided through the date of suspension.

7. **Legal Notices.** To the extent the Agreement did not contain the following provisions, legal notices may be sent either (i) via email, (ii) personally delivered during normal business hours, or (iii) sent by U.S. Mail (certified, return receipt requested), to the contact identified in the Agreement. VENDOR agrees that the address for legal notice to OUSD is 1000 Broadway, Suite 440, Oakland, CA 94607. All other terms regarding Legal Notices remain the same.
8. **Remaining Provisions:** All other provisions of the (Amended) Agreement remain unchanged and in full force and effect as originally stated.
9. **Amendment Publicly Posted.** This Amendment, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.
10. **Signature Authority.**
  - a. Each PARTY has the full power and authority to enter into and perform this Amendment, and the person(s) signing this Amendment on behalf of each PARTY has been given the proper authority and empowered to enter into this Amendment.
  - b. Notwithstanding subparagraph (a), only the Superintendent, Chiefs, Deputy Chiefs, and the General Counsel has authority to sign contracts for OUSD and only under limited circumstances, which required ratification by the OUSD Governing Board. VENDOR agrees not to accept the signature of another other OUSD employee as having the proper authority and empowered to enter into this Amendment or as legally binding in any way.
11. **Amendment Contingent on Governing Board Approval.** OUSD shall not be bound by the terms of this Amendment unless and until it has been (i) formally approved by OUSD's Governing Board or (ii) validly and properly executed by the OUSD Superintendent, the General Counsel, or a Chief or Deputy Chief authorized by the Education Code or Board Policy, and no payment shall be owed or made to VENDOR absent such formal approval or valid and proper execution.

IN WITNESS WHEREOF, the PARTIES hereto agree and execute this Agreement and to be bound by its terms and conditions:

**VENDOR**

Name: Enter Vendor signatory name

Signature: Ted Wolf

Position: VP, Global Controller

Date: June 20, 2023

*One of the terms and conditions to which VENDOR agrees by its signature is subparagraph (e) of Paragraph 8 (Compensation) of the Agreement, which states that VENDOR acknowledges and agrees not to expect or demand payment for any Services performed prior to the PARTIES, particularly OUSD, validly and properly executing this Agreement until this Agreement is validly and properly executed and shall not rely on verbal or written communication from any individual, other than the President of the OUSD Governing Board, the OUSD Superintendent, or the OUSD General Counsel, stating that OUSD has validly and properly executed this Agreement. VENDOR specifically acknowledges and agrees to this term/condition on the above date.*

**OUSD**

Name: Mike Hutchinson

Signature: M. Hutchinson

Position: Board President

Date: 6/29/2023

- Board President
- Superintendent
- Chief/Deputy Chief/Executive Director

Name: Kyla Johnson-Trammell

Signature: K. Johnson-Trammell

Position: Secretary, Board of Education Date: 6/29/2023

*Template approved as to form by OUSD Office of the General Counsel.*

Board Office Use: <b>Legislative File Info.</b>	
File ID Number	22-2294
Introduction Date	10/26/22
Enactment Number	22-1753
Enactment Date	10/26/2022 os



**OAKLAND UNIFIED  
SCHOOL DISTRICT**  
Community Schools, Thriving Students

# Board Cover Memorandum

**To** Board of Education

**From** Sondra Aguilera, Acting Superintendent  
Preston Thomas, Chief Systems and Services Officer  
Susan Beltz, Chief Technology Officer

**Meeting Date** October 26, 2022

**Subject** Approval of Master Subscription Services and Licenses Agreement replacing prior Board-approved Agreement (Legistar Enactment No. 22-1269) between Oakland Unified School District and Illuminate Education, Inc.  
Contractor: Illuminate Education, Inc.  
Services For: July 1, 2022 - June 30, 2023

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**Ask of the Board** Approve Master Subscription Services and Licenses Agreement between Oakland Unified School District and Illuminate Education, Inc., Irvine, CA. Under this contract, Illuminate Education, Inc. will provide licensing, upgrades and support for the Illuminate DnA assessment platform for the period July 1, 2022 to June 30, 2023 for an amount not to exceed \$95,409.00. This revised agreement replaces the prior Agreement approved by the Board as Enactment No. 22-1269.

**Background** The Board of Education previously approved a contract with Illuminate Education, Inc. on June 29, 2022 as Legistar Enactment No. 22-1269, by piggybacking on a contract between Illuminate, Education, Inc. and the Ed Tech JPA, pursuant to Public Contract Code section 20188. Following execution of that contract, Illuminate notified the District that the pricing under the Ed Tech JPA contract differed from the pricing offered to the District, and therefore requested that the District terminate the prior contract and enter a new, non-piggybacked contract directly with Illuminate Education, Inc.

Accordingly, the current contract supersedes and terminates the prior contract. The current contract is identical to the prior contract in terms of the products purchased and pricing, but the current contract specifies a one-year commitment with an opportunity to renew annually for two additional years, and does not rely on piggybacking.

**Discussion** The Oakland Unified School District has successfully used Illuminate as its assessment data management system since 2015-16 and is using this firm going forward for the same services as previously provided. Illuminate is a web-based

and longitudinal system that enhances the District's ability to analyze trends, use data to shape curriculum and instruction, and create assessments that provide immediate feedback on student progress. The system was deployed District-wide in 2015-16 as a replacement for the District's Edusoft system, which lacked many of the online assessment and reporting features needed by OUSD.

To avoid redundant data entry and the errors associated with this approach, a one-way data exchange has been implemented between the District Student Information System (SIS), namely Aeries, and Illuminate. Student and teacher demographic data and master schedule information is entered into Aeries and transferred to Illuminate on a nightly basis, which enables teachers to access their rosters in Illuminate.

The Agreement includes hosting, maintenance and associated support for the Illuminate system, including the one-way data exchange between Aeries and Illuminate. As noted above, the software has been successfully used by Oakland Unified since the 2015-16 school year. The current agreement renews the same services as provided under the prior Agreement for the current fiscal year.

In order to provide these services, Illuminate Education, Inc. requires access to certain District student data. Accordingly, the District and Illuminate Education, Inc. executed a data sharing agreement as part of the 2021-22 renewal effective July 1, 2021 and subsequently ratified by the Board on August 25, 2021 as Legistar File ID 21-1546. This data sharing agreement remains in effect as long as OUSD and Illuminate Education, Inc. are bound by an underlying services agreement and ensures that the vendor will take all precautions to safeguard our students' data.

<b>Competitively Bid</b>	No. Professional Service Agreement of less than \$99,100.
<b>Fiscal Impact</b>	\$95,409.00 from 2022-23 Funding Resource 010-1100-0-0000-7700-5846-999-9860-1605-9999-99999: State Lottery, Data Processing, License Agreements, Districtwide
<b>Attachment(s)</b>	<ul style="list-style-type: none"><li>● Quote Q-150328</li><li>● Master Subscription Services and Licenses Agreement</li><li>● Prior contract (Enactment No. 22-1269)</li></ul>





## Master Subscription Licenses & Services Agreement

This Master Subscription Licenses & Services Agreement (“Agreement”) is hereby entered into as of the date of receipt of purchase order and/or enforcement of any and all product and/or service orders (the “Effective Date”) between the purchasing agency (“Client”) and Illuminate Education, Inc., a California corporation having its principal place of business at 6531 Irvine Center Drive, Irvine, CA 92618, and wholly-owned subsidiaries, including, but not limited to Adrylan Communications, LLC, eduCLIMBER, LLC, eSchoolData, LLC, FastBridge Learning, LLC, IO Education, LLC, Sanford Systems, Inc. dba Key Data Systems, SchoolCity, Inc., and The Learning Egg, LLC (collectively “Illuminate”) (Client and Illuminate are referenced herein as each a “Party” and collectively the “Parties”).

### Definitions.

(a). “**Client Order**” means the Illuminate document attached hereto (or subsequently produced invoice), which lists the Licensed Product(s), current pricing, Service(s), Software, Subscription Period, Third Party Software, and/or applicable financial terms related to this Agreement, and is hereby incorporated into this Agreement upon receipt of Client’s purchase order as specified herein.

(b). “**Documentation**” means technical materials provided by Illuminate to Client in hard copy or electronic form describing the use and operation of the Software, which does not include any sales and/or marketing materials that Illuminate may provide Client to describe functionality intended for sales and/or marketing purposes.

(c). “**Licensed Product(s)**” means all software (including Embedded Applications, which is software licensed by Illuminate and provided to Client as part of the terms of this Agreement), subsequent versions provided during an active Subscription Period and/or in relation to Support Services, assessment content owned or licensed by Illuminate, and all related Documentation licensed to Client pursuant to this Agreement, now or in the future.

(d). “**Services**” means the service(s) described in the applicable Client Order attached hereto or an executed statement of work (“SOW”), associated with the Software and the Documentation, including any applicable software hosting or Professional Services, as defined herein, and/or provided by Illuminate to Client.

(e). “**Software**” means the Illuminate software programs described in the applicable Client Order.

(f). “**Subscription Period**” means the period commencing upon the start date set forth in the applicable Client Order and continuing until terminated in accordance with Section 14 (“**Termination**”).

(g). “**Third Party Software**” means any software product designated as Third Party Software by Illuminate, and any related documentation supplied to Client, which is licensed directly between Client and a third party. Third Party Software is different than Embedded Applications in that Illuminate licenses the Embedded Applications to Client as part of Licensed Product (but in some cases, such Embedded Applications may be subject to additional license terms as identified herein). Illuminate is not a licensor of Third Party Software.

**1. Subscribing to the Service(s).** Client will subscribe to the Licensed Product(s) and/or Services by: (i) providing a purchase order displaying the unique identifier contained within the Client Order attached hereto; (ii) having an authorized Client representative execute a Client Order with this Agreement and receiving a countersigned copy by an authorized Illuminate representative; and, if applicable for custom services, (iii) executing a written SOW for such customized Licensed Product(s) and/or Services with Illuminate. The Parties explicitly agree that, regardless of the confirmation of subscription method discussed herein that is utilized by Client, any additional and/or varying terms

included in the Client’s purchase order are hereby deemed null and void, including terms that attempt to override this specific provision. Upon mutual consent, each SOW will be incorporated into this Agreement. Each Client Order and/or SOW will specify the Licensed Product(s) and/or Services and specific terms and conditions applicable to that order. In the event of any conflict between this Agreement and a SOW, the mutually agreed upon and executed SOW shall control, except this Agreement shall govern all terms relating to intellectual property rights, confidential information, warranty, indemnity, and liability. Subject to the terms and conditions of this Agreement [including all incorporated documents as set forth in Section 15(k) herein], Illuminate will provide the Licensed Product(s) and/or Services described in the initial Client Order. Additional Client Orders and/or SOWs may be entered into by the Parties to subscribe to additional or different features of the Licensed Product(s) and/or Services. Unless designated as replacing a specific Client Order and/or SOW, subsequent Client Orders and SOWs will be considered in addition to currently effective Client Orders and SOWs.

### 2. License.

(a). **License Grant.** Subject to the terms and conditions of this Agreement, including Illuminate’s Privacy Policy, which is incorporated fully herein by reference, Illuminate grants to Client a limited, revocable, annual (or multi-year as specified in Illuminate’s Client Order), non-exclusive, non-transferable license during the Subscription Period, to access the Licensed Product(s) and/or Services through the User IDs and to operate the features of the Licensed Product(s) and/or Services according to the Documentation under normal circumstances. Client is only granted licensed access to any customized software and/or content delivered in accordance with a valid Client Order and/or SOW during the Term of said Client Order. Termination of the Client Order or underlying Licensed Product will terminate access to customized content. No source code or technical-level documentation to the Licensed Product(s) and/or Services is licensed under this Agreement.

(b). **User IDs.** Illuminate will issue Client’s system administrator access to Client’s designated user(s) that will have the ability to issue a singular User ID and password to each student, teacher, and administrator for access to and to utilize the Licensed Product(s) and/or Service(s) specified in the applicable Client Order and/or SOW. Client shall limit the total number of issued User IDs and passwords to the student count noted for each Licensed Product and/or Service on the Client Order; provided that said student count does not limit the total number of teacher and administrator User IDs and passwords that Client may issue. Each User ID may only be used to access the Services during one (1) concurrent login session. Client shall not allow Client Personnel and/or students to share User IDs with any third parties, which require prior written approval for access by Illuminate. “Client Personnel” is defined as Client’s internal employees, who shall be bound by confidentiality restrictions at least as restrictive as this Agreement provides, explicitly excluding contractors and/or vendors that are not granted access herein. Client is responsible for all activity occurring under its User IDs and control of said User IDs, including the corresponding password credentials. Client is responsible for all use of the Licensed Product(s)



and/or Services by Client Personnel, students Client grants access to, for maintaining the confidentiality of all User IDs, and promptly notifying Illuminate of any actual or suspected unauthorized use of the Licensed Product(s) and/or Services. Illuminate reserves the right to suspend or terminate any Client user that Illuminate determines may have been used for an unauthorized purpose.

(c). **Limitations.** Client agrees that it will not and will not permit any Client Personnel or other party to: (i) permit any party to access or use the Licensed Product(s) and/or Services, Software, or Documentation, other than Client Personnel explicitly authorized by Illuminate; (ii) modify, adapt, alter or translate the Software or Documentation, except as expressly allowed hereunder; (iii) sublicense, lease, rent, loan, distribute, or otherwise transfer the Licensed Product(s) and/or Services, Software, or Documentation to any third party; (iv) reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or algorithms, structure or organization) of the Software; (v) use or copy the Software or Documentation except as expressly allowed hereunder; (vi) disclose or transmit any data contained in the Software to any individual other than Client Personnel. To the extent permitted under the law, Client shall hold Illuminate harmless from any and all claims relating to Client's misuse of Licensed Product(s) and/or Services rendered by Illuminate to Client, including Illuminate's intellectual property.

(d). **Client Responsibility.** Client shall perform the responsibilities necessary to establish Client's use of the Licensed Product(s) and/or Services, including (i) providing Client Personnel lists to setup User IDs, (ii) properly maintaining all associated equipment, software and environmental conditions in accordance with applicable industry standards and/or specifications Illuminate may provide Client, and (iii) designating Client Personnel to participate in training.

**3. Acceptable Use Policy.** Client acknowledges and agrees that Illuminate does not monitor or police the content of communications or data of Client or its users transmitted through the Licensed Product(s) and/or Services, and that Illuminate shall not be responsible for the content of any such communications or transmissions. In using the Software, Licensed Product(s), and/or Services, Client agrees to the following: (i) Client shall not incorporate into or otherwise transmit through the Software, Licensed Product(s), and/or Services any content that violates or infringes the rights of others, including without limitation any material that: (A) may be abusive, indecent, threatening, obscene, harassing, violent, defamatory, libelous, fraudulent, or otherwise objectionable; (B) encourages or otherwise promotes conduct that would constitute a criminal offense or give rise to civil liability; (C) impersonates any person or entity or that otherwise misrepresents Client's affiliation with a person or entity; (D) contains malicious code; (E) is in violation of the CAN-SPAM Act or any other applicable laws pertaining to unsolicited email, SMS, text messaging or other electronic communications, or the transmission of emails to an individual or entity with which Client has no preexisting relationship; (F) includes the private information of another without express permission, including but not limited to contact information, social security numbers, credit card numbers or other information which a reasonable individual would consider private in nature, (G) violates any privacy, intellectual property or proprietary right of another; (H) is pornographic or sexual in nature; (I) expressly targets children under the age of 13; or (J) is unlawful or otherwise objectionable, in Illuminate's sole opinion; and (ii) Client shall ensure that Client's use of the Software and/or Services is at all times compliant with all applicable local, state, federal and international law, regulations and conventions, including without limitation, those related to data privacy, international communications, and the

exportation of data of any kind, regulations of the U.S. Securities and Exchange Commission and/or any rules of a securities exchange in the U.S. or elsewhere.

#### **4. Reservation of Rights.**

(a). **Illuminate.** Illuminate expressly reserves all rights in the Licensed Product(s), Services, Software, Documentation, and all other materials provided by Illuminate hereunder not specifically granted to Client. It is acknowledged that all right, title and interest in the Licensed Product(s), Services, Software, Documentation, and all other materials provided by Illuminate hereunder, including, but not limited to any update, adaptation, translation, customization or derivative work thereof, and all intellectual property rights therein will remain with Illuminate (or third party suppliers, if applicable) and that the Licensed Product(s), Services, Software, Documentation, and all other materials provided by Illuminate hereunder are licensed on a subscription basis and not transferred to Client apart from the temporary license(s) discussed herein.

(b). **Client.** Client expressly reserves all rights in any data that Client (or Client Personnel/student users) loads or enters into the Licensed Product(s) and/or Services and all results from processing such data, including compilations, and derivative works thereof (the "Client Data"), except that Client grants Illuminate a non-exclusive, royalty-free, license to use, reproduce, and create derivative works of the Client Data in operating the Licensed Product(s) and/or Service features for Client's benefit as is explicitly permitted under the law. Additionally, Illuminate may use and distribute the Client Data for any lawful purpose outside the scope of the Agreement, provided always that such Client Data must be aggregated and/or de-identified (e.g., the development of Illuminate's products and/or services, as authorized under F.E.R.P.A. and applicable state laws). Client represents and warrants that Client has all rights under applicable law to provide and input in the Licensed Product(s) and/or Services the Client Data, including any personally identifiable information of any of the students and or other persons included therein.

**5. Term.** Unless earlier terminated pursuant to this Agreement, this Agreement shall be in effect pursuant to the dates set forth in the Client Order and/or SOW ("Initial Term"), and thereafter may be renewed for additional one (1) year periods upon each anniversary of the commencement of the Initial Term (each subsequent period will be known as a "Renewal Term" and together with the Initial Term, the "Term"). The Renewal Term(s) will be invoiced at then-current rates; provided that Illuminate does not enter into a multi-year item price agreement with Client, as denoted in the attached Client Order. Expiration or termination of one Client Order and/or SOW shall not affect any other Client Order and/or SOW, unless the Agreement Term expires or the Agreement as a whole is terminated under Section 14 ("Termination").

**6. Client Support.** During the Subscription Period for the applicable Services, Illuminate will provide the following standard customer support:

(a). **Web & Phone Support.** Client's designated representative(s) shall have access to Illuminate's technical support via website/email and telephone and may use the website/email to submit service requests. Illuminate will use reasonable efforts to respond in a timely manner under the given circumstances.

(b). **Client's Responsibilities.** To receive support, Client shall: (i) report errors or suspected errors for which support is needed, and supply Illuminate with sufficient information and data to reproduce the error; (ii) procure, install, operate and maintain hardware, operating systems

and other software that are compatible with the most current supported version of Software; (iii) establish adequate operational back-up provisions in the event of malfunctions or errors; (iv) maintain an operating environment free of any modifications or other programming that might interfere with the functioning of Software; (v) maintain hardware and system software consistent with Illuminate's minimum requirements; and (vi) timely install all fixes and new versions supplied by Illuminate in the proper sequence, and have the most current version of Software installed (if applicable). Client acknowledges that fixes and new versions may be made available electronically, and that, in some cases, Illuminate may maintain email distribution lists that are used to notify Clients of the availability of fixes and new versions and to provide other information to Clients that are eligible for support. Client shall be responsible for including the appropriate Client Personnel on any such email distribution lists of Illuminate so that Client receives such notifications and other information.

(c). **Service Upgrades and Scheduled Downtime.** Client shall receive, through the Licensed Product(s) and/or Services, generally available versions and releases for the Software, as designated by Illuminate in its sole discretion and that Illuminate generally offers to its other clients in Illuminate's sole discretion, and at no additional charge (beyond current support and subscription fees). Illuminate may from time to time schedule downtime for maintenance and upgrades. Illuminate may provide Client notice of any scheduled downtime, including any scheduled user disruption, if the circumstances permit such notice. Illuminate will strive to perform updates during non-peak hours.

**7. Professional Services.** In consideration of Client's payment of the applicable and non-refundable fees and expenses set forth in the Client Order or SOW for professional services, Illuminate will provide Client the professional services set forth therein, which may include attendance at designated training sessions provided by Illuminate as set forth herein ("Professional Services"). Training and/or consultation sessions may be conducted, as Illuminate deems appropriate or as explicitly agreed upon in writing on the Client Order or SOW at the time of purchase, at Illuminate's training facility, at Client's location, or by teleconference.

(a). **Use Period.** All Professional Services must be invoiced/prepaid or paid in the same manner as agreed to with other Licensed Products included on the applicable Client Order and utilized by Client within one (1) year of purchase. Illuminate, in its sole discretion, may extend this period up to a maximum of one (1) additional year to utilize said Professional Services; however, regardless of whether the Professional Services use period described herein is extended, Client's non-utilization of purchased Professional Services will be deemed null and void upon expiration of the applicable use period.

(b). **Third Party Integration.** Illuminate, in its sole discretion, will assist Client with integration of Licensed Product(s) with Client's third-party applications and/or content that are compatible in nature. Due to the potential access of students' personally identifiable information, Illuminate provides said integration only at the request of Client in writing. Client is solely and entirely responsible for compliance with local, state, and federal laws corresponding with integrations, as well as ensuring authorized access to said applications and/or content. To the extent permitted under the law, Client agrees to indemnify and hold Illuminate harmless for any actions and/or omissions pertaining to the integration.

## **8. Hosting.**

(a). **Availability.** Client acknowledges and agrees that the hosted Licensed Product(s) and/or Services may be inaccessible or inoperable from time to time due to planned maintenance or to causes that are

beyond the control of Illuminate or are not reasonably foreseeable by Illuminate, including, but not limited to: (i) the interruption or failure of telecommunication or digital transmission links; (ii) hostile network attacks; (iii) network congestion; (iv) or other failures (collectively "Downtime"). Illuminate shall use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the Licensed Product(s) and/or Services caused by Downtime, whether scheduled or not.

(b). **Security.** Client will not: (i) breach or attempt to breach the security of the hosting environment or any network, servers, data, computers or other hardware relating to or used in connection with the Licensed Product(s) and/or Services, or any third party that is hosting or interfacing with any part of the Licensed Product(s) and/or Services; or (ii) use or distribute through the Licensed Product(s) and/or Services any software, files or other tools or devices designed to interfere with or compromise the privacy, security or use of the Licensed Product(s) and/or Services or the operations or assets of any other customer of Illuminate or any third party. Client will comply with any potential user authentication requirements for use of the Licensed Product(s) and/or Services. Client is solely responsible for monitoring its authorized users' access to and use of the Licensed Product(s) and/or Services. Illuminate has no obligation to verify the identity of any person who gains access to the Licensed Product(s) and/or Services by means of an access ID. Any failure by any authorized user to comply with the Agreement shall be deemed to be a material breach by Client, and Illuminate shall not be liable for any damages incurred by Client or any third party resulting from such breach. Client must immediately take all necessary steps, including providing notice to Illuminate, to affect the termination of an access ID for any authorized user if there is any compromise in the security of that access ID or if unauthorized use is suspected or has occurred in relation to hosted Licensed Product(s) and/or Services.

(c). **Data.** Client has sole responsibility for the legality, reliability, integrity, accuracy and quality of the data it processes through and submits to the hosting environment.

## **9. Fees and Payment.**

(a). **Subscription Fees.** Subscription Fees (set forth in each Client Order and/or SOW) are payable in advance pursuant to subsection 9(b) below. Illuminate will issue an invoice for each payment annually.

(b). **Fees.** All fees and expenses will be invoiced and are payable net thirty (30) days after the invoice date and are non-refundable after being granted access to any products and/or the commencement of internal preparations to provide Professional Services. Such other fees and expenses along with the corresponding fees for Licensed Product(s) and/or Services are collectively "Fees".

(c). **Renewals; Enrollment Increases.** Prior to any Renewal Term, Client shall provide Illuminate with an updated student count for proper invoicing and to maintain an accurate number of students accessing the Licensed Product(s) and/or Services specified in all applicable Client Orders. Illuminate reserves the right to validate, adjust, and/or invoice for variation of Client's student count based on information provided to state reporting agencies. If an increase in student enrollment in excess of five percent (5%) occurs, then Client shall remit payment for additional student access to Licensed Product(s) and/or Services in accordance with Illuminate's supplemental invoice. Such additional fees will be calculated by multiplying the then-current per student fee for Licensed Product(s) and/or Services by Client's additional enrollment. Additionally, in the event a Client Order includes discounted pricing for bundled Licensed Product(s) and/or Services and Client terminates any Licensed Product(s) and/or Services within the bundle, Illuminate

reserves the right to invoice Client at then-current pricing for the non-terminated Licensed Product(s) and/or Services. Illuminate may supply new or modified policies or other terms and conditions to Client related to the provision of Licensed Product(s) and/or Services in a renewal term in order to remain compliant with applicable laws and/or Illuminate's uniform procedures, in which event such new or modified policies or other terms and conditions will govern Illuminate's provision of Licensed Product(s) and/or Services in such renewal term.

(d). **Late Payment.** Client may not withhold or "setoff" any amounts due hereunder. Illuminate reserves the right to suspend Services, including access to the Software, and Professional Services (if any) until all undisputed past due amounts are paid in full after giving Client advance written notice and an opportunity to cure as specified in Section 13 ("Notices") and Section 14 ("Termination"). Illuminate also reserves the right to charge Client a 1.5% late fee for any outstanding invoices that exceed ninety (90) days past due.

(e). **Certain Taxes.** Fees quoted do not include and Client shall pay, and to the extent permitted under the law, indemnify and hold Illuminate harmless from all gross receipts, value-added, personal property or other taxes, and all applicable duties, tariffs, assessments, export and import fees or similar charges (including interest and penalties imposed thereon) on the transaction contemplated herein, other than taxes based on the net income or profits of Illuminate. If client is exempt from federal, state, sales, and use taxes the client will not be charged the same upon providing Illuminate with sufficient evidence of said exemption.

#### 10. Confidential Information.

(a). **Definitions.** For purposes of this section, a Party receiving Confidential Information (as defined below) shall be the "Recipient" and the Party disclosing such information shall be the "Discloser" and "Confidential Information" means all information disclosed by Discloser to Recipient during the Term and marked as "confidential" or "proprietary". Client hereby acknowledges that the Services (including any Documentation, Software, and any translations, compilations, partial copies and derivative works thereof) will be considered Confidential Information belonging exclusively to Illuminate (or its designated third party supplier), and Illuminate hereby acknowledges that Client Data will be considered Confidential Information belonging to Client, in each case regardless of whether or not marked as "confidential" or "proprietary".

(b). **Covenant.** To the extent permitted by law, recipient hereby agrees that during the Term and at all times thereafter it shall not (i) disclose such Confidential Information of the Discloser to any person or entity, except to its own personnel having a "need to know" (and who themselves are bound by similar nondisclosure restrictions), and to such other recipients as the Discloser may approve in writing; provided that all such recipients shall have first executed a confidentiality agreement in a form acceptable to Discloser; (ii) use Confidential Information of the Discloser except to exercise its license rights or perform its obligations under this Agreement; or (iii) alter or remove from any Confidential Information of the Discloser any proprietary legend. Recipient shall use at least the same degree of care in safeguarding the Confidential Information of the Discloser as it uses in safeguarding its own confidential information of a similar nature, but in no event shall less than due diligence and reasonable care be exercised. Upon the earlier of Discloser's written request or termination or expiration of this Agreement, and regardless of whether a dispute may exist, Recipient shall return or destroy (as instructed by Discloser) all Confidential Information of Discloser in its possession or control and cease all further use thereof. Notwithstanding the foregoing, Recipient may disclose Discloser's Confidential Information to the extent that such disclosure is

necessary for the Recipient to enforce its rights under this Agreement or is required by law or by the order of a court or similar judicial or administrative body, provided that the Recipient promptly notifies the Discloser in writing of such required disclosure and cooperates with the Discloser to seek an appropriate protective order.

(c). **Educational Research (Applicable to Only Select Clients).** Subject to the terms and conditions contained herein, including Illuminate's privacy policy and/or a data sharing agreement entered into with Client, Client hereby grants Illuminate the right to share deidentified data that has entirely omitted any and all personally identifiable information with the University of Minnesota (*FAST product customers only*) and/or University of Virginia (*PALS product customers only*) for educational research purposes. Client's use of these products is conditional upon Client's consent of this provision and necessary to the provision of the products to Client.

(d). **Injunctive Relief.** Recipient acknowledges that violation of the provisions of this section would cause irreparable harm to Discloser not adequately compensable by monetary damages. In addition to other relief, it is agreed that injunctive relief shall be available without necessity of posting bond to prevent any actual or threatened violation of such provisions.

#### 11. Disclaimers.

(a). **DISCLAIMER OF OTHER WARRANTIES. SOFTWARE AND SERVICES ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND (UNLESS EXPLICITLY PROVIDED FOR HEREIN), AND ILLUMINATE AND ITS LICENSORS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND POTENTIAL IMPLEMENTATION DELAYS. ILLUMINATE DOES NOT WARRANT THAT THE FUNCTIONALITY CONTAINED IN THE LICENSED PRODUCT WILL MEET CLIENT'S REQUIREMENTS, OR THAT THE OPERATION OF THE SOFTWARE OR CLOUD HOSTING WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE LICENSED PRODUCT WILL BE CORRECTED. FURTHERMORE, ILLUMINATE DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SOFTWARE OR SERVICES IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, SECURITY OR OTHERWISE. CLIENT AGREES THAT THE USE OF SOFTWARE AND SERVICES IS AT CLIENT'S OWN RISK. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ILLUMINATE OR AN ILLUMINATE REPRESENTATIVE SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT FULLY APPLY TO CLIENT.**

(b). **Limited Non-Infringement Warranty.** Illuminate warrants that it has the right to license to Client the Software and Services as contemplated by this Agreement. Illuminate represents and warrants that as of the date the Software and Services is first made available hereunder, when properly used in accordance with the Documentation and this Agreement, will not misappropriate or infringe any third party's intellectual property rights recognized under any trade secret law, any U.S. copyright, or U.S. patent issued as of the Effective Date.

(c). **Limited Privacy Warranty.** Illuminate hereby recognizes that the Client Data which Client provides to Illuminate may include personally identifiable information of students. In order for Illuminate to carry out

its obligations under this Agreement, it is necessary for Illuminate to use the Client Data. Illuminate agrees to use the Client Data, some of which may contain personally identifiable information of students, only for the purpose of fulfilling its obligations under this Agreement. Illuminate agrees all usage of Client Data shall be in compliance with the requirements of applicable privacy laws. Illuminate warrants that it has put in place reasonable and appropriate security, technical, and organizational measures to protect its usage of the Client Data against accidental or unlawful destruction or accidental loss, alterations, and unauthorized use, disclosure, or access. Illuminate also warrants that it shall not disclose to, permit the disclosure to, or provide access to the Client Data to any third parties, except as is necessary for Illuminate to fulfill its obligations under this Agreement and under the law. In the event the Client or any third party believes there has been a material breach of this provision, Illuminate shall have a reasonable amount of time, which will be a minimum of thirty (30) days from the date of receiving written notice to cure any such alleged breach.

**12. Limitation of Liabilities.** The Parties acknowledge that the following provisions have been negotiated by them and reflect a fair allocation of risk and form an essential basis of the bargain and shall survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy:

**ILLUMINATE SHALL NOT BE LIABLE TO CLIENT FOR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; OR LOST PROFITS, LOST FUNDING, LOST SAVINGS, OR LOST OR DAMAGED DATA; OR FOR CLAIMS OF A THIRD PARTY; ARISING OUT OF THIS AGREEMENT, SOFTWARE, THIRD PARTY SOFTWARE, SUPPORT, HOSTING, SERVICES, OR OTHER ITEMS PROVIDED, OR THE USE OR INABILITY TO USE ANY OF THE FOREGOING, EVEN IF ILLUMINATE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THEY ARE FORESEEABLE. IN ANY EVENT, IN RESPECT OF ANY CLAIM, DEMAND OR ACTION ARISING OUT OF THIS AGREEMENT, CLIENT SHALL BE LIMITED TO RECEIVING ACTUAL AND DIRECT DAMAGES IN A MAXIMUM AGGREGATE AMOUNT EQUAL TO THE CHARGES PAID BY CLIENT TO ILLUMINATE HEREUNDER FOR THE APPLICABLE LICENSED PRODUCT, ITEM OR SERVICE ON WHICH THE CLAIM IS BASED IN THE PREVIOUS TWELVE (12) MONTHS.**

**13. Notices.** Notices sent to either Party shall be effective when delivered electronically or physically to the address designated by Client and in the case of Illuminate to the attention of: Illuminate Legal Department to the address listed as Illuminate's principal place of business herein and in the case of Client to the recipient provided by Client at the commencement of the Services and/or use of Software. Notices must be in writing. Each Party may change its address for receipt of notice by giving notice of such change to the other Party.

**14. Termination.**

(a). **Termination for Breach.** Illuminate shall have the right to immediately suspend performance under this Agreement in the event that Client is in breach of any of its obligations under this Agreement. In addition, either party shall have the right to terminate this Agreement in whole or in part upon thirty (30) days written notice to the other party, in the event the other party materially breaches this Agreement and fails to correct such breach within such thirty (30) day period; provided that

Illuminate shall have the right to terminate this Agreement immediately upon written notice in the event that Client breaches any of its obligations under Section 10. Client further acknowledges that, as breach of the provisions of Section 10 could result in irreparable injury to Illuminate, Illuminate shall have the right to seek equitable relief against any actual or threatened breach thereof, without proving actual damages.

(b). **Liquidated Damages.** In the event that Client enters into a multi-year contract with Illuminate and Client terminates the contract or any portion thereof, Client agrees to pay Illuminate the remaining sum due to Illuminate through the stated term of the Client Order and/or SOW as liquidated damages, as actual damages being impossible to calculate. This clause shall not apply in the event Client terminates this Agreement as a result of Illuminate's breach in accordance with Subsection 14(a) herein. Notwithstanding the foregoing, Client shall not be liable for said liquidated damages in the event that: (i) Client provides Illuminate at least thirty (30) days' advance notice of termination prior to the effective date anniversary; and (ii) said termination is a result of the non-appropriation of funds for Client's contract. Client shall not utilize this clause as a right to terminate the contract for convenience. Illuminate reserves the right to seek documentation evidencing the non-appropriation of funds.

(c). **Survival.** Upon termination or expiration of this Agreement for any reason: (i) all rights and obligations of both Parties (except for Client's payment of all Fees then owing), including all licenses granted hereunder, shall immediately terminate except as provided below; (ii) within thirty (30) days after the effective date of termination, each Party shall comply with the obligations to return or destroy, at Illuminate's sole discretion, all Confidential Information of the other Party, as set forth in Section 10 ("**Confidential Information**"). The following Sections and Subsections will survive expiration or termination of this Agreement for any reason: Section 4 ("**Reservation of Rights**"), Section 10 ("**Confidential Information**"), Section 11 ("**Disclaimers**"), Section 12 ("**Limitation of Liabilities**"), Section 14(c) ("**Survival**"), and Section 15 ("**General Provisions**"). Upon termination, as long as Client is not in breach, if requested, Illuminate shall make a final backup of Client data and provide the backup media to Client at Illuminate's then-current rates in a readily usable form in accordance with industry standards.

**15. General Provisions.**

(a). **Assignment.** Client may not assign this Agreement to any third party without Illuminate's prior written consent. Any assignment in violation of this section shall be void. The terms of this Agreement shall be binding upon permitted assignees.

(b). **Choice of Law.** This Agreement and any action related thereto shall be governed by and construed in accordance with the laws of the State of California, without regard to conflicts of law principles. Each of the Parties hereto agrees to be subject to the exclusive jurisdiction, and venue shall reside, in the state and federal courts located in Orange County, California for the purpose of adjudicating any dispute relating to or arising out of this Agreement and irrevocably consent to exclusive personal jurisdiction and venue of state and federal courts located therein. The U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Any claim against Illuminate must be brought within one (1) year after it arose, or be barred.

(c). **Compliance with Export Regulations.** Client has or shall obtain in a timely manner all necessary or appropriate licenses, permits or other governmental authorizations or approvals; to the extent permitted under the law, shall indemnify and hold Illuminate harmless from, and bear all

expense of, complying with all foreign or domestic laws, regulations or requirements pertaining to the importation, exportation, or use of the technology to be developed or provided herein. Client shall not directly or indirectly export or re-export (including by transmission) any regulated technology to any country to which such activity is restricted by regulation or statute, without the prior written consent, if required, of the administrator of export laws (e.g., in the U.S., the Bureau of Export Administration of the U.S. Department of Commerce).

(d). **Construction.** Except as otherwise provided herein, the Parties rights and remedies under this Agreement are cumulative. The term "including" means "including without limitation."

(e). **Force Majeure.** Neither Party shall be liable for delays caused by events beyond its reasonable control, except non-payment of amounts due hereunder shall not be excused by this provision.

(f). **Severable.** Any provision hereof found by a tribunal of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect. Without limiting the generality of the foregoing, Client agrees that the section titled Limitation of Liabilities will remain in effect notwithstanding the enforceability of any other provision herein.

(g). **Waiver.** Waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions. Nothing herein shall be interpreted as a waiver of Client's governmental immunity for individual employees, if any, as provided for by state law.

(h). **Counterparts; Facsimile Signature.** Illuminate requires Client's execution of select Client Orders and/or SOWs, all of which are

incorporated into this Agreement, and may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. If any Client Order and/or SOW is executed in counterparts, no signatory hereto shall be bound until both the Parties named below have duly executed or caused to be duly executed a counterpart of said Client Order and/or SOW. A signature received by either Party by facsimile or email is binding upon (the other Party) as an original.

(i). **Client Authorization; Enforceability.** Client represents and warrants that (i) it has obtained all necessary authorizations to enter into this Agreement and all related SOWs, (ii) the person signing and/or consenting on behalf of Client is a duly authorized representative of the Client, and (iii) this Agreement is a duly authorized binding and enforceable obligation of Client.

(j). **Independent Contractors.** Client's relationship to Illuminate is that of an independent contractor, and neither Party is an agent or partner of the other. Client will not have and shall not represent to any third party that it has any authority to act on behalf of Illuminate.

(k). **Entire Agreement.** This Agreement, Illuminate's Privacy Policy, the attached Client Order, Illuminate's SOWs (if applicable), and Client's purchase order (without any added terms and conditions that may be contained therein) incorporated by reference constitute the entire Agreement between the Parties with respect to the subject matter hereof and supersede all other communications, whether written or oral. This Agreement may be amended only by a written document signed by both Parties. The headings of sections of this Agreement are for reference purposes only and have no substantive effect.

I hereby affirm that I am authorized to execute this Agreement and commit to the obligations set forth herein, including but not limited to, remit payment for all Licensed Products and/or Services procured.

ILLUMINATE EDUCATION, INC.

CLIENT: \_\_\_\_\_

DocuSigned by:  
By: Ted Wolf  
06704400DC894F0... Authorized Signature

Gary Yee  
By: Gary Yee, President, BOE  
Authorized Signature

Name: Ted wolf

Sondra Aguilera  
Name: Sondra Aguilera, Acting Superintendent & Secretary,  
BOE

Title: VP Global Controller

Title: \_\_\_\_\_

Date: 8/31/2022

Date: 10/27/2022

Approved as to form by OUSD Staff Attorney  
Joanna Powell on 9/1/22.

Joanna J. Powell





## Master Subscription Licenses & Services

### Agreement Addendum

The Parties hereby agree to the amend the attached Master Subscription Licenses & Services Agreement (“Agreement”) in accordance with the terms set forth herein.

1. If Client notifies Illuminate of its desire to renew the Agreement for the 2023-2024 academic year or the 2024-2025 academic year, to attain the pricing described below, Client must notify Illuminate of such desire prior to May 1, 2023 and May 1, 2024, respectively.
2. If the notice described in provision #1 above is timely provided, effective July 1, 2023, the pricing as reflected on Client Order Q-149388 for 2023-2024 shall be as follows:

#### Year 2

Dates: 7/1/2023 - 6/30/2024

QTY	PRODUCT	DESCRIPTION	UNIT	TOTAL
17,880	DnA Software License Bundle	Assessment Software Licenses	\$5.46	\$97,624.80
	»» DnA, Software License	Per Student Licenses - Illuminate Data and Assessment™	Included	
2	Learning Community, DnA	Access to DnA content, resources, and usage reporting within Illuminate Education's Learning Management System.	\$75.00	\$150.00
3	Virtual Consultations, DnA	One-hour of virtual coaching for DnA	\$165.00	\$495.00
<b>Year 2 Subtotal:</b>				\$98,269.80
<b>Year 2 Grand Total:</b>				\$98,269.80

3. If the notice described in provision #1 above is timely provided, effective July 1, 2024, the pricing as reflected on Client Order Q-149388 for 2024-2025 shall be as follows:

#### Year 3

Dates: 7/1/2024 - 6/30/2025

QTY	PRODUCT	DESCRIPTION	UNIT	TOTAL
17,880	DnA Software License Bundle	Assessment Software Licenses	\$5.55	\$99,234.00
	»» DnA, Software License	Per Student Licenses - Illuminate Data and Assessment™	Included	
2	Learning Community, DnA	Access to DnA content, resources, and usage reporting within Illuminate Education's Learning Management System.	\$75.00	\$150.00
3	Virtual Consultations, DnA	One-hour of virtual coaching for DnA	\$165.00	\$495.00
<b>Year 3 Subtotal:</b>				\$99,879.00
<b>Year 3 Grand Total:</b>				\$99,879.00

4. **Section 11(d) “Disclaimers – Illuminate Indemnification”** is hereby incorporated into the Agreement with the addition of the following language:

Illuminate Indemnification. If a third-party claims that a Licensed Product (other than related to any Licensee Content) infringes that party's U.S. patent, copyright or other proprietary right, Illuminate will defend Licensee against that claim at Illuminate's expense and pay all costs, damages, and attorney's fees, that a court finally awards or that are included in a settlement

approved by Illuminate, provided that Licensee:

- i. promptly notifies Illuminate in writing of the claim; and
- ii. allows Illuminate to control, and cooperates with Illuminate in, the defense and any related settlement.

If such a claim is made, Illuminate may continue to enable Licensee to use the Licensed Product or to modify it such that it becomes non-infringing. If Illuminate determines that these alternatives are not reasonably available, Illuminate may terminate the Licensed Product without any liability to Licensee upon notice to Licensee and with the return of any prepaid and unused fees. The infringement indemnity obligations do not apply to the extent the infringement claim arises from: (a) any technology not provided by Illuminate or otherwise identified by Illuminate in writing as interoperable; (b) use of the Licensed Products other than in accordance with this Agreement; (c) the Licensee's content and/or data; or (d) modification or alteration to the Licensed Products by anyone other than Illuminate.

5. **Section 14(b) "Termination – Liquidated Damages"** is hereby amended in accordance only with the following language:

In the event that Client enters into a multi- year contract with Illuminate and Client terminates the contract or any portion thereof, Client agrees to pay Illuminate amount equal to the fees due to Illuminate under the Agreement or applicable SOW through the subsequent school year after the year in which Client provides notice of termination as liquidated damages, as actual damages being impossible to calculate (i.e., if Client signs a five-year contract, terminates during year 2, then Client's owed liquidated damages will be the total fees owed in year 3).

6. **Section 15(b) "General Provisions – Choice of Law"** is hereby amended in accordance only with the following language:

Any claim against Illuminate must be brought within two (2) year after it arose, or be barred.

7. **Section 15(l) "General Provisions – Insurance"** is hereby incorporated with the addition of the following language:

Illuminate shall maintain a comprehensive insurance portfolio to ensure it is adequately covered in its provision of Illuminate products and/or services in accordance with the terms and conditions of this Agreement.

This Contract supersedes all prior agreements between the Parties. Upon execution of this Contract, any and all prior contracts are hereby terminated and of no further force or effect.



# Client Order

Q-150328

530 Technology Dr Suite 100  
Irvine, California 92618  
(949) 656-3133  
<https://www.illuminateeducation.com/>

Prepared Date: 8/23/2022  
Valid Through: 9/1/2022  
  
Prepared By: Charlotte Lescroart  
  
Start Date: 7/1/2022  
End Date: 6/30/2023  
Quote Term: 12

Customer: Oakland Unified School District  
Address: 1000 Broadway, Suite 600  
Oakland, California 94607-4071  
  
Contact: Rinat Fried  
Phone: (510) 879-2124

## Year 1

Dates: 7/1/2022 - 6/30/2023

QTY	PRODUCT	DESCRIPTION	UNIT	TOTAL
17,880	DnA, Software License	Per Student Licenses - Illuminate Data and Assessment™	\$5.30	\$94,764.00
2	Learning Community, DnA	Access to DnA content, resources, and usage reporting within Illuminate Education's Learning Management System.	\$75.00	\$150.00
3	Virtual Consultations, DnA	One-hour of virtual coaching for DnA	\$165.00	\$495.00
			<b>Year 1 Subtotal:</b>	\$95,409.00
			<b>Year 1 Grand Total:</b>	\$95,409.00

Any Client request to reimport, align, merge, or otherwise manipulate data that has already been integrated will be subject to an additional fee. If the Client requests that Illuminate make any integration efforts after initial setup, the initial fees will be as follows: integrating with a new SIS \$5,000; merging instances or splitting instances \$10,000.

On-Going Illuminate subscription license and/or support fees are invoiced at then current rates & enrollment per terms of the Master Subscription Licenses & Services Agreement, which may be subject to an annual increase after the first year for non-multi-year contracts and/or enrollment increases (i.e., as your student count increases or decreases, the quantity will be adjusted in accordance with the terms of the Agreement).

Any applicable state sales tax that has been added to this Client Order is an estimated amount for Client's convenience that is subject to verification and modification based on current state required tax at the time of invoicing. Subscription Start and Expiration Dates shall be as set forth above, which may be delayed based upon the date that Illuminate receives your purchase order or signed Client Order.

In the event that this Client Order includes promotional pricing, said promotional pricing is only valid for the select term(s), product(s), and/or service(s) as shown in this Client Order. The promotional pricing may also be limited in availability to you through the date on this Client Order that is shown as the "Valid Through" period.

All invoices shall be paid within thirty (30) days of the date of invoice.

**All purchase orders must contain the exact Client Order number stated within.**

**To accept and finalize this Client Order, please remit a purchase order to:**

Orders@IlluminateEd.net  
or  
6531 Irvine Center Drive #100  
Irvine, CA 92618



Board Office Use: <b>Legislative File Info.</b>	
File ID Number	22-1501
Introduction Date	6/29/22
Enactment Number	22-1269
Enactment Date	6/29/2022 er



**OAKLAND UNIFIED  
SCHOOL DISTRICT**  
Community Schools, Thriving Students

# Board Cover Memorandum

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent  
Preston Thomas, Chief Systems and Services Officer  
Susan Beltz, Chief Technology Officer

**Meeting Date** June 29, 2022

**Subject** Approval of Resolution No. 2122-0240 — Declaring It Is In The Best Interest Of The District To Piggyback On And Enter Into A Contract With Illuminate Education, Inc. Properly Entered Into Through the Education Technology Joint Powers Authority; Approval by the Board of Education of Master Licensing and Subscription Agreement between Oakland Unified School District and Illuminate Education, Inc. Contractor: Illuminate Education, Inc. Services For: July 1, 2022 - June 30, 2025

**Ask of the Board** Approve Resolution No. 2122-0240 — Declaring It Is In The Best Interest Of The District To Piggyback On And Enter Into A Contract With Illuminate Education, Inc., Irvine, CA, Properly Entered Into Through the Education Technology Joint Powers Authority (“EdTech JPA”); Approval by the Board of Education of Master Licensing and Subscription Agreement between Oakland Unified School District and Illuminate Education, Inc. Under this contract, Illuminate Education, Inc. will provide licensing, upgrades and support for the Illuminate DnA assessment platform for the period July 1, 2022 to June 30, 2025 for an amount not to exceed \$293,557.80, consisting of \$95,409.00 for 2022-23, \$98,269.80 for 2023-24 and \$99,879.00 for 2024-25.

**Background** Public Contract Code section 20188 allows OUSD to “piggyback” on an existing contract without OUSD needing to separately bid the contract so long as (i) the contract was properly bid, awarded, executed, and approved and (ii) the Board determines that it in the best interest of the District.

**Discussion** The EdTech JPA is a cooperative purchasing organization that makes contracts available for “piggybacking” to state and local governments, including school districts. It aims to streamline procurement, provide competitive pricing, and secure favorable technology contracts for eligible entities. The Ed Tech JPA is supported by seven founding entities, including Capistrano Unified School District, Clovis Unified School District, Fullerton School District, El Dorado County Office of Education, Irvine Unified School District, San Juan Unified School District, and San

Ramon Valley Unified School District. These founding members of the Ed Tech JPA coordinate consortium purchases of high-quality products and services to benefit all of their current and potential member agencies.

The EdTech JPA issued an RFP to support online assessments and assessment data. Illuminate was one of the vendors awarded a contract (“Master Agreement”) during a duly noticed Board meeting on November 19, 2020.

The Resolution finds that the Agreement was properly bid, awarded, executed, and approved and further declares that piggybacking on the Agreement is in the best interest of the District. The Resolution then accepts the offer of contract with Illuminate Education, Inc. pursuant to the same terms and conditions found in the Agreement, up to a fiscal year not-to-exceed amount of \$95,409.00 for 2022-23, \$98,269.80 for 2023-24 and \$99,879.00 for 2024-25, for a total of \$293,557.80 from July 1, 2022 to June 30, 2025, and approves the associated Purchase Agreement.

The Oakland Unified School District has successfully used Illuminate as its assessment data management system since 2015-16 and is using this firm going forward for the same services as previously provided. Illuminate is a web-based and longitudinal system that enhances the District’s ability to analyze trends, use data to shape curriculum and instruction, and create assessments that provide immediate feedback on student progress. The system was deployed District-wide in 2015-16 as a replacement for the District’s Edusoft system, which lacked many of the online assessment and reporting features needed by OUSD.

To avoid redundant data entry and the errors associated with this approach, a one-way data exchange has been implemented between the District Student Information System (SIS), namely Aeries, and Illuminate. Student and teacher demographic data and master schedule information is entered into Aeries and transferred to Illuminate on a nightly basis, which enables teachers to access their rosters in Illuminate.

The DnA Soware Services Agreement includes hosting, maintenance and associated support for the Illuminate system, including the one-way data exchange between Aeries and Illuminate. As noted above, the software has been successfully used by Oakland Unified since the 2015-16 school year. The current agreement renews the same services as provided under the prior Agreement for the period July 1, 2022 through June 30, 2025.

In order to provide these services, Illuminate, Inc. requires access to certain District student data. Accordingly, the District and Illuminate, Inc. executed a data sharing agreement as part of the prior renewal effective July 1, 2021 and subsequently ratified by the Board on August 25, 2021 as Legistar File ID 21-1546. This data sharing agreement remains in effect as long as OUSD and Illuminate Education, Inc.

are bound by an underlying services agreement and ensures that the vendor will take all precautions to safeguard our students' data.

**Competitively Bid** No. See attached Resolution No. 2122-0240 — Declaring It Is In The Best Interest Of The District To Piggyback On And Enter Into A Contract With Illuminate Education, Inc., Irvine, CA, Properly Entered Into Through the Education Technology Joint Powers Authority (“EdTech JPA”).

**Fiscal Impact** \$95,409.00 from 2022-23 Funding Resource 010-1100-0-0000-7700-5846-999-9860-1605-9999-99999: State Lottery, Data Processing, License Agreements, Districtwide

\$98,269.80 from 2023-24 Funding Resource 010-1100-0-0000-7700-5846-999-9860-1605-9999-99999: State Lottery, Data Processing, License Agreements, Districtwide

\$99,879.00 from 2024-25 Funding Resource 010-1100-0-0000-7700-5846-999-9860-1605-9999-99999: State Lottery, Data Processing, License Agreements, Districtwide

**Attachment(s)**

- Resolution No. 2122-0240 — Declaring It Is In The Best Interest Of The District To Piggyback On And Enter Into A Contract With Illuminate Education, Inc., Irvine, CA, Properly Entered Into Through the Education Technology Joint Powers Authority (“EdTech JPA”)
- Master Subscription Licenses & Services Agreement
- Quote Q-147045
- RFP No. 19/20-02 issued by EdTech JPA
- Master Agreement between EdTech JPA and Illuminate Education, Inc.
  - Addendum to Master Agreement
  - Second Addendum to Master Agreement
  - Addendum 3 to Master Agreement
- Minutes from November 19, 2020 Board meeting at which Amendment to Master Agreement was adopted

**RESOLUTION OF THE  
BOARD OF EDUCATION OF THE  
OAKLAND UNIFIED SCHOOL DISTRICT**

**Resolution No. 2122-0240**

**Declaring It Is In The Best Interest Of The District To Piggyback On And Enter Into A Contract With Illuminate Education, Inc. Properly Entered Into Through the Education Technology Joint Powers Authority**

**WHEREAS**, Public Contract Code section 20118 (“section 20118”) permits a school district, “without advertising for bids,” to contract with “any public corporation or agency, including any county, city, town, or district, to ... purchase materials, supplies, equipment, ... and other personal property for the district in the manner in which the public corporation or agency is authorized by law to make the ... purchases from a vendor” if the school Board determines it to be in the “best interests of the district”;

**WHEREAS**, section 20118 further permits a school district to contract with a vendor that has an existing contract with another public corporation or agency “under the same terms that are available to the public corporation or agency under the existing contract”;

**WHEREAS**, Education Technology Joint Powers Association (“EdTech JPA”) is a cooperative purchasing organization that makes contracts available for “piggybacking” to state and local governments, including school districts;

**WHEREAS**, EdTech JPA issued RFP No. 19/20-02 on September 4, 2019, to request proposals from responsive vendors to provide best value solutions for assessment systems;

**WHEREAS**, the RFP included the following cooperative purchasing language in Section 1.5:

*The pricing, terms, and conditions of any award pursuant to this RFP will be made available to current Ed Tech JPA members and to other “Eligible Entities” who elect to join the Ed Tech JPA. For purposes of this RFP, Eligible Entities are: (a) all California public school districts, county offices of education, and community college districts, and (b) any other public agency in the United States whose procurement rules, whether internal rules or rules enacted pursuant to statute, allow them to purchase goods or services through a procurement vehicle such as Ed Tech JPA.*

**WHEREAS**, on October 16, 2019, the EdTech JPA received seven proposals, including from Illuminate Education, Inc.;

**WHEREAS**, on December 5, 2019, in a duly noticed Board meeting, the Board of Directors of the EdTech JPA approved the award of the contract to Illuminate Education, Inc.; and

**WHEREAS**, the EdTech JPA executed a contract with Illuminate Education, Inc. (“Master Agreement”) with an effective date of April 1, 2020, and an initial term of five years (through March 30, 2025).

**NOW, THEREFORE, BE IT RESOLVED**, the Board of Education (“Board”) finds that the Master Agreement was properly bid, awarded, executed, and approved based on the representation of EdTech JPA and Illuminate Education, Inc., and the documents provided to OUSD (RFP, Board agenda, and Master Agreement, all attached to this Board item and incorporated herein by reference);

**BE IT FURTHER RESOLVED**, the Board declares that it is in the best interest of the District to contract with Illuminate Education, Inc., hereby accepts the offer of contract with Illuminate Education, Inc. pursuant to the same terms and conditions found in the Agreement up to a fiscal year not-to-exceed amount of \$95,409.00 for 2022-23, \$98,269.80 for 2023-24 and \$99,879.00 for 2024-25 (total of \$293,557.80) from July 1, 2022 to June 30, 2025, and approves the Purchase Agreement with Illuminate Education, Inc.

**PASSED AND ADOPTED** by the Board of Education of the Oakland Unified School District this 29th day of June, 2022, by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Aimee Eng, Mike Hutchinson, Clifford Thompson, Vice President Benjamin "Sam" Davis, President Gary Yee

NOES: None

ABSTAINED: VanCedric Williams

RECUSED: None

ABSENT: (Vacancy), Samantha Pal (Student Director), Natalie Gallegos Chavez (Student Director)

**CERTIFICATION**

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on June 29, 2022.

Legislative File	
File ID Number:	22-1501
Introduction Date:	6/29/22
Enactment Number:	22-1269
Enactment Date:	6/29/2022
By:	er

**OAKLAND UNIFIED SCHOOL DISTRICT**

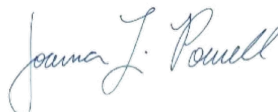
 6-30-2022

Gary Yee  
President, Board of Education

 6-30-2022

Kyla Johnson-Trammell  
Superintendent and Secretary, Board of Education

Approved as to form by OUSD Staff Attorney  
Joanna Powell no 6/1/2022.





## Master Subscription Licenses & Services Agreement

This Master Subscription Licenses & Services Agreement (“Agreement”) is hereby entered into as of the date of receipt of purchase order and/or enforcement of any and all product and/or service orders (the “Effective Date”) between the purchasing agency (“Client”) and Illuminate Education, Inc., a California corporation having its principal place of business at 6531 Irvine Center Drive, Irvine, CA 92618, and wholly-owned subsidiaries, including, but not limited to Adrylan Communications, LLC, eduCLIMBER, LLC, eSchoolData, LLC, FastBridge Learning, LLC, IO Education, LLC, Sanford Systems, Inc. dba Key Data Systems, SchoolCity, Inc., and The Learning Egg, LLC (collectively “Illuminate”) (Client and Illuminate are referenced herein as each a “Party” and collectively the “Parties”).

### Definitions.

(a). “**Client Order**” means the Illuminate document attached hereto (or subsequently produced invoice), which lists the Licensed Product(s), current pricing, Service(s), Software, Subscription Period, Third Party Software, and/or applicable financial terms related to this Agreement, and is hereby incorporated into this Agreement upon receipt of Client’s purchase order as specified herein.

(b). “**Documentation**” means technical materials provided by Illuminate to Client in hard copy or electronic form describing the use and operation of the Software, which does not include any sales and/or marketing materials that Illuminate may provide Client to describe functionality intended for sales and/or marketing purposes.

(c). “**Licensed Product(s)**” means all software (including Embedded Applications, which is software licensed by Illuminate and provided to Client as part of the terms of this Agreement), subsequent versions provided during an active Subscription Period and/or in relation to Support Services, assessment content owned or licensed by Illuminate, and all related Documentation licensed to Client pursuant to this Agreement, now or in the future.

(d). “**Services**” means the service(s) described in the applicable Client Order attached hereto or an executed statement of work (“SOW”), associated with the Software and the Documentation, including any applicable software hosting or Professional Services, as defined herein, and/or provided by Illuminate to Client.

(e). “**Software**” means the Illuminate software programs described in the applicable Client Order.

(f). “**Subscription Period**” means the period commencing upon the start date set forth in the applicable Client Order and continuing until terminated in accordance with Section 14 (“**Termination**”).

(g). “**Third Party Software**” means any software product designated as Third Party Software by Illuminate, and any related documentation supplied to Client, which is licensed directly between Client and a third party. Third Party Software is different than Embedded Applications in that Illuminate licenses the Embedded Applications to Client as part of Licensed Product (but in some cases, such Embedded Applications may be subject to additional license terms as identified herein). Illuminate is not a licensor of Third Party Software.

**1. Subscribing to the Service(s).** Client will subscribe to the Licensed Product(s) and/or Services by: (i) providing a purchase order displaying the unique identifier contained within the Client Order attached hereto; (ii) having an authorized Client representative execute a Client Order with this Agreement and receiving a countersigned copy by an authorized Illuminate representative; and, if applicable for custom services, (iii) executing a written SOW for such customized Licensed Product(s) and/or Services with Illuminate. The Parties explicitly agree that, regardless of the confirmation of subscription method discussed herein that is utilized by Client, any additional and/or varying terms

included in the Client’s purchase order are hereby deemed null and void, including terms that attempt to override this specific provision. Upon mutual consent, each SOW will be incorporated into this Agreement. Each Client Order and/or SOW will specify the Licensed Product(s) and/or Services and specific terms and conditions applicable to that order. In the event of any conflict between this Agreement and a SOW, the mutually agreed upon and executed SOW shall control, except this Agreement shall govern all terms relating to intellectual property rights, confidential information, warranty, indemnity, and liability. Subject to the terms and conditions of this Agreement [including all incorporated documents as set forth in Section 15(k) herein], Illuminate will provide the Licensed Product(s) and/or Services described in the initial Client Order. Additional Client Orders and/or SOWs may be entered into by the Parties to subscribe to additional or different features of the Licensed Product(s) and/or Services. Unless designated as replacing a specific Client Order and/or SOW, subsequent Client Orders and SOWs will be considered in addition to currently effective Client Orders and SOWs.

### 2. License.

(a). **License Grant.** Subject to the terms and conditions of this Agreement, including Illuminate’s Privacy Policy, which is incorporated fully herein by reference, Illuminate grants to Client a limited, revocable, annual (or multi-year as specified in Illuminate’s Client Order), non-exclusive, non-transferable license during the Subscription Period, to access the Licensed Product(s) and/or Services through the User IDs and to operate the features of the Licensed Product(s) and/or Services according to the Documentation under normal circumstances. Client is only granted licensed access to any customized software and/or content delivered in accordance with a valid Client Order and/or SOW during the Term of said Client Order. Termination of the Client Order or underlying Licensed Product will terminate access to customized content. No source code or technical-level documentation to the Licensed Product(s) and/or Services is licensed under this Agreement.

(b). **User IDs.** Illuminate will issue Client’s system administrator access to Client’s designated user(s) that will have the ability to issue a singular User ID and password to each student, teacher, and administrator for access to and to utilize the Licensed Product(s) and/or Service(s) specified in the applicable Client Order and/or SOW. Client shall limit the total number of issued User IDs and passwords to the student count noted for each Licensed Product and/or Service on the Client Order; provided that said student count does not limit the total number of teacher and administrator User IDs and passwords that Client may issue. Each User ID may only be used to access the Services during one (1) concurrent login session. Client shall not allow Client Personnel and/or students to share User IDs with any third parties, which require prior written approval for access by Illuminate. “Client Personnel” is defined as Client’s internal employees, who shall be bound by confidentiality restrictions at least as restrictive as this Agreement provides, explicitly excluding contractors and/or vendors that are not granted access herein. Client is responsible for all activity occurring under its User IDs and control of said User IDs, including the corresponding password credentials. Client is responsible for all use of the Licensed Product(s)

and/or Services by Client Personnel, students Client grants access to, for maintaining the confidentiality of all User IDs, and promptly notifying Illuminate of any actual or suspected unauthorized use of the Licensed Product(s) and/or Services. Illuminate reserves the right to suspend or terminate any Client user that Illuminate determines may have been used for an unauthorized purpose.

(c). **Limitations.** Client agrees that it will not and will not permit any Client Personnel or other party to: (i) permit any party to access or use the Licensed Product(s) and/or Services, Software, or Documentation, other than Client Personnel explicitly authorized by Illuminate; (ii) modify, adapt, alter or translate the Software or Documentation, except as expressly allowed hereunder; (iii) sublicense, lease, rent, loan, distribute, or otherwise transfer the Licensed Product(s) and/or Services, Software, or Documentation to any third party; (iv) reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or algorithms, structure or organization) of the Software; (v) use or copy the Software or Documentation except as expressly allowed hereunder; (vi) disclose or transmit any data contained in the Software to any individual other than Client Personnel. To the extent permitted under the law, Client shall hold Illuminate harmless from any and all claims relating to Client's misuse of Licensed Product(s) and/or Services rendered by Illuminate to Client, including Illuminate's intellectual property.

(d). **Client Responsibility.** Client shall perform the responsibilities necessary to establish Client's use of the Licensed Product(s) and/or Services, including (i) providing Client Personnel lists to setup User IDs, (ii) properly maintaining all associated equipment, software and environmental conditions in accordance with applicable industry standards and/or specifications Illuminate may provide Client, and (iii) designating Client Personnel to participate in training.

**3. Acceptable Use Policy.** Client acknowledges and agrees that Illuminate does not monitor or police the content of communications or data of Client or its users transmitted through the Licensed Product(s) and/or Services, and that Illuminate shall not be responsible for the content of any such communications or transmissions. In using the Software, Licensed Product(s), and/or Services, Client agrees to the following: (i) Client shall not incorporate into or otherwise transmit through the Software, Licensed Product(s), and/or Services any content that violates or infringes the rights of others, including without limitation any material that: (A) may be abusive, indecent, threatening, obscene, harassing, violent, defamatory, libelous, fraudulent, or otherwise objectionable; (B) encourages or otherwise promotes conduct that would constitute a criminal offense or give rise to civil liability; (C) impersonates any person or entity or that otherwise misrepresents Client's affiliation with a person or entity; (D) contains malicious code; (E) is in violation of the CAN-SPAM Act or any other applicable laws pertaining to unsolicited email, SMS, text messaging or other electronic communications, or the transmission of emails to an individual or entity with which Client has no preexisting relationship; (F) includes the private information of another without express permission, including but not limited to contact information, social security numbers, credit card numbers or other information which a reasonable individual would consider private in nature, (G) violates any privacy, intellectual property or proprietary right of another; (H) is pornographic or sexual in nature; (I) expressly targets children under the age of 13; or (J) is unlawful or otherwise objectionable, in Illuminate's sole opinion; and (ii) Client shall ensure that Client's use of the Software and/or Services is at all times compliant with all applicable local, state, federal and international law, regulations and conventions, including without limitation, those related to data privacy, international communications, and the

exportation of data of any kind, regulations of the U.S. Securities and Exchange Commission and/or any rules of a securities exchange in the U.S. or elsewhere.

#### **4. Reservation of Rights.**

(a). **Illuminate.** Illuminate expressly reserves all rights in the Licensed Product(s), Services, Software, Documentation, and all other materials provided by Illuminate hereunder not specifically granted to Client. It is acknowledged that all right, title and interest in the Licensed Product(s), Services, Software, Documentation, and all other materials provided by Illuminate hereunder, including, but not limited to any update, adaptation, translation, customization or derivative work thereof, and all intellectual property rights therein will remain with Illuminate (or third party suppliers, if applicable) and that the Licensed Product(s), Services, Software, Documentation, and all other materials provided by Illuminate hereunder are licensed on a subscription basis and not transferred to Client apart from the temporary license(s) discussed herein.

(b). **Client.** Client expressly reserves all rights in any data that Client (or Client Personnel/student users) loads or enters into the Licensed Product(s) and/or Services and all results from processing such data, including compilations, and derivative works thereof (the "Client Data"), except that Client grants Illuminate a non-exclusive, royalty-free, license to use, reproduce, and create derivative works of the Client Data in operating the Licensed Product(s) and/or Service features for Client's benefit as is explicitly permitted under the law. Additionally, Illuminate may use and distribute the Client Data for any lawful purpose outside the scope of the Agreement, provided always that such Client Data must be aggregated and/or de-identified (e.g., the development of Illuminate's products and/or services, as authorized under F.E.R.P.A. and applicable state laws). Client represents and warrants that Client has all rights under applicable law to provide and input in the Licensed Product(s) and/or Services the Client Data, including any personally identifiable information of any of the students and or other persons included therein.

**5. Term.** Unless earlier terminated pursuant to this Agreement, this Agreement shall be in effect pursuant to the dates set forth in the Client Order and/or SOW ("Initial Term"), and thereafter may be renewed for additional one (1) year periods upon each anniversary of the commencement of the Initial Term (each subsequent period will be known as a "Renewal Term" and together with the Initial Term, the "Term"). The Renewal Term(s) will be invoiced at then-current rates; provided that Illuminate does not enter into a multi-year item price agreement with Client, as denoted in the attached Client Order. Expiration or termination of one Client Order and/or SOW shall not affect any other Client Order and/or SOW, unless the Agreement Term expires or the Agreement as a whole is terminated under Section 14 ("Termination").

**6. Client Support.** During the Subscription Period for the applicable Services, Illuminate will provide the following standard customer support:

(a). **Web & Phone Support.** Client's designated representative(s) shall have access to Illuminate's technical support via website/email and telephone and may use the website/email to submit service requests. Illuminate will use reasonable efforts to respond in a timely manner under the given circumstances.

(b). **Client's Responsibilities.** To receive support, Client shall: (i) report errors or suspected errors for which support is needed, and supply Illuminate with sufficient information and data to reproduce the error; (ii) procure, install, operate and maintain hardware, operating systems

and other software that are compatible with the most current supported version of Software; (iii) establish adequate operational back-up provisions in the event of malfunctions or errors; (iv) maintain an operating environment free of any modifications or other programming that might interfere with the functioning of Software; (v) maintain hardware and system software consistent with Illuminate's minimum requirements; and (vi) timely install all fixes and new versions supplied by Illuminate in the proper sequence, and have the most current version of Software installed (if applicable). Client acknowledges that fixes and new versions may be made available electronically, and that, in some cases, Illuminate may maintain email distribution lists that are used to notify Clients of the availability of fixes and new versions and to provide other information to Clients that are eligible for support. Client shall be responsible for including the appropriate Client Personnel on any such email distribution lists of Illuminate so that Client receives such notifications and other information.

(c). **Service Upgrades and Scheduled Downtime.** Client shall receive, through the Licensed Product(s) and/or Services, generally available versions and releases for the Software, as designated by Illuminate in its sole discretion and that Illuminate generally offers to its other clients in Illuminate's sole discretion, and at no additional charge (beyond current support and subscription fees). Illuminate may from time to time schedule downtime for maintenance and upgrades. Illuminate may provide Client notice of any scheduled downtime, including any scheduled user disruption, if the circumstances permit such notice. Illuminate will strive to perform updates during non-peak hours.

**7. Professional Services.** In consideration of Client's payment of the applicable and non-refundable fees and expenses set forth in the Client Order or SOW for professional services, Illuminate will provide Client the professional services set forth therein, which may include attendance at designated training sessions provided by Illuminate as set forth herein ("Professional Services"). Training and/or consultation sessions may be conducted, as Illuminate deems appropriate or as explicitly agreed upon in writing on the Client Order or SOW at the time of purchase, at Illuminate's training facility, at Client's location, or by teleconference.

(a). **Use Period.** All Professional Services must be invoiced/prepaid or paid in the same manner as agreed to with other Licensed Products included on the applicable Client Order and utilized by Client within one (1) year of purchase. Illuminate, in its sole discretion, may extend this period up to a maximum of one (1) additional year to utilize said Professional Services; however, regardless of whether the Professional Services use period described herein is extended, Client's non-utilization of purchased Professional Services will be deemed null and void upon expiration of the applicable use period.

(b). **Third Party Integration.** Illuminate, in its sole discretion, will assist Client with integration of Licensed Product(s) with Client's third-party applications and/or content that are compatible in nature. Due to the potential access of students' personally identifiable information, Illuminate provides said integration only at the request of Client in writing. Client is solely and entirely responsible for compliance with local, state, and federal laws corresponding with integrations, as well as ensuring authorized access to said applications and/or content. To the extent permitted under the law, Client agrees to indemnify and hold Illuminate harmless for any actions and/or omissions pertaining to the integration.

## **8. Hosting.**

(a). **Availability.** Client acknowledges and agrees that the hosted Licensed Product(s) and/or Services may be inaccessible or inoperable from time to time due to planned maintenance or to causes that are

beyond the control of Illuminate or are not reasonably foreseeable by Illuminate, including, but not limited to: (i) the interruption or failure of telecommunication or digital transmission links; (ii) hostile network attacks; (iii) network congestion; (iv) or other failures (collectively "Downtime"). Illuminate shall use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the Licensed Product(s) and/or Services caused by Downtime, whether scheduled or not.

(b). **Security.** Client will not: (i) breach or attempt to breach the security of the hosting environment or any network, servers, data, computers or other hardware relating to or used in connection with the Licensed Product(s) and/or Services, or any third party that is hosting or interfacing with any part of the Licensed Product(s) and/or Services; or (ii) use or distribute through the Licensed Product(s) and/or Services any software, files or other tools or devices designed to interfere with or compromise the privacy, security or use of the Licensed Product(s) and/or Services or the operations or assets of any other customer of Illuminate or any third party. Client will comply with any potential user authentication requirements for use of the Licensed Product(s) and/or Services. Client is solely responsible for monitoring its authorized users' access to and use of the Licensed Product(s) and/or Services. Illuminate has no obligation to verify the identity of any person who gains access to the Licensed Product(s) and/or Services by means of an access ID. Any failure by any authorized user to comply with the Agreement shall be deemed to be a material breach by Client, and Illuminate shall not be liable for any damages incurred by Client or any third party resulting from such breach. Client must immediately take all necessary steps, including providing notice to Illuminate, to affect the termination of an access ID for any authorized user if there is any compromise in the security of that access ID or if unauthorized use is suspected or has occurred in relation to hosted Licensed Product(s) and/or Services.

(c). **Data.** Client has sole responsibility for the legality, reliability, integrity, accuracy and quality of the data it processes through and submits to the hosting environment.

## **9. Fees and Payment.**

(a). **Subscription Fees.** Subscription Fees (set forth in each Client Order and/or SOW) are payable in advance pursuant to subsection 9(b) below. Illuminate will issue an invoice for each payment annually.

(b). **Fees.** All fees and expenses will be invoiced and are payable net thirty (30) days after the invoice date and are non-refundable after being granted access to any products and/or the commencement of internal preparations to provide Professional Services. Such other fees and expenses along with the corresponding fees for Licensed Product(s) and/or Services are collectively "Fees".

(c). **Renewals; Enrollment Increases.** Prior to any Renewal Term, Client shall provide Illuminate with an updated student count for proper invoicing and to maintain an accurate number of students accessing the Licensed Product(s) and/or Services specified in all applicable Client Orders. Illuminate reserves the right to validate, adjust, and/or invoice for variation of Client's student count based on information provided to state reporting agencies. If an increase in student enrollment in excess of five percent (5%) occurs, then Client shall remit payment for additional student access to Licensed Product(s) and/or Services in accordance with Illuminate's supplemental invoice. Such additional fees will be calculated by multiplying the then-current per student fee for Licensed Product(s) and/or Services by Client's additional enrollment. Additionally, in the event a Client Order includes discounted pricing for bundled Licensed Product(s) and/or Services and Client terminates any Licensed Product(s) and/or Services within the bundle, Illuminate



reserves the right to invoice Client at then-current pricing for the non-terminated Licensed Product(s) and/or Services. Illuminate may supply new or modified policies or other terms and conditions to Client related to the provision of Licensed Product(s) and/or Services in a renewal term in order to remain compliant with applicable laws and/or Illuminate's uniform procedures, in which event such new or modified policies or other terms and conditions will govern Illuminate's provision of Licensed Product(s) and/or Services in such renewal term.

(d). **Late Payment.** Client may not withhold or "setoff" any amounts due hereunder. Illuminate reserves the right to suspend Services, including access to the Software, and Professional Services (if any) until all undisputed past due amounts are paid in full after giving Client advance written notice and an opportunity to cure as specified in Section 13 ("Notices") and Section 14 ("Termination"). Illuminate also reserves the right to charge Client a 1.5% late fee for any outstanding invoices that exceed ninety (90) days past due.

(e). **Certain Taxes.** Fees quoted do not include and Client shall pay, and to the extent permitted under the law, indemnify and hold Illuminate harmless from all gross receipts, value-added, personal property or other taxes, and all applicable duties, tariffs, assessments, export and import fees or similar charges (including interest and penalties imposed thereon) on the transaction contemplated herein, other than taxes based on the net income or profits of Illuminate. If client is exempt from federal, state, sales, and use taxes the client will not be charged the same upon providing Illuminate with sufficient evidence of said exemption.

#### 10. Confidential Information.

(a). **Definitions.** For purposes of this section, a Party receiving Confidential Information (as defined below) shall be the "Recipient" and the Party disclosing such information shall be the "Discloser" and "Confidential Information" means all information disclosed by Discloser to Recipient during the Term and marked as "confidential" or "proprietary". Client hereby acknowledges that the Services (including any Documentation, Software, and any translations, compilations, partial copies and derivative works thereof) will be considered Confidential Information belonging exclusively to Illuminate (or its designated third party supplier), and Illuminate hereby acknowledges that Client Data will be considered Confidential Information belonging to Client, in each case regardless of whether or not marked as "confidential" or "proprietary".

(b). **Covenant.** To the extent permitted by law, recipient hereby agrees that during the Term and at all times thereafter it shall not (i) disclose such Confidential Information of the Discloser to any person or entity, except to its own personnel having a "need to know" (and who themselves are bound by similar nondisclosure restrictions), and to such other recipients as the Discloser may approve in writing; provided that all such recipients shall have first executed a confidentiality agreement in a form acceptable to Discloser; (ii) use Confidential Information of the Discloser except to exercise its license rights or perform its obligations under this Agreement; or (iii) alter or remove from any Confidential Information of the Discloser any proprietary legend. Recipient shall use at least the same degree of care in safeguarding the Confidential Information of the Discloser as it uses in safeguarding its own confidential information of a similar nature, but in no event shall less than due diligence and reasonable care be exercised. Upon the earlier of Discloser's written request or termination or expiration of this Agreement, and regardless of whether a dispute may exist, Recipient shall return or destroy (as instructed by Discloser) all Confidential Information of Discloser in its possession or control and cease all further use thereof. Notwithstanding the foregoing, Recipient may disclose Discloser's Confidential Information to the extent that such disclosure is

necessary for the Recipient to enforce its rights under this Agreement or is required by law or by the order of a court or similar judicial or administrative body, provided that the Recipient promptly notifies the Discloser in writing of such required disclosure and cooperates with the Discloser to seek an appropriate protective order.

(c). **Educational Research (Applicable to Only Select Clients).** Subject to the terms and conditions contained herein, including Illuminate's privacy policy and/or a data sharing agreement entered into with Client, Client hereby grants Illuminate the right to share deidentified data that has entirely omitted any and all personally identifiable information with the University of Minnesota (*FAST product customers only*) and/or University of Virginia (*PALS product customers only*) for educational research purposes. Client's use of these products is conditional upon Client's consent of this provision and necessary to the provision of the products to Client.

(d). **Injunctive Relief.** Recipient acknowledges that violation of the provisions of this section would cause irreparable harm to Discloser not adequately compensable by monetary damages. In addition to other relief, it is agreed that injunctive relief shall be available without necessity of posting bond to prevent any actual or threatened violation of such provisions.

#### 11. Disclaimers.

(a). **DISCLAIMER OF OTHER WARRANTIES. SOFTWARE AND SERVICES ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND (UNLESS EXPLICITLY PROVIDED FOR HEREIN), AND ILLUMINATE AND ITS LICENSORS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND POTENTIAL IMPLEMENTATION DELAYS. ILLUMINATE DOES NOT WARRANT THAT THE FUNCTIONALITY CONTAINED IN THE LICENSED PRODUCT WILL MEET CLIENT'S REQUIREMENTS, OR THAT THE OPERATION OF THE SOFTWARE OR CLOUD HOSTING WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE LICENSED PRODUCT WILL BE CORRECTED. FURTHERMORE, ILLUMINATE DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SOFTWARE OR SERVICES IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, SECURITY OR OTHERWISE. CLIENT AGREES THAT THE USE OF SOFTWARE AND SERVICES IS AT CLIENT'S OWN RISK. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ILLUMINATE OR AN ILLUMINATE REPRESENTATIVE SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT FULLY APPLY TO CLIENT.**

(b). **Limited Non-Infringement Warranty.** Illuminate warrants that it has the right to license to Client the Software and Services as contemplated by this Agreement. Illuminate represents and warrants that as of the date the Software and Services is first made available hereunder, when properly used in accordance with the Documentation and this Agreement, will not misappropriate or infringe any third party's intellectual property rights recognized under any trade secret law, any U.S. copyright, or U.S. patent issued as of the Effective Date.

(c). **Limited Privacy Warranty.** Illuminate hereby recognizes that the Client Data which Client provides to Illuminate may include personally identifiable information of students. In order for Illuminate to carry out

its obligations under this Agreement, it is necessary for Illuminate to use the Client Data. Illuminate agrees to use the Client Data, some of which may contain personally identifiable information of students, only for the purpose of fulfilling its obligations under this Agreement. Illuminate agrees all usage of Client Data shall be in compliance with the requirements of applicable privacy laws. Illuminate warrants that it has put in place reasonable and appropriate security, technical, and organizational measures to protect its usage of the Client Data against accidental or unlawful destruction or accidental loss, alterations, and unauthorized use, disclosure, or access. Illuminate also warrants that it shall not disclose to, permit the disclosure to, or provide access to the Client Data to any third parties, except as is necessary for Illuminate to fulfill its obligations under this Agreement and under the law. In the event the Client or any third party believes there has been a material breach of this provision, Illuminate shall have a reasonable amount of time, which will be a minimum of thirty (30) days from the date of receiving written notice to cure any such alleged breach.

**12. Limitation of Liabilities.** The Parties acknowledge that the following provisions have been negotiated by them and reflect a fair allocation of risk and form an essential basis of the bargain and shall survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy:

**ILLUMINATE SHALL NOT BE LIABLE TO CLIENT FOR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; OR LOST PROFITS, LOST FUNDING, LOST SAVINGS, OR LOST OR DAMAGED DATA; OR FOR CLAIMS OF A THIRD PARTY; ARISING OUT OF THIS AGREEMENT, SOFTWARE, THIRD PARTY SOFTWARE, SUPPORT, HOSTING, SERVICES, OR OTHER ITEMS PROVIDED, OR THE USE OR INABILITY TO USE ANY OF THE FOREGOING, EVEN IF ILLUMINATE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THEY ARE FORESEEABLE. IN ANY EVENT, IN RESPECT OF ANY CLAIM, DEMAND OR ACTION ARISING OUT OF THIS AGREEMENT, CLIENT SHALL BE LIMITED TO RECEIVING ACTUAL AND DIRECT DAMAGES IN A MAXIMUM AGGREGATE AMOUNT EQUAL TO THE CHARGES PAID BY CLIENT TO ILLUMINATE HEREUNDER FOR THE APPLICABLE LICENSED PRODUCT, ITEM OR SERVICE ON WHICH THE CLAIM IS BASED IN THE PREVIOUS TWELVE (12) MONTHS.**

**13. Notices.** Notices sent to either Party shall be effective when delivered electronically or physically to the address designated by Client and in the case of Illuminate to the attention of: Illuminate Legal Department to the address listed as Illuminate's principal place of business herein and in the case of Client to the recipient provided by Client at the commencement of the Services and/or use of Software. Notices must be in writing. Each Party may change its address for receipt of notice by giving notice of such change to the other Party.

**14. Termination.**

(a). **Termination for Breach.** Illuminate shall have the right to immediately suspend performance under this Agreement in the event that Client is in breach of any of its obligations under this Agreement. In addition, either party shall have the right to terminate this Agreement in whole or in part upon thirty (30) days written notice to the other party, in the event the other party materially breaches this Agreement and fails to correct such breach within such thirty (30) day period; provided that

Illuminate shall have the right to terminate this Agreement immediately upon written notice in the event that Client breaches any of its obligations under Section 10. Client further acknowledges that, as breach of the provisions of Section 10 could result in irreparable injury to Illuminate, Illuminate shall have the right to seek equitable relief against any actual or threatened breach thereof, without proving actual damages.

(b). **Liquidated Damages.** In the event that Client enters into a multi-year contract with Illuminate and Client terminates the contract or any portion thereof, Client agrees to pay Illuminate the remaining sum due to Illuminate through the stated term of the Client Order and/or SOW as liquidated damages, as actual damages being impossible to calculate. This clause shall not apply in the event Client terminates this Agreement as a result of Illuminate's breach in accordance with Subsection 14(a) herein. Notwithstanding the foregoing, Client shall not be liable for said liquidated damages in the event that: (i) Client provides Illuminate at least thirty (30) days' advance notice of termination prior to the effective date anniversary; and (ii) said termination is a result of the non-appropriation of funds for Client's contract. Client shall not utilize this clause as a right to terminate the contract for convenience. Illuminate reserves the right to seek documentation evidencing the non-appropriation of funds.

(c). **Survival.** Upon termination or expiration of this Agreement for any reason: (i) all rights and obligations of both Parties (except for Client's payment of all Fees then owing), including all licenses granted hereunder, shall immediately terminate except as provided below; (ii) within thirty (30) days after the effective date of termination, each Party shall comply with the obligations to return or destroy, at Illuminate's sole discretion, all Confidential Information of the other Party, as set forth in Section 10 ("**Confidential Information**"). The following Sections and Subsections will survive expiration or termination of this Agreement for any reason: Section 4 ("**Reservation of Rights**"), Section 10 ("**Confidential Information**"), Section 11 ("**Disclaimers**"), Section 12 ("**Limitation of Liabilities**"), Section 14(c) ("**Survival**"), and Section 15 ("**General Provisions**"). Upon termination, as long as Client is not in breach, if requested, Illuminate shall make a final backup of Client data and provide the backup media to Client at Illuminate's then-current rates in a readily usable form in accordance with industry standards.

**15. General Provisions.**

(a). **Assignment.** Client may not assign this Agreement to any third party without Illuminate's prior written consent. Any assignment in violation of this section shall be void. The terms of this Agreement shall be binding upon permitted assignees.

(b). **Choice of Law.** This Agreement and any action related thereto shall be governed by and construed in accordance with the laws of the State of California, without regard to conflicts of law principles. Each of the Parties hereto agrees to be subject to the exclusive jurisdiction, and venue shall reside, in the state and federal courts located in Orange County, California for the purpose of adjudicating any dispute relating to or arising out of this Agreement and irrevocably consent to exclusive personal jurisdiction and venue of state and federal courts located therein. The U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Any claim against Illuminate must be brought within one (1) year after it arose, or be barred.

(c). **Compliance with Export Regulations.** Client has or shall obtain in a timely manner all necessary or appropriate licenses, permits or other governmental authorizations or approvals; to the extent permitted under the law, shall indemnify and hold Illuminate harmless from, and bear all

expense of, complying with all foreign or domestic laws, regulations or requirements pertaining to the importation, exportation, or use of the technology to be developed or provided herein. Client shall not directly or indirectly export or re-export (including by transmission) any regulated technology to any country to which such activity is restricted by regulation or statute, without the prior written consent, if required, of the administrator of export laws (e.g., in the U.S., the Bureau of Export Administration of the U.S. Department of Commerce).

(d). **Construction.** Except as otherwise provided herein, the Parties rights and remedies under this Agreement are cumulative. The term "including" means "including without limitation."

(e). **Force Majeure.** Neither Party shall be liable for delays caused by events beyond its reasonable control, except non-payment of amounts due hereunder shall not be excused by this provision.

(f). **Severable.** Any provision hereof found by a tribunal of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect. Without limiting the generality of the foregoing, Client agrees that the section titled Limitation of Liabilities will remain in effect notwithstanding the enforceability of any other provision herein.

(g). **Waiver.** Waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions. Nothing herein shall be interpreted as a waiver of Client's governmental immunity for individual employees, if any, as provided for by state law.

(h). **Counterparts; Facsimile Signature.** Illuminate requires Client's execution of select Client Orders and/or SOWs, all of which are

incorporated into this Agreement, and may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. If any Client Order and/or SOW is executed in counterparts, no signatory hereto shall be bound until both the Parties named below have duly executed or caused to be duly executed a counterpart of said Client Order and/or SOW. A signature received by either Party by facsimile or email is binding upon (the other Party) as an original.

(i). **Client Authorization; Enforceability.** Client represents and warrants that (i) it has obtained all necessary authorizations to enter into this Agreement and all related SOWs, (ii) the person signing and/or consenting on behalf of Client is a duly authorized representative of the Client, and (iii) this Agreement is a duly authorized binding and enforceable obligation of Client.

(j). **Independent Contractors.** Client's relationship to Illuminate is that of an independent contractor, and neither Party is an agent or partner of the other. Client will not have and shall not represent to any third party that it has any authority to act on behalf of Illuminate.

(k). **Entire Agreement.** This Agreement, Illuminate's Privacy Policy, the attached Client Order, Illuminate's SOWs (if applicable), and Client's purchase order (without any added terms and conditions that may be contained therein) incorporated by reference constitute the entire Agreement between the Parties with respect to the subject matter hereof and supersede all other communications, whether written or oral. This Agreement may be amended only by a written document signed by both Parties. The headings of sections of this Agreement are for reference purposes only and have no substantive effect.

I hereby affirm that I am authorized to execute this Agreement and commit to the obligations set forth herein, including but not limited to, remit payment for all Licensed Products and/or Services procured.

ILLUMINATE EDUCATION, INC.

CLIENT: OAKLAND UNIFIED SCHOOL DISTRICT

DocuSigned by:  
By: Scott Virkler  
DB07F581AEB... Authorized Signature

Gary Yee  
By: Gary Yee, President, Board of Education 6/30/2022  
Authorized Signature

Name: Scott Virkler

Kyla Johnson Trammell  
By: Kyla Johnson Trammell, Secretary, Board of Education 6/30/2022

Title: COO

Date: 6/15/2022

Joanna J. Powell



## Master Subscription Licenses & Services Agreement Addendum

The Parties hereby agree to amend the attached Master Subscription Licenses & Services Agreement (“Agreement”) in accordance with the terms set forth herein. The following Background Section is hereby added to the Agreement:

Education Technology JPA (“JPA”) is a joint powers authority formed by California public school districts, county offices of education, and community college districts pursuant to California Government Code §§ 6500-6536.

On September 4, 2019, JPA issued a Request for Proposal for assessment platforms (the “RFP”) on behalf of its members. JPA selected Illuminate to issue an award to sell assessment platforms, and thereafter, JPA and Illuminate entered into an agreement (the “RFP Agreement”) to establish the terms by which JPA’s members may purchase products and/or services from Illuminate in accordance with the RFP award. A JPA member may enter into this Agreement with Illuminate to become or remain Illuminate’s Client.

**Section 11(d) “Disclaimers – Illuminate Indemnification”** is hereby incorporated into the Agreement with the addition of the following language:

Illuminate Indemnification. If a third-party claims that a Licensed Product (other than related to any Licensee Content) infringes that party's U.S. patent, copyright or other proprietary right, Illuminate will defend Licensee against that claim at Illuminate's expense and pay all costs, damages, and attorney's fees, that a court finally awards or that are included in a settlement approved by Illuminate, provided that Licensee:

- i. promptly notifies Illuminate in writing of the claim; and
- ii. allows Illuminate to control, and cooperates with Illuminate in, the defense and any related settlement.

If such a claim is made, Illuminate may continue to enable Licensee to use the Licensed Product or to modify it such that it becomes non-infringing. If Illuminate determines that these alternatives are not reasonably available, Illuminate may terminate the Licensed Product without any liability to Licensee upon notice to Licensee and with the return of any prepaid and unused fees. The infringement indemnity obligations do not apply to the extent the infringement claim arises from: (a) any technology not provided by Illuminate or otherwise identified by Illuminate in writing as interoperable; (b) use of the Licensed Products other than in accordance with this Agreement; (c) the Licensee’s content and/or data; or (d) modification or alteration to the Licensed Products by anyone other than Illuminate.

**Section 13 “Notices”** is hereby amended with the addition of the following language notice contact information:

Education Technology JPA  
Attn: Michelle Bennett  
5050 Barranca Parkway  
Irvine, CA 92604

MichelleBennett@iusd.org  
949-936-5022

**Section 14(b) "Termination – Liquidated Damages"** is hereby amended in accordance only with the following language:

In the event that Client enters into a multi- year contract with Illuminate and Client terminates the contract or any portion thereof, Client agrees to pay Illuminate amount equal to the fees due to Illuminate under the Agreement or applicable SOW through the subsequent school year after the year in which Client provides notice of termination as liquidated damages, as actual damages being impossible to calculate (i.e., if Client signs a five-year contract, terminates during year 2, then Client’s owed liquidated damages will be the total fees owed in year 3).

**Section 15(b) "General Provisions – Choice of Law"** is hereby amended in accordance only with the following language:

Any claim against Illuminate must be brought within two (2) year after it arose, or be barred.

**Section 15(k) "General Provisions – Entire Agreement"** is hereby amended with the addition of the following language:

The Parties hereby agree to fully incorporate by reference the duly executed data sharing agreement between JPA and Illuminate, including Client if executes the Exhibit E to said data sharing agreement, which shall control in the event of any conflict of terms or conditions contained in the Agreement or herein this Addendum. All references to Illuminate’s Privacy Policy herein this Agreement are hereby deleted and replaced with said duly executed data sharing agreement.

**Section 15(l) "General Provisions – Insurance"** is hereby amended with the addition of the following language:

Illuminate shall maintain a comprehensive insurance portfolio to ensure it is adequately covered in its provision of Illuminate products and/or services in accordance with the terms and conditions of this Agreement.

I hereby affirm that I am authorized to execute this Agreement and commit to the obligations set forth herein, including but not limited to, remit payment for all Licensed Products and/or Services procured.

ILLUMINATE EDUCATION, INC.

DocuSigned by:  
By: Scott Virkler  
Authorized Signature  
DB07F581AE9A445...

Name: Scott virkler

Title: COO

Date: 6/15/2022

CLIENT: OAKLAND UNIFIED SCHOOL DISTRICT

By: Gary Yee  
Gary Yee, President, Board of Education 6/30/2022

By: Kyla Johnson Tramell  
Kyla Johnson Tramell, Secreary, Board of Education 6/30/2022

Approved as to form by OUSD Staff Attorney  
Joanna Powell on 6/16/2022.

Joanna J. Powell



# Client Order

Q-147045

530 Technology Dr Suite 100  
 Irvine, California 92618  
 (949) 656-3133  
<https://www.illuminateeducation.com/>

Prepared Date: 5/10/2022  
 Valid Through: 7/15/2022

Customer: Oakland Unified School District  
 Address: 1000 Broadway, Suite 600  
 Oakland, California 94607-4071

Prepared By: Charlotte Lescroart

Contact: Rinat Fried  
 Phone: (510) 879-2124

Start Date: 7/1/2022  
 End Date: 6/30/2025  
 Quote Term: 36

## Year 1

Dates: 7/1/2022 - 6/30/2023

QTY	PRODUCT	DESCRIPTION	UNIT	TOTAL
17,880	DnA Software License Bundle	Assessment Software Licenses	\$5.30	\$94,764.00
	»» DnA, Software License	Per Student Licenses - Illuminate Data and Assessment™	Included	
2	Learning Community, DnA	Access to DnA content, resources, and usage reporting within Illuminate Education's Learning Management System.	\$75.00	\$150.00
3	Virtual Consultations, DnA	One-hour of virtual coaching for DnA	\$165.00	\$495.00
<b>Year 1 Subtotal:</b>				\$95,409.00
<b>Year 1 Grand Total:</b>				\$95,409.00

## Year 2

Dates: 7/1/2023 - 6/30/2024

QTY	PRODUCT	DESCRIPTION	UNIT	TOTAL
17,880	DnA Software License Bundle	Assessment Software Licenses	\$5.46	\$97,624.80
	»» DnA, Software License	Per Student Licenses - Illuminate Data and Assessment™	Included	
2	Learning Community, DnA	Access to DnA content, resources, and usage reporting within Illuminate Education's Learning Management System.	\$75.00	\$150.00
3	Virtual Consultations, DnA	One-hour of virtual coaching for DnA	\$165.00	\$495.00
<b>Year 2 Subtotal:</b>				\$98,269.80
<b>Year 2 Grand Total:</b>				\$98,269.80

## Year 3

Dates: 7/1/2024 - 6/30/2025

QTY	PRODUCT	DESCRIPTION	UNIT	TOTAL
17,880	DnA Software License Bundle	Assessment Software Licenses	\$5.55	\$99,234.00
	»» DnA, Software License	Per Student Licenses - Illuminate Data and Assessment™	Included	
2	Learning Community, DnA	Access to DnA content, resources, and usage reporting within Illuminate Education's Learning Management System.	\$75.00	\$150.00
3	Virtual Consultations, DnA	One-hour of virtual coaching for DnA	\$165.00	\$495.00
<b>Year 3 Subtotal:</b>				\$99,879.00
<b>Year 3 Grand Total:</b>				\$99,879.00

Any Client request to reimport, align, merge, or otherwise manipulate data that has already been integrated will be subject to an additional fee. If the Client requests that Illuminate make any integration efforts after initial setup, the initial fees will be as follows: integrating with a new SIS \$5,000; merging instances or splitting instances \$10,000.

On-Going Illuminate subscription license and/or support fees are invoiced at then current rates & enrollment per terms of the Master Subscription Licenses & Services Agreement, which may be subject to an annual increase after the first year for non-multi-year contracts and/or enrollment increases (i.e., as your student count increases or decreases, the quantity will be adjusted in accordance with the terms of the Agreement).

Any applicable state sales tax that has been added to this Client Order is an estimated amount for Client's convenience that is subject to verification and modification based on current state required tax at the time of invoicing. Subscription Start and Expiration Dates shall be as set forth above, which may be delayed based upon the date that Illuminate receives your purchase order or signed Client Order.

In the event that this Client Order includes promotional pricing, said promotional pricing is only valid for the select term(s), product(s), and/or service(s) as shown in this Client Order. The promotional pricing may also be limited in availability to you through the date on this Client Order that is shown as the "Valid Through" period.

All invoices shall be paid within thirty (30) days of the date of invoice.

**All purchase orders must contain the exact Client Order number stated within.**

**To accept and finalize this Client Order, please remit a purchase order to:**

**Orders@IlluminateEd.net  
or  
6531 Irvine Center Drive #100  
Irvine, CA 92618**



## **ED TECH JPA MASTER AGREEMENT: RFP No. 19/20-02 Assessment Platform**

This Master Agreement ("MA"), is made as of April 1, 2020 ("Effective Date"), by and between the Education Technology Joint Powers Authority ("ED TECH JPA") and Illuminate Education, Inc. ("VENDOR").

### **BACKGROUND**

A. Education Technology JPA is a Joint Powers Authority formed by California public school districts, county offices of education, and community college districts pursuant to California Government Code Sections 6500-6536. ED TECH JPA aggregates purchasing power and expertise for its Associate Members across California.

B. ED TECH JPA establishes its contracts for products and services through the following process:

1. On September 4, 2019, ED TECH JPA issued a Request for Proposal for Assessment Platforms (the "RFP") on behalf of ED TECH JPA members. ED TECH JPA invited qualified vendors to submit pricing products and services in response to the RFP.

2. ED TECH JPA published the RFP on its Website and in a local periodical:

3. ED TECH JPA received one or more responses to the RFP. ED TECH JPA evaluated all responses which complied with the terms of the RFP, using the following criteria: Functionality and Usability, Vendor Support and Ability to Perform, Price, and Technology Requirements.

4. ED TECH JPA selected VENDOR for an award under the RFP for an assessment platform (the "Products"). The parties are entering this Master Agreement ("MA") to evidence the terms and conditions of that award.

### **AGREEMENT**

Now, therefore, for good and valuable consideration, the parties agree as follows.

#### **1. GRANT AND ACCEPTANCE OF AWARD**

ED TECH JPA awards this MA to VENDOR under the RFP with respect to the products or services ("Products") at the prices listed in Exhibit A. VENDOR accepts the award and confirms VENDOR's acceptance of all terms and conditions of the RFP, which are incorporated herein by this reference. This MA includes the services and pricing offered in VENDOR's RFP response, as identified in Appendix C, Pricing Form. Prices will remain valid for all Participating Associate Members of ED TECH JPA through the expiration of the MA.

#### **2. TERM**

The term of this MA (the "Term") shall commence on the Effective Date and shall expire after a period of three (3) years. The MA may be extended for up to two additional one (1) year terms beyond the original term, for a total of up to five (5) years. The parties understand that Participants may order Products under this MA to be delivered after the Term of this MA; in some cases, Products may be delivered over multiple years after the Term. The expiration or termination of this MA shall not affect VENDOR's obligation to deliver Products as ordered by Participants during the Term.

#### **3. PARTICIPANTS**

The pricing, terms, and conditions of this MA will be made available to ED TECH JPA Founding Members, Associate Members and to other "Eligible Entities" who elect to become Associate Members of the ED TECH JPA. Eligible Entities are all California public school districts, county



offices of education, and community college districts, and any other public agency in the United States whose procurement rules, whether internal rules or rules enacted pursuant to statute, allow them to purchase Products through a procurement vehicle such as ED TECH JPA. A "Participant" or "Participating Associate Member" is an Eligible Entity who chooses to purchase items through this MA, including Associate Members and Founding Members.

VENDOR acknowledges that each Participant is responsible for (a) completing their own due diligence regarding the suitability of VENDOR and Products for Participant's needs, (b) entering into one or more Purchase Agreements with VENDOR to document the quantities, total costs, and delivery terms for Products, (c) and coordinating implementation of Products with VENDOR. VENDOR is not under any contractual obligation to provide Products to Participants until such time as both a MA and a Purchase Agreement have been fully executed. The RFP was conducted for the limited purposes specified in the RFP. ED TECH JPA does not provide assurance or warranty to VENDOR with respect to other issues, including Participant's payments to VENDOR. ED TECH JPA will not assist in implementation or represent VENDOR in the resolution of disputes with Participants.

#### **4. PURCHASE AGREEMENTS**

Participating Associate Members may browse products in the JPA website. Prior to executing the Purchase Agreement ("PA"), Associate Members will work with a VENDOR representative to determine the VENDOR implementation timeline and implementation plan ("Implementation Plan") as further described in Section 2.2 of the RFP. To confirm Participant's request to buy Products using the RFP, Participant and VENDOR must complete and execute a Purchase Agreement ("PA") for the specific Products and provide that PA to ED TECH JPA. The PA is included herein in this Appendix A for reference.

The PA will contain a general description of the Products ordered, contact information for VENDOR and Participant related to purchase and sale of the Products, and an acknowledgement that the purchase is subject to the terms of the RFP and this MA. Participant and VENDOR may agree on contingencies, such as timing contingencies, applicable to delivery of Products.

A completed PA must be presented to ED TECH JPA no later than sixty (60) days after Participant and VENDOR reach agreement on the Implementation Plan. ED TECH JPA will accept timely submitted and properly completed PAs, and thereafter, VENDOR will work directly with a Participating Associate Member to fulfil the order according to the parties' agreed-upon Implementation Plan. ED TECH JPA is not responsible to verify payment to vendor.

#### **5. PROGRAM PROMOTION**

It is in the interest of both parties that VENDOR will promote and support ED TECH JPA Master Agreements using methods that best suit the VENDOR's business model, organization, and market approach. ED TECH JPA specifically desires VENDOR to generate interest in the MA, and direct its existing clients who are Eligible Entities to use its MA as VENDOR's preferred form of contracting with Eligible Entities.

VENDOR may be asked to participate with ED TECH JPA staff in related trade shows, conferences, and online presentation to promote the MA. ED TECH JPA will promote MAs through the creation of marketing materials, as well as active outreach to its constituents.

ED TECH JPA expects VENDOR's field and internal sales forces will be trained and engaged in use of the MA for the duration of the contract term. VENDOR agrees that all sales will be

accurately and timely reported to ED TECH JPA. VENDOR shall provide a single point of contact with the authority and responsibility for the overall success of promotion of the MA.

ED TECH JPA may schedule periodic reviews with VENDOR to evaluate VENDOR's performance of the commitments outlined in this MA, as well as leads, current projects and projected sales.

**6. INVOICING FOR SERVICES**

VENDOR shall invoice each Participant for Products and Participant shall disburse payment to VENDOR upon receipt of the Board approved, executed Purchase Agreement between Participating Associate Member and VENDOR. ED TECH JPA does not guarantee timely payment. The Purchase Agreement is between VENDOR and Participant.

**7. EQUIPMENT ADDITIONS/DELETIONS**

VENDOR may add or delete equipment introduced or removed from the market by the manufacturer under the following conditions:

- A. Deleted Equipment has been discontinued and is no longer available from the manufacturer;
- B. Added Equipment is a direct replacement for original products listed in the RFP, VENDOR's Proposal, the Master Agreement and/or any Purchase Agreements;
- C. VENDOR has obtained prior written Board approval from Ed Tech JPA;
- D. VENDOR receives an executed Amendment to the Master Agreement;
- E. VENDOR has obtained prior written Board approval from Participating Associate Members; and
- F. VENDOR receives an executed Amendment to the Purchase Agreement.

**8. MINIMUM PRICE GUARANTEE**

VENDOR agrees not to sell directly, or through a reseller, to ED TECH JPA's Eligible Entities (regardless of whether the Eligible Entity is an Associate Member of the ED TECH JPA), including all California public school districts, county offices of education, and community college districts, and any other public agency in California whose procurement rules, whether internal rules or rules enacted pursuant to statute, allow them to purchase goods or services through a procurement vehicle such as ED TECH JPA, the Products(s) subject to the Master Agreement at a price lower than the price offered pursuant to the RFP and this Master Agreement.

**9. EXPENSES.**

ED TECH JPA shall not be liable to VENDOR for any costs or expenses paid or incurred by VENDOR in providing Products and Services for ED TECH JPA or Associate Members.

**10. COMPLIANCE WITH APPLICABLE LAW**

The Products completed herein must meet the approval of the ED TECH JPA and shall be subject to the ED TECH JPA's general right of inspection to secure the satisfactory completion thereof. VENDOR agrees to comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to VENDOR, VENDOR's business, the Products, equipment and personnel engaged in Products covered by this MA or accruing out of the performance of such Products. If VENDOR performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, VENDOR shall bear all costs.

**11. DATA PRIVACY**

VENDOR agrees that all products and services are fully compliant with all applicable requirements including all state and federal laws. VENDOR has executed the California Student Data Privacy Agreement (CSDPA), attached to the RFP as Appendix E.

**12. PERMITS/LICENSES**

VENDOR and all VENDOR's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of Products pursuant to this MA.

**13. INSURANCE**

VENDOR shall insure VENDOR's activities in connection with the Products under this MA and agrees to carry insurance as specified in the RFP to ensure VENDOR's ability to adhere to the indemnification requirements under this MA.

**14. TRANSACTION REPORTING**

VENDOR will comply with all reasonable requests by ED TECH JPA for information regarding VENDOR's transactions with Participants, including transmittal of transaction data in electronic format. VENDOR will report to ED TECH JPA all Services ordered by Participants, in reasonable detail, not later than sixty (60) days after order. VENDOR acknowledges that ED TECH JPA will track the use of this MA through databases managed by ED TECH JPA.

**15. ADMINISTRATIVE FEE**

A. VENDOR agrees to pay ED TECH JPA an administrative fee (the "Administrative Fee") calculated as four percent (4%) of the gross invoiced amount of any Participant agreement with VENDOR based on an award under the RFP, including any Additional Services, or agreement extensions or renewals. Computations of the Administrative Fee shall exclude state, local, or federal taxes levied on invoiced amounts. The Administrative Fee is not refundable to Participants or Vendors under any circumstances. In the event ED TECH JPA's operating costs increase, the Administrative Fee is subject to an increase to offset such increased costs. Any increase shall automatically take effect upon 30 day notice from ED TECH JPA, and VENDOR shall be permitted to amend this MA to increase pricing in the attached Exhibit A in direct proportion to the adjusted Administrative Fee. Such amendment shall take immediate effect and apply to all Purchase Agreements executed after the execution date of the Amendment.

B. Administrative Fees shall be payable at the end of each quarter as follows:

Reporting Period	Due Date
January 1 - March 31	April 30
April 1 - June 30	July 31
July 1 - September 30	October 31
October 1 - December 31	January 31

C. VENDOR must submit a check, payable to Education Technology Joint Powers Authority remitted to:  
Ed Tech JPA

% Clovis Unified School District  
Business Services Department  
1450 Herndon Ave  
Clovis, CA 93611

- D. The administrative fee shall not be included as an adjustment to VENDOR's Ed Tech JPA Master Agreement pricing.
- E. The administrative fee shall not be invoiced or charged to the Participating Associate Member.
- F. Payment of the administrative fee is due irrespective of payment status on orders or service contracts from Participating Associate Member.
- G. Any payments that a VENDOR makes or causes to be made to Ed Tech JPA after the due date as indicated on the Quarterly Report Schedule shall accrue interest at a rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, until such overdue amount shall have been paid in full. The right to interest on late payments shall not preclude Ed Tech JPA from exercising any of its other rights or remedies pursuant to this agreement or otherwise with regards to Vendor's failure to make timely remittances.
- H. Failure to meet administrative fee requirements and submit fees on a timely basis shall constitute grounds for suspension of this contract.

**16. CONTRACT MANAGEMENT**

- A. The primary VENDOR contract manager for this Master Agreement shall be as follows:

**NAME:** Illuminate Education, Inc.

**ATTN:** Legal Department

**ADDRESS:** 6531 Irvine Center Drive, Ste. 100, Irvine, CA 92618

**EMAIL:** [contracts@illuminateed.net](mailto:contracts@illuminateed.net)

**PHONE:** 949-656-3133

- B. The primary Ed Tech JPA contract manager for this Master Agreement shall be as follows:

Education Technology JPA

Attn: Michelle Bennett

5050 Barranca Parkway

Irvine, CA 92604

[MichelleBennett@iusd.org](mailto:MichelleBennett@iusd.org)

949-936-5022

- C. Should the contract administrator information change, the changing party will provide written notice to the affected party with the updated information no later than ten (10) business days after the change.

**17. INDEMNIFICATION**

To the extent permitted under applicable law, VENDOR will defend, indemnify and hold harmless ED TECH JPA and its directors, officers, employees, and agents from and against all damages, costs (including reasonable attorneys' fees), judgments and other expenses arising out of or on account of any third party claim: (i) alleging that the product infringes or misappropriates the proprietary or intellectual property rights of such third party; (ii) that results from the negligence or intentional misconduct of VENDOR or its employees or agents; or (iii) that results from any breach

of any of the representations, warranties or covenants contained herein by VENDOR or in any direct communication between VENDOR and any ED TECH JPA Member.

ED TECH JPA. To the extent permitted under applicable law, ED TECH JPA will defend, indemnify and hold harmless VENDOR and its directors, officers, employees, and agents from and against all damages, costs (including reasonable attorneys' fees), judgments and other expenses arising out of or on account of any third party claim that results from (i) the negligence or intentional misconduct of ED TECH JPA or its employees or agents or (ii) any breach of any of the representations, warranties or covenants contained herein by ED TECH JPA.

**18. ATTORNEYS' FEES**

If any action at law or in equity is brought to enforce or interpret the provisions of this MA, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which the party may be entitled.

**19. SEVERABILITY**

In the event that any provision of this MA is held invalid or unenforceable by a court of competent jurisdiction, no other provision of this MA will be affected by such holding, and all of the remaining provisions of this MA will continue in full force and effect.

**20. DEFAULTS**

In the event that VENDOR defaults in its obligations under this MA, and if such default is not cured within 30 days after notice of the default from ED TECH JPA to VENDOR, then ED TECH JPA may pursue any available remedies against VENDOR, including but not limited to termination of this MA.

**21. GOVERNING LAW AND VENUE**

THIS MA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS LOCATED IN ORANGE COUNTY, CALIFORNIA FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS MA OR THE TRANSACTIONS CONTEMPLATED HEREBY.

PROVISIONS REQUIRED BY LAW: VENDOR acknowledges that it has conducted and performed the required research to become aware and knowledgeable of all federal, state and local laws/statutes that are referenced herein, may pertain to and/or govern the procurement activities and transactions covered by this MA. These provisions of law and any clause required by law that is associated with this transaction will be read and enforced as though it were included herein..

**22. NOTICES**

All notices under this MA must be in writing and will be effective (a) immediately upon delivery in person or by messenger, (b) the next business day after prepaid deposit with a commercial courier or delivery service for next day delivery, (c) upon receipt by facsimile as established by evidence of successful transmission, (d) when emailed to the receiving party at the receiving party's assigned email address with delivery receipt requested, upon electronic confirmation the transmission has been delivered, or (e) five (5) business days after deposit with the US Postal Service, certified mail, return receipt requested, postage prepaid. All notices must be properly

addressed to the addresses set forth on the signature page to this MA, or at such other addresses as either party may subsequently designate by notice.

**23. ASSIGNMENT**

The obligations of the VENDOR pursuant to this MA shall not be assigned by the VENDOR without prior written consent of Ed Tech JPA.

**24. COUNTERPARTS**

This MA may be signed and delivered in two (2) counterparts, each of which, when so signed and delivered, shall be an original, but such counterparts together shall constitute the one instrument that is the MA, and the MA shall not be binding on any party until all Parties have signed it.

**25. AUTHORIZED SIGNATURE**

The individual signing this MA warrants that he/she is authorized to do so. The Parties understand and agree that a breach of this warranty shall constitute a breach of the MA and shall entitle the non-breaching party to all appropriate legal and equitable remedies against the breaching party.

**26. SURVIVAL**

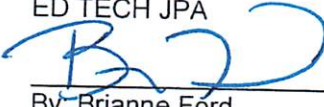
The parties' respective obligations under the following sections of this MA shall survive any termination of this MA: Sections 13 through 21, covering Transaction Reporting, Administrative Fee, Indemnification, Attorneys' Fees, Severability, Defaults, Governing Law, and Notices.

**27. EXHIBITS**

This MA includes all documents referenced herein, whether attached hereto or otherwise incorporated by reference.

**IN WITNESS WHEREOF, the parties have executed this Master Agreement as of the Effective Date.**

ED TECH JPA



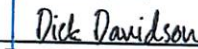
By: Brianne Ford  
President of the Board

5/4/20

Date

Illuminate Education, Inc.

DocuSigned by:



By: Dick Davidson

Its: Chief Financial Officer

5/4/2020

Date

**Exhibit A**  
**ED TECH JPA Pricing**



### Illuminate JPA Pricing (FINAL)

PACKAGE #1: CHOICE ASSESSMENT & ITEM BANK	Year 1 2020-2021	Year 2 2021-2022	Year 3 2022-2023	Year 4 2023-2024	Year 5 2024-2025
<b>Products:</b> SchoolCity Choice + Inspect Plus	<i>License Fee (per district &amp; student)</i>	<i>License Fee (per district &amp; student)</i>	<i>License Fee (per district &amp; student)</i>	<i>License Fee (per district &amp; student)</i>	<i>License Fee (per district &amp; student)</i>
<b>Districts between 1 to 1,500 students</b>					
Platform Annual License Per District	\$4,004	\$4,124	\$4,248	\$4,375	\$4,507
Item Bank Annual License Per Student	\$2.25	\$2.31	\$2.38	\$2.45	\$2.53
<b>Districts between 1,501 to 5,000 students</b>					
Platform Annual License Per District	\$5,491	\$5,656	\$5,826	\$6,000	\$6,180
Item Bank Annual License Per Student	\$2.25	\$2.31	\$2.38	\$2.45	\$2.53

**Choice Assessment & Item Bank Package Pricing Notes:**

1. Roster loading will be provided through Illuminate or a 3rd Party Roster Service
2. Does not include the following modules; Report Card module, Document Camera Software, PLC module, PRA module, Survey module, Scoring Event module (Blind Scoring)
3. Does not include any new modules with future updates
4. Implementation Fee is a one-time fee (see services pricing). New or Existing customers desiring to migrate from the existing Illuminate platform are also subject to this one-time fee.
5. Onsite Training includes one (1) training specialist delivered onsite at a district-provided location (see services pricing). Two (2) days minimum required per new product.
6. Webinar Training includes one (1) training specialist for up to 2 hours, delivered via online video conference provided by Illuminate (see services pricing). One two hour session minimum required.
7. District license requires all students and all schools to be included within a district. The enrollment count used to calculate license cost will be determined by mutual agreement between the customer and Illuminate.
8. License Fees reflect an annual increase of 3% per year for the term of the agreement
9. Choice Assessment & Item Bank Package is limited to districts/schools with 1 to 5,000 students
10. All products included with the package are required for purchase



### Illuminate JPA Pricing (FINAL)

PACKAGE #2: FULL ASSESSMENT & ITEM BANK	Year 1 2020-2021	Year 2 2021-2022	Year 3 2022-2023	Year 4 2023-2024	Year 5 2024-2025
<b>Products Included:</b> DnA or SchoolCity Enterprise + Inspect Premium	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>
Districts between 1 to 10,000 students	\$7.25	\$7.47	\$7.70	\$7.93	\$8.16
Districts between 10,001 to 25,000 students	\$7.05	\$7.26	\$7.48	\$7.71	\$7.94
Districts between 25,001 to 50,000 students	\$6.85	\$7.06	\$7.27	\$7.49	\$7.71
Districts between 50,001 to 100,000 students	\$6.65	\$6.85	\$7.05	\$7.27	\$7.48

**The Full Assessment & Item Bank Package Pricing Notes:**

1. Roster loading will be provided through Illuminate
2. New modules are included with historical and future Major updates at no additional cost
3. Implementation Fee is a one-time fee (see services pricing). New or existing customers desiring to migrate from the existing Illuminate platform are also subject to this one-time fee.
4. Onsite Training includes one (1) training specialist delivered onsite at a district-provided location (see services pricing). Two (2) days minimum required per new product.
5. Webinar Training includes one (1) training specialist for up to 2 hours, delivered via online video conference provided by Illuminate (see services pricing). One two hour session minimum required.
6. District license requires all students and all schools to be included within a district. The enrollment count used to calculate license cost will be determined by mutual agreement between the customer and Illuminate.
7. License Fees reflect an annual increase of 3% per year for the term of the agreement
8. Package #2 is available to districts with 1 to 100,000 students
9. A minimum charge of 1,500 students is applied
10. All products included with the package are required for purchase

### Illuminate JPA Pricing (FINAL)

PACKAGE #3: ASSESSMENT, ITEM BANK, ANALYTICS & VISUALIZATION	Year 1 2020-2021	Year 2 2021-2022	Year 3 2022-2023	Year 4 2023-2024	Year 5 2024-2025
<b>Products Included:</b> DnA or SchoolCity Enterprise + Inspect Premium + eduCLIMBER + Achievement Dashboard	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>
Districts between 1 to 10,000 students	\$12.35	\$12.72	\$13.10	\$13.50	\$13.90
Districts between 10,001 to 25,000 students	\$12.00	\$12.36	\$12.73	\$13.12	\$13.51
Districts between 25,001 to 50,000 students	\$11.58	\$11.93	\$12.29	\$12.66	\$13.04
Districts between 50,001 to 100,000 students	\$11.24	\$11.57	\$11.92	\$12.28	\$12.65

**The Assessment Platform, Item Bank, Dashboard & Analytics Package Pricing Notes:**

1. Roster loading will be provided through Illuminate
2. New modules are included with historical and future Major updates at no additional cost
3. Implementation Fee is a one-time fee (see services pricing). New or Existing customers desiring to migrate from the existing Illuminate platform are also subject to this one-time fee.
4. Onsite Training includes one (1) training specialist delivered onsite at a district-provided location (see services pricing). Two (2) days minimum required per new product.
5. Webinar Training includes one (1) training specialist for up to 2 hours, delivered via online video conference provided by Illuminate (see services pricing). One two hour session minimum required.
6. District license requires all students and all schools to be included within a district. The enrollment count used to calculate license cost will be determined by mutual agreement between the customer and Illuminate.
7. License Fees reflect an annual increase of 3% per year for the term of the agreement
8. Package #3 is available to districts with 1 to 100,000 students
9. A minimum charge of 1,500 students is applied
10. All products included with the package are required for purchase

**Illuminate JPA Pricing (FINAL)**

<b>Services &amp; Optional Product Pricing</b>	<b>Rate/Unit</b>	<b>Unit</b>	<b>Note</b>
Implementation Fee	\$125	per hour	1 Trainer
Onsite Training	\$3,000	per day	1 Trainer
Webinar Training	\$600	per 2 hr session	1 Trainer
Rostering Service	\$600	per site (school), per year	Applicable for Package 1 only
Document Camera Software	\$1.00	per student	Applicable for Package 1 only

## **Illuminate JPA Pricing (FINAL)**

### **ILLUMINATE PRODUCT/SERVICE SUMMARY BY PACKAGE:**

#### **PACKAGE #1: CHOICE ASSESSMENT & ITEM BANK**

- SchoolCity Choice Assessment Platform
- Inspect Plus Item Bank
- 3rd Party Roster Service
- Implementation
- Onsite Training, Webinar Training

#### **PACKAGE #2: ASSESSMENT & ITEM BANK**

- DnA or SchoolCity (Enterprise) Assessment Platform
- Inspect Premium Item Bank
- Implementation
- Onsite Training, Webinar Training

#### **PACKAGE #3: ASSESSMENT, ITEM BANK, ANALYTICS & VISUALIZATION**

- DnA or SchoolCity (Enterprise) Assessment Platform
- Inspect Premium Item Bank
- eduCLIMBER
- Achievement Dashboard
- Implementation
- Onsite Training, Webinar Training

**Exhibit B**

**Usage Report Template**

**VENDOR  
NAME:**

**USAGE REPORT TEMPLATE**

<b>Mem ber Agenc y</b>	<b>Contr act Term Dates</b>	<b>Date Purchas e Agreem ent Execute d</b>	<b>Date Order Fulfile d/ Invoice Genera ted</b>	<b>Order Details / Produc ts Purcha sed</b>	<b>Purch ase Price: One- Time Fees</b>	<b>Purch ase Price: Annu al Fees</b>	<b>JPA Admi n Fee (4% of purch ase price)</b>	<b>Reque st For Deferr al (pendi ng Memb er payme nt)</b>	<b>Not es</b>	<b>New/Ren ewal</b>
	-									<input type="checkbox"/> New customer <input type="checkbox"/> Existing customer new agreement <input type="checkbox"/> Existing customer renewal
	-									<input type="checkbox"/> New customer <input type="checkbox"/> Existing customer new agreement <input type="checkbox"/> Existing customer renewal

## ADDENDUM TO MASTER AGREEMENT

This ADDENDUM TO MASTER AGREEMENT (“Addendum”) by and between ILLUMINATE EDUCATION, INC. (“Vendor”) and EDUCATION TECHNOLOGY JOINT POWERS AUTHORITY (“Ed Tech JPA”), is entered into on April 1, 2020 (the “Effective Date”), with reference to the facts set forth below. Vendor and Ed Tech JPA agree to amend the terms and conditions of the Master Agreement, upon and subject to the terms and conditions of this Addendum. In the event of a conflict of terms between the Master Agreement and this Addendum, this Addendum shall prevail. Initial capitalized terms not otherwise defined herein shall have the meaning set forth in the Master Agreement and in RFP No 19/20-02 Assessment Platform.

NOW THEREFORE, in consideration of the mutual covenants, promises, representations, warranties, and conditions set forth herein, Vendor and Ed Tech JPA hereby agree as follows:

1. **Revised Terms.** The Master Agreement shall be amended as follows.
  - a) Vendor and Ed Tech JPA agree to revise Section 5 of the Master Agreement to include the following statement:

“Notwithstanding the foregoing, Vendor is not legally obligated to direct customers that previously contracted with Vendor prior to the Effective Date of the Master Agreement (“Legacy Customers”) to purchase products and services through Ed Tech JPA. Legacy Customers shall not be required to make purchases through Ed Tech JPA.”
  - b) Vendor and Ed Tech JPA agree to revise Section 8 of the Master Agreement to include the following statement:

“However, Vendor may sell the Product(s) subject to this Master Agreement to Legacy Customers at a price lower than the price offered pursuant to the RFP and this Master Agreement.

Vendor may offer additional combinations of products to customers at a price lower than the price offered pursuant to the RFP and this Master Agreement.”
  - c) Vendor and Ed Tech JPA agree to revise Section 15.A. of the Master Agreement to include the following statement:

“This Administrative Fee applies only to purchases made by Members of Ed Tech JPA who utilize Ed Tech JPA Contracts and/or rely on the any competitive procurement performed by Ed Tech JPA. For purchases made with federal funds, a different fee structure may apply.”

d) Vendor and Ed Tech JPA agree that a new Section 28. "Pilots for Prospective Customers" of the Master Agreement shall read as follows:

**"28. Pilots for Prospective Customers.** Vendor may offer the Product(s) to prospective customers for no cost or at a discounted cost for a trial period ("Pilot"). Pilots shall be for a time period to be determined by Vendor and prospective customer, up to twelve (12) months. Section 15. "Administrative Fee" of the Master Agreement shall not apply to any fees and/or costs associated with Pilots. Purchase Agreements and associated Administrative Fees shall not apply to Pilots for a period of up to twelve (12) months, and will apply only if a prospective customer and member of Ed Tech JPA elects to become a customer of Vendor and utilizes an Ed Tech JPA contract and/or relies on a competitive procurement performed by Ed Tech JPA."

e) Vendor and Ed Tech JPA agree that a new Section 29 "Non-Renewal" of the Master Agreement shall read as follows:

**"29. Non-Renewal.** Vendor may elect not to renew this Master Agreement after the termination of the prior term, in which case no penalty shall be assessed on either party. Upon the cessation of the Master Agreement, Ed Tech JPA Members and Eligible Entities will be unable to leverage Ed Tech JPA agreements and procurements for new purchases or renewals after the termination of the Master Agreement. The foregoing shall not relieve Vendor of its obligations under Ed Tech JPA Agreements executed prior to termination of the Master Agreement. Upon expiration of any existing Ed Tech JPA Agreements, Vendor shall continue to owe Administrative Fees, according to Section 15 of the Master Agreement and section 1.c. of this Addendum, for all purchases made utilizing the Ed Tech JPA Agreements and/or rely on the any competitive procurement performed by Ed Tech JPA." Upon termination of the Master Agreement Vendor may enter into new contracts with each customer that previously leveraged an Ed Tech JPA agreement, including the completion of bids and/or requests for proposals necessary to meet procurement requirements.

2. **Continuing Effect.** Except as otherwise expressly modified herein, all terms and conditions of the Master Agreement shall remain in full force and effect. To the extent there is a conflict between this Addendum and the Master Agreement, this Addendum shall control.

3. **Counterparts.** This Addendum may be executed in multiple counterparts, each of which shall be deemed an original and, together shall constitute one document.

**//Signatures on Following Page//**

IN WITNESS WHEREOF, Vendor and Ed Tech JPA have executed this Addendum to Master Agreement as of the Effective Date.

Education Technology Joint Powers Agency

Signature: 

By: Brianne Ford

Title: President, Ed Tech JPA

Date: 5/4/20

Illuminate Education, Inc.

Signature:   
354B79B8296D4D7...

By: Dick Davidson

Title: Chief Financial Officer

Date: 6/2/2020



## SECOND ADDENDUM TO MASTER AGREEMENT


This SECOND ADDENDUM TO MASTER AGREEMENT (“Second Addendum”) by and between ILLUMINATE EDUCATION, INC. (“Vendor”) and EDUCATION TECHNOLOGY JOINT POWERS AUTHORITY (“Ed Tech JPA”, and together with Vendor, the “Parties”), is entered into as of November 20, 2020 (the “Effective Date”), with reference to the facts set forth below. The Parties agree to amend the terms and conditions of the Master Agreement, by and between the Parties and entered into as of April 1, 2020, and as amended by the Addendum to the Master Agreement, effective as of April 1, 2020 (collectively, the “Master Agreement”), upon and subject to the terms and conditions of this Second Addendum.

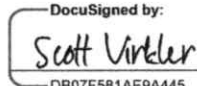
1. Vendor and Ed Tech JPA agree that Exhibit A to the Master Agreement is hereby deleted in its entirety and replaced with the attached Exhibit A, incorporated hereby.
2. Continuing Effect. Except as otherwise expressly modified herein, all terms and conditions of the Master Agreement shall remain in full force and effect. To the extent there is a conflict between this Second Addendum and the Master Agreement, this Second Addendum shall control. Initial capitalized terms not otherwise defined herein shall have the meaning set forth in the Master Agreement and in RFP No 19/20-02 Assessment Platform.
3. Counterparts. This Addendum may be executed in multiple counterparts, each of which shall be deemed an original and, together shall constitute one document.

**IN WITNESS WHEREOF**, Vendor and Ed Tech JPA have executed this Second Addendum to Master Agreement as of the Effective Date.

**Education Technology Joint Powers Agency**

**Illuminate Education. Inc.**

Signature:   
 Name: Brianne Ford  
 Title: President, Ed Tech JPA  
 Date: 11/30/2020

Signature:   
DocuSigned by:  
DB07F581AE9A445...  
 Name: Scott Virkler  
 Title: COO  
 Date: 11/16/2020

**Exhibit A**

**ED TECH JPA Pricing**

**Illuminate JPA Pricing (FINAL)**

<b>PACKAGE #1: CHOICE ASSESSMENT &amp; ITEM BANK</b>	<b>Year 1 2020-2021</b>	<b>Year 2 2021-2022</b>	<b>Year 3 2022-2023</b>	<b>Year 4 2023-2024</b>	<b>Year 5 2024-2025</b>
<b>Products:</b> SchoolCity Choice + Inspect Plus	<i>License Fee (per district &amp; student)</i>	<i>License Fee (per district &amp; student)</i>	<i>License Fee (per district &amp; student)</i>	<i>License Fee (per district &amp; student)</i>	<i>License Fee (per district &amp; student)</i>
<b>Tier 1: Districts between 1 to 1,500 students</b>					
Platform Annual License Per District	\$4,004	\$4,124	\$4,248	\$4,375	\$4,507
Item Bank Annual License Per Student	\$2.25	\$2.31	\$2.38	\$2.45	\$2.53
<b>Tier 2: Districts between 1,501 to 5,000 students</b>					
Platform Annual License Per District	\$5,491	\$5,656	\$5,826	\$6,000	\$6,180
Item Bank Annual License Per Student	\$2.25	\$2.31	\$2.38	\$2.45	\$2.53

**Choice Assessment & Item Bank Package Pricing Notes:**

- Roster loading will be provided through Illuminate or a 3rd Party Roster Service
- Does not include the following modules; Report Card module, Document Camera Software, PLC module, PRA module, Survey module, Scoring Event module (Blind Scoring)
- Does not include any new modules with future updates
- Implementation Fee is a one-time fee (see services pricing). New or Existing customers desiring to migrate from the existing Illuminate platform are also subject to this one-time fee.
- Onsite Training includes one (1) training specialist delivered onsite at a district-provided location (see services pricing). Two (2) days minimum required per new product.
- Webinar Training includes one (1) training specialist for up to 2 hours, delivered via online video conference provided by Illuminate (see services pricing). One two-hour session minimum required.
- District license requires all students and all schools to be included within a district. The enrollment count used to calculate license cost will be determined by mutual agreement between the customer and Illuminate.
- License Fees reflect an annual increase of 3% per year for the term of the agreement
- Choice Assessment & Item Bank Package is limited to districts/schools with 1 to 5,000 students
- All products included with the package are required for purchase

### Illuminate JPA Pricing (FINAL)

PACKAGE #2: FULL ASSESSMENT & ITEM BANK	Year 1 2020-2021	Year 2 2021-2022	Year 3 2022-2023	Year 4 2023-2024	Year 5 2024-2025
<b>Products Included:</b> DnA or SchoolCity Enterprise + Inspect Premium	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>
<b>Tier 1:</b> Districts between 1 to 10,000 students	\$7.25	\$7.47	\$7.70	\$7.93	\$8.16
<b>Tier 2:</b> Districts between 10,001 to 25,000 students	\$7.05	\$7.26	\$7.48	\$7.71	\$7.94
<b>Tier 3:</b> Districts between 25,001 to 50,000 students	\$6.85	\$7.06	\$7.27	\$7.49	\$7.71
<b>Tier 4:</b> Districts between 50,001 to 100,000 students	\$6.65	\$6.85	\$7.05	\$7.27	\$7.48

#### The Full Assessment & Item Bank Package Pricing Notes:

1. Roster loading will be provided through Illuminate
2. New modules are included with historical and future Major updates at no additional cost
3. Implementation Fee is a one-time fee (see services pricing). New or existing customers desiring to migrate from the existing Illuminate platform are also subject to this one-time fee.
4. Onsite Training includes one (1) training specialist delivered onsite at a district-provided location (see services pricing). Two (2) days minimum required per new product.
5. Webinar Training includes one (1) training specialist for up to 2 hours, delivered via online video conference provided by Illuminate (see services pricing). One two-hour session minimum required.
6. District license requires all students and all schools to be included within a district. The enrollment count used to calculate license cost will be determined by mutual agreement between the customer and Illuminate.
7. License Fees reflect an annual increase of 3% per year for the term of the agreement
8. Package #2 is available to districts with 1 to 100,000 students
9. A minimum charge of 1,500 students is applied
10. All products included with the package are required for purchase

### Illuminate JPA Pricing (FINAL)

PACKAGE #3: ASSESSMENT, ITEM BANK, ANALYTICS & VISUALIZATION	Year 1 2020-2021	Year 2 2021-2022	Year 3 2022-2023	Year 4 2023-2024	Year 5 2024-2025
<b>Products Included:</b> DnA or SchoolCity Enterprise + Inspect Premium + eduCLIMBER + Achievement Dashboard	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>
<b>Tier 1:</b> Districts between 1 to 10,000 students	\$12.35	\$12.72	\$13.10	\$13.50	\$13.90
<b>Tier 2:</b> Districts between 10,001 to 25,000 students	\$12.00	\$12.36	\$12.73	\$13.12	\$13.51
<b>Tier 3:</b> Districts between 25,001 to 50,000 students	\$11.58	\$11.93	\$12.29	\$12.66	\$13.04
<b>Tier 4:</b> Districts between 50,001 to 100,000 students	\$11.24	\$11.57	\$11.92	\$12.28	\$12.65

#### The Assessment Platform, Item Bank, Dashboard & Analytics Package Pricing Notes:

1. Roster loading will be provided through Illuminate
2. New modules are included with historical and future Major updates at no additional cost
3. Implementation Fee is a one-time fee (see services pricing). New or Existing customers desiring to migrate from the existing Illuminate platform are also subject to this one-time fee.
4. Onsite Training includes one (1) training specialist delivered onsite at a district-provided location (see services pricing). Two (2) days minimum required per new product.
5. Webinar Training includes one (1) training specialist for up to 2 hours, delivered via online video conference provided by Illuminate (see services pricing). One two-hour session minimum required.
6. District license requires all students and all schools to be included within a district. The enrollment count used to calculate license cost will be determined by mutual agreement between the customer and Illuminate.
7. License Fees reflect an annual increase of 3% per year for the term of the agreement
8. Package #3 is available to districts with 1 to 100,000 students
9. A minimum charge of 1,500 students is applied
10. All products included with the package are required for purchase

**Illuminate JPA Pricing (FINAL)**

<b>PACKAGE #4*: ANALYTICS &amp; VISUALIZATION</b>	<b>Year 1 2020-21</b>	<b>Year 2 2021-22</b>	<b>Year 3 2022-23</b>	<b>Year 4 2023-24</b>	<b>Year 5 2024-25</b>
<b>Products Included:</b> eduCLIMBER + Achievement Dashboard	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>
<b>Tier 1:</b> Districts between 1 to 10,000 students	\$5.50	\$5.67	\$5.83	\$6.01	\$6.19
<b>Tier 2:</b> Districts between 10,001 to 25,000 students	\$5.25	\$5.41	\$5.57	\$5.74	\$5.91
<b>Tier 3:</b> Districts between 25,001 to 50,000 students	\$5.00	\$5.15	\$5.30	\$5.46	\$5.63
<b>Tier 4:</b> Districts between 50,001 to 100,000 students	\$4.75	\$4.89	\$5.04	\$5.19	\$5.35

**The Dashboard & Analytics Package Pricing Notes:**

1. Roster loading will be provided through Illuminate
2. New modules are included with historical and future Major updates at no additional cost
3. Implementation Fee is a one-time fee (see services pricing). New or Existing customers desiring to migrate from the existing Illuminate platform are also subject to this one-time fee.
4. Onsite Training includes one (1) training specialist delivered onsite at a district-provided location (see services pricing). Two (2) days minimum required per new product.
5. Webinar Training includes one (1) training specialist for up to 2 hours, delivered via online video conference provided by Illuminate (see services pricing). One two-hour session minimum required.
6. District license requires all students and all schools to be included within a district. The enrollment count used to calculate license cost will be determined by mutual agreement between the customer and Illuminate.
7. License Fees reflect an annual increase of 3% per year for the term of the agreement
8. Package #4 is available to districts with 1 to 100,000 students
9. A minimum charge of 1,500 students is applied
10. All products included with the package are required for purchase

**Illuminate JPA Pricing (FINAL)**

<b>Services &amp; Optional Product Pricing</b>	<b>Rate/Unit</b>	<b>Unit</b>	<b>Note</b>
Implementation Fee	\$125	per hour	1 Trainer
Onsite Training	\$3,000	per day	1 Trainer
Webinar Training	\$600	per 2 hr session	1 Trainer
Rostering Service	\$600	per site (school), per year	Applicable for Package 1 only
Document Camera Software	\$1.00	per student	Applicable for Package 1 only



## **Illuminate JPA Pricing (FINAL)**

### **ILLUMINATE PRODUCT/SERVICE SUMMARY BY PACKAGE:**

#### **PACKAGE #1: CHOICE ASSESSMENT & ITEM BANK**

- SchoolCity Choice Assessment Platform
- Inspect Plus Item Bank
- Rostering Service Fee
- Implementation
- Onsite Training, Webinar Training

#### **PACKAGE #2: ASSESSMENT & ITEM BANK**

- DnA or SchoolCity (Enterprise) Assessment Platform
- Inspect Premium Item Bank
- Implementation
- Onsite Training, Webinar Training

#### **PACKAGE #3: ASSESSMENT, ITEM BANK, ANALYTICS & VISUALIZATION**

- DnA or SchoolCity (Enterprise) Assessment Platform
- Inspect Premium Item Bank
- eduCLIMBER
- Achievement Dashboard
- Implementation
- Onsite Training, Webinar Training

#### **PACKAGE #4: ANALYTICS & VISUALIZATION**

- eduCLIMBER
- Achievement Dashboard
- Implementation
- Onsite Training, Webinar Training

### ADDENDUM 3 TO MASTER AGREEMENT

This ADDENDUM 3 TO MASTER AGREEMENT (“Addendum 3”) by and between Illuminate Education, Inc. (“VENDOR”) and Education Technology Joint Powers Agency (“ED TECH JPA”), is entered into on February 1, 2021 (the “Effective Date”), with reference to the facts set forth below. VENDOR, and ED TECH JPA agree to amend the terms and conditions of the Master Agreement, Addendum to Master Agreement, Second Addendum to Master Agreement, upon and subject to the terms and conditions of this Addendum 3. In the event of a conflict of terms between the Master Agreement, Addendum to Master Agreement, Second Addendum to Master Agreement, and this Addendum 3, this Addendum 3 shall prevail. Initial capitalized terms not otherwise defined herein shall have the meaning set forth in the Master Agreement and in RFP No 19/20-02 Assessment Platform.

NOW THEREFORE, in consideration of the mutual covenants, promises, representations, warranties, and conditions set forth herein, VENDOR and ED TECH JPA hereby agree as follows:

1. Wherefore, On June 20, 2019, Fastbridge Learning was acquired by Illuminate Education, Inc. resulting in the opportunity of VENDOR to provide additional services.
2. Section 7.b. of the Master Agreement is hereby stricken and replaced with the following: “Added Products are either a direct replacement for original products listed in the RFP, VENDOR’s Proposal, the Master Agreement and/or any Purchase Agreements, or Added Products are enriched capabilities, new modules, technology advancements, and/or service categories within the Education Intelligence and Analytics solution that VENDOR did not have at the time the RFP Proposal was submitted”
3. VENDOR hereby offers the following additional Services to Participating Associate Members: Fastbridge Screening & Progress Monitoring.. Vendor and Ed Tech JPA agree that Exhibit A to the Master Agreement is hereby deleted in its entirety and replaced with the attached Exhibit A, incorporated hereby.
4. **Continuing Effect.** Except as otherwise expressly modified herein, all terms and conditions of the Master Agreement shall remain in full force and effect. To the extent there is a conflict between this Addendum 3 and the Master Agreement and/or Addendum to Master Agreement and/or Second Addendum to Master Agreement, this Addendum 3 shall control.
5. **Counterparts.** This Addendum 3 may be executed in multiple counterparts, each of which shall be deemed an original and, together shall constitute one document.

<<Signature Page Follows>>

IN WITNESS WHEREOF, VENDOR and ED TECH JPA have executed this Addendum 3 to Master Agreement as of the Effective Date.

ED TECH JPA

By: 

Name: Brianne Ford

Title: President, EdTech JPA

Date: 2/22/21

ILLUMINATE EDUCATION, INC.

By: 

Name: Scott Virkler

Title: COO

Date: 2/18/2021

**Illuminate JPA Pricing (FINAL Revised 01-2021)**

<b>PACKAGE #1: CHOICE ASSESSMENT &amp; ITEM BANK</b>	<b>Year 1 2020-2021</b>	<b>Year 2 2021-2022</b>	<b>Year 3 2022-2023</b>	<b>Year 4 2023-2024</b>	<b>Year 5 2024-2025</b>
<b>Products:</b> SchoolCity Choice + Inspect Plus	<i>License Fee (per district &amp; student)</i>	<i>License Fee (per district &amp; student)</i>	<i>License Fee (per district &amp; student)</i>	<i>License Fee (per district &amp; student)</i>	<i>License Fee (per district &amp; student)</i>
<b>Tier 1:</b> Districts between 1 to 1,500 students					
Platform Annual License Per District	\$4,004	\$4,124	\$4,248	\$4,375	\$4,507
Item Bank Annual License Per Student	\$2.25	\$2.31	\$2.38	\$2.45	\$2.53
<b>Tier 2:</b> Districts between 1,501 to 5,000 students					
Platform Annual License Per District	\$5,491	\$5,656	\$5,826	\$6,000	\$6,180
Item Bank Annual License Per Student	\$2.25	\$2.31	\$2.38	\$2.45	\$2.53

**Choice Assessment & Item Bank Package Pricing Notes:**

1. Roster loading will be provided through Illuminate or a 3rd Party Roster Service
2. Does not include the following modules; Report Card module, Document Camera Software, PLC module, PRA module, Survey module, Scoring Event module (Blind Scoring)
3. Does not include any new modules with future updates
4. Implementation Fee is a one-time fee (see services pricing). New or Existing customers desiring to migrate from the existing Illuminate platform are also subject to this one-time fee.
5. Onsite Training includes one (1) training specialist delivered onsite at a district-provided location (see services pricing). Two (2) days minimum required per new product.
6. Webinar Training includes one (1) training specialist for up to 2 hours, delivered via online video conference provided by Illuminate (see services pricing). One two-hour session minimum required.
7. District license requires all students and all schools to be included within a district. The enrollment count used to calculate license cost will be determined by mutual agreement between the customer and Illuminate.
8. License Fees reflect an annual increase of 3% per year for the term of the agreement
9. Choice Assessment & Item Bank Package is limited to districts/schools with 1 to 5,000 students
10. All products included with the package are required for purchase

### Illuminate JPA Pricing (FINAL Revised 01-2021)

PACKAGE #2: FULL ASSESSMENT & ITEM BANK	Year 1 2020-2021	Year 2 2021-2022	Year 3 2022-2023	Year 4 2023-2024	Year 5 2024-2025
<b>Products Included:</b> DnA or SchoolCity Enterprise + Inspect Premium	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>
<b>Tier 1:</b> Districts between 1 to 10,000 students	\$7.25	\$7.47	\$7.70	\$7.93	\$8.16
<b>Tier 2:</b> Districts between 10,001 to 25,000 students	\$7.05	\$7.26	\$7.48	\$7.71	\$7.94
<b>Tier 3:</b> Districts between 25,001 to 50,000 students	\$6.85	\$7.06	\$7.27	\$7.49	\$7.71
<b>Tier 4:</b> Districts between 50,001 to 100,000 students	\$6.65	\$6.85	\$7.05	\$7.27	\$7.48

**The Full Assessment & Item Bank Package Pricing Notes:**

1. Roster loading will be provided through Illuminate
2. New modules are included with historical and future Major updates at no additional cost
3. Implementation Fee is a one-time fee (see services pricing). New or existing customers desiring to migrate from the existing Illuminate platform are also subject to this one-time fee.
4. Onsite Training includes one (1) training specialist delivered onsite at a district-provided location (see services pricing). Two (2) days minimum required per new product.
5. Webinar Training includes one (1) training specialist for up to 2 hours, delivered via online video conference provided by Illuminate (see services pricing). One two-hour session minimum required.
6. District license requires all students and all schools to be included within a district. The enrollment count used to calculate license cost will be determined by mutual agreement between the customer and Illuminate.
7. License Fees reflect an annual increase of 3% per year for the term of the agreement
8. Package #2 is available to districts with 1 to 100,000 students
9. A minimum charge of 1,500 students is applied
10. All products included with the package are required for purchase



### Illuminate JPA Pricing (FINAL Revised 01-2021)

<b>PACKAGE #3: ASSESSMENT, ITEM BANK, ANALYTICS &amp; VISUALIZATION</b>	<b>Year 1 2020-2021</b>	<b>Year 2 2021-2022</b>	<b>Year 3 2022-2023</b>	<b>Year 4 2023-2024</b>	<b>Year 5 2024-2025</b>
<b>Products Included:</b> DnA or SchoolCity Enterprise + Inspect Premium + eduCLIMBER + Achievement Dashboard	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>
<b>Tier 1:</b> Districts between 1 to 10,000 students	\$12.35	\$12.72	\$13.10	\$13.50	\$13.90
<b>Tier 2:</b> Districts between 10,001 to 25,000 students	\$12.00	\$12.36	\$12.73	\$13.12	\$13.51
<b>Tier 3:</b> Districts between 25,001 to 50,000 students	\$11.58	\$11.93	\$12.29	\$12.66	\$13.04
<b>Tier 4:</b> Districts between 50,001 to 100,000 students	\$11.24	\$11.57	\$11.92	\$12.28	\$12.65

**The Assessment Platform, Item Bank, Dashboard & Analytics Package Pricing Notes:**

1. Roster loading will be provided through Illuminate
2. New modules are included with historical and future Major updates at no additional cost
3. Implementation Fee is a one-time fee (see services pricing). New or Existing customers desiring to migrate from the existing Illuminate platform are also subject to this one-time fee.
4. Onsite Training includes one (1) training specialist delivered onsite at a district-provided location (see services pricing). Two (2) days minimum required per new product.
5. Webinar Training includes one (1) training specialist for up to 2 hours, delivered via online video conference provided by Illuminate (see services pricing). One two-hour session minimum required.
6. District license requires all students and all schools to be included within a district. The enrollment count used to calculate license cost will be determined by mutual agreement between the customer and Illuminate.
7. License Fees reflect an annual increase of 3% per year for the term of the agreement
8. Package #3 is available to districts with 1 to 100,000 students
9. A minimum charge of 1,500 students is applied
10. All products included with the package are required for purchase

### Illuminate JPA Pricing (FINAL Revised 01-2021)

PACKAGE #4: ANALYTICS & VISUALIZATION	Year 1 2020-21	Year 2 2021-22	Year 3 2022-23	Year 4 2023-24	Year 5 2024-25
<b>Products Included:</b> eduCLIMBER + Achievement Dashboard	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>
<b>Tier 1:</b> Districts between 1 to 10,000 students	\$5.50	\$5.67	\$5.83	\$6.01	\$6.19
<b>Tier 2:</b> Districts between 10,001 to 25,000 students	\$5.25	\$5.41	\$5.57	\$5.74	\$5.91
<b>Tier 3:</b> Districts between 25,001 to 50,000 students	\$5.00	\$5.15	\$5.30	\$5.46	\$5.63
<b>Tier 4:</b> Districts between 50,001 to 100,000 students	\$4.75	\$4.89	\$5.04	\$5.19	\$5.35

Package #4 pricing was added November 2020.

#### The Dashboard & Analytics Package Pricing Notes:

1. Roster loading will be provided through Illuminate
2. New modules are included with historical and future Major updates at no additional cost
3. Implementation Fee is a one-time fee (see services pricing). New or Existing customers desiring to migrate from the existing Illuminate platform are also subject to this one-time fee.
4. Onsite Training includes one (1) training specialist delivered onsite at a district-provided location (see services pricing). Two (2) days minimum required per new product.
5. Webinar Training includes one (1) training specialist for up to 2 hours, delivered via online video conference provided by Illuminate (see services pricing). One two-hour session minimum required.
6. District license requires all students and all schools to be included within a district. The enrollment count used to calculate license cost will be determined by mutual agreement between the customer and Illuminate.
7. License Fees reflect an annual increase of 3% per year for the term of the agreement
8. Package #4 is available to districts with 1 to 100,000 students
9. A minimum charge of 1,500 students is applied
10. All products included with the package are required for purchase



**Illuminate JPA Pricing (FINAL Revised 01-2021)**

Package #5: SCREENING & PROGRESS MONITORING	Year 1	Year 2	Year 3	Year 4	Year 5
	2020-21	2021-22	2022-23	2023-24	2024-25
<b>Fastbridge Learning</b>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>	<i>License Fee (per student)</i>
<b>Tier 1:</b> Districts between 1 to 10K*	N/A	\$7.95	\$8.19	\$8.43	\$8.69
<b>Tier 2:</b> Districts between 10+K to 25K	N/A	\$7.55	\$7.78	\$8.01	\$8.25
<b>Tier 3:</b> Districts between 25+K to 50K	N/A	\$7.17	\$7.39	\$7.61	\$7.84
<b>Tier 4:</b> Districts between 50+K to 100K	N/A	\$6.82	\$7.02	\$7.23	\$7.45

Package #5 pricing was added January 2021.

**The Screening & Progress Monitoring Package Pricing Notes:**

1. Roster loading will be provided through Illuminate
2. New modules are included with historical and future Major updates at no additional cost
3. Implementation Fee is a one-time fee (see services pricing).
4. Onsite Training includes one (1) training specialist delivered onsite at a district-provided location (see services pricing).
5. Webinar Training includes one (1) training specialist for up to 2 hours, delivered via online video conference provided by Illuminate (see services pricing). One two hour session minimum required.
6. The enrollment count used to calculate license cost will be determined by mutual agreement between the customer and Illuminate.
7. License Fees reflect an annual increase of 3% per year for the term of the agreement
8. Package #5 is available to districts with 1 to 100,000 students
9. A minimum charge of 1,500 students is applied \*

**Illuminate JPA Pricing (FINAL Revised 01-2021)**

<b>Services &amp; Optional Product Pricing</b>	<b>Rate/Unit</b>	<b>Unit</b>	<b>Note</b>
Implementation Fee	\$125	per hour	1 Trainer
Onsite Training	\$3,000	per day	1 Trainer
Webinar Training	\$600	per 2 hr session	1 Trainer
Rostering Service	\$600	per site (school), per year	Applicable for Package 1 only
Document Camera Software	\$1.00	per student	Applicable for Package 1 only

## **Illuminate JPA Pricing (FINAL Revised 01-2021)**

### **ILLUMINATE PRODUCT/SERVICE SUMMARY BY PACKAGE:**

#### **PACKAGE #1: CHOICE ASSESSMENT & ITEM BANK**

- SchoolCity Choice Assessment Platform
- Inspect Plus Item Bank
- Rostering Service Fee
- Implementation
- Onsite Training, Webinar Training

#### **PACKAGE #2: FULL ASSESSMENT & ITEM BANK**

- DnA or SchoolCity (Enterprise) Assessment Platform
- Inspect Premium Item Bank
- Implementation
- Onsite Training, Webinar Training

#### **PACKAGE #3: FULL ASSESSMENT, ITEM BANK, ANALYTICS & VISUALIZATION**

- DnA or SchoolCity (Enterprise) Assessment Platform
- Inspect Premium Item Bank
- eduCLIMBER
- Achievement Dashboard
- Implementation
- Onsite Training, Webinar Training

#### **PACKAGE #4: ANALYTICS & VISUALIZATION**

- eduCLIMBER
- Achievement Dashboard
- Implementation
- Onsite Training, Webinar Training

#### **PACKAGE #5: SCREENING & PROGRESS MONITORING**

- Fastbridge Learning
- Implementation
- Onsite Training, Webinar Training



Illuminate Education, Inc.  
6531 Irvine Center Drive | Suite 100  
Irvine, CA 92618  
Phone: 949-656-3133 | Fax: 909-266-1935  
contracts@illuminateed.com | illuminateed.com

February 18, 2021

Via Email

Education Technology JPA  
Attn: Michelle Bennett  
5050 Barranca Parkway  
Irvine, CA 92604  
Email: MichelleBennett@iusd.org

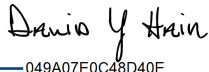
Dear Michelle,

The purpose of this letter is to provide written notice to Education Technology JPA that Illuminate Education, Inc. and its affiliate companies (collectively, "Illuminate") acquired FastBridge Learning, LLC on June 20, 2019, and now FastBridge Learning is a wholly-owned subsidiary of Illuminate. Accordingly, please accept the following statement being made and sworn hereto under penalty of perjury:

I, David Hain, as Director of Legal for Illuminate Education, Inc. hereby acknowledge and confirm that Illuminate acquired FastBridge Learning, LLC on June 20, 2019. Due to the legal manner in which FastBridge Learning was acquired, I am not able to provide Secretary of State documents to verify said acquisition.

Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

DocuSigned by:  
  
049A07E0C48D40E...  
David Hain  
Director of Legal

# EDUCATION TECHNOLOGY JOINT POWERS AUTHORITY

## Minutes

### REGULAR MEETING OF THE GOVERNING BOARD

December 5, 2019 2:00 P.M.

Procurement Center

5050 Barranca Parkway

Irvine, CA 92604

#### 1. CALL TO ORDER

Minutes:

Brianne Ford called the meeting to order at 2:06 PM.

#### 2. PUBLIC COMMENT

**None.**

Anyone may address the Board on any item that is within the Board's subject matter jurisdiction. However, the Board may not take action on any item not on this agenda except as authorized by Government Code section 54954.2.

#### 3. ROLL CALL

Present:

Brianne Ford with IUSD

Michael Johnston with Clovis USD

Present by Telephone:

Mike McAdam with Fullerton SD

Kevin Monsma with El Dorado County Office of Education

#### 4. APPROVAL OF MINUTES

**Motion Passed:** Approve the Minutes from the October 30, 2019 Regular Board Meeting.

Passed with a motion by Michael Johnston and a second by Mike McAdam.

Yes Brianne Ford

Yes Michael Johnston

Yes Mike McAdam

Yes Kevin Monsma

#### 5. APPROVAL OF AGENDA

**Motion Passed:** Adopt Agenda, as presented.

Passed with a motion by Kevin Monsma and a second by Michael Johnston.

Yes     Brienne Ford  
Yes     Michael Johnston  
Yes     Mike McAdam  
Yes     Kevin Monsma

John Morgan joined the call

## **6. ACCEPTANCE OF BOARD MEMBER REPORTS**

Minutes: Presentations at the CBO Symposium and CITE conference were discussed.

## **7. ACCEPTANCE OF TREASURER REPORT**

Minutes: Deferred until audit and second interim reports.

## **8. ACCEPTANCE OF STANDING REPORTS**

### **8.a. Membership**

Minutes: New members and discussions with potential members were discussed.

### **8.b. Communications**

Minutes: An email marketing campaign after the holidays and the CASBO session in April were discussed.

### **8.c. Procurement**

Minutes: Assessment RFP, Educational Intelligence and Analytics Solution RFP, Help Desk System RFP, and Student Information System RFP were discussed. Web Hosting RFP, Substitute System RFP, and additional RFPs may be deferred due to a large response to current RFPs, to allow for contract negotiations.

## **9. ACCEPTANCE OF CONSENT AGENDA**

**9.a. Motion Passed:** Ratify Approval of New Associate Members: Burbank Unified School District, Los Gatos Union School District, Lowell Joint School District.

Passed with a motion by Michael Johnston and a second by John Morgan.

Yes     Brienne Ford  
Yes     Michael Johnston  
Yes     Mike McAdam  
Yes     Kevin Monsma  
Yes     John Morgan

## **10. OLD BUSINESS**

None.

## 11. NEW BUSINESS

### 11.a. First Interim & SACS Report

**Motion Passed:** Approve the positive certification of the First Interim and SACS Report.

Passed with a motion by Kevin Monsma and a second by Mike McAdam.

Yes     Brienne Ford  
Yes     Michael Johnston  
Yes     Mike McAdam  
Yes     Kevin Monsma  
Yes     John Morgan

**11.b.** Submission of the 2018-19 Annual Financial Audit of the Education Technology Joint Powers Authority.

**Motion Passed:** Approve the Annual Financial Audit.

Passed with a motion by Mike McAdam and a second by Kevin Monsma.

Yes     Brienne Ford  
Yes     Michael Johnston  
Yes     Mike McAdam  
Yes     Kevin Monsma  
Yes     John Morgan

**11.c.** Discuss Administrative Fee and Minimum Price Guarantee Related to Upcoming Contract Negotiations.

**Motion Passed:** Tabled. The Board authorized Brienne Ford and Michael Johnston to develop a revised Administrative Fee structure. Board approval will be obtained when we approve contracts.

**11.d.** Approve Award of RFP No. 19/20-02 Assessment Platform to Edcite, Inc..

**Motion Passed:** Award RFP No. 19/20-02 Assessment Platform and authorize the President to execute and deliver a Master Agreement to Edcite, Inc. Sections 1, 2, 3, and 4 (full award) contingent upon successful contract negotiations.

Passed with a motion by Kevin Monsma and a second by Michael Johnston.

Yes     Brienne Ford  
Yes     Michael Johnston  
Yes     Mike McAdam

Yes Kevin Monsma  
Yes John Morgan

**11.e.** Approve Award of RFP No. 19/20-02 Assessment Platform to Snapwiz, Inc. dba Edulastic.

**Motion Passed:** Award RFP No. 19/20-02 Assessment Platform and authorize the President to execute and deliver a Master Agreement to Snapwiz, Inc. dba Edulastic for Sections 1, 2, 3, and 4 (full award) contingent upon successful contract negotiations.

Passed with a motion by Kevin Monsma and a second by Michael Johnston.

Yes Brianne Ford  
Yes Michael Johnston  
Yes Mike McAdam  
Yes Kevin Monsma  
Yes John Morgan

**11.f.** Approve Award of RFP No. 19/20-02 Assessment Platform to Illuminate Education, Inc..

**Motion Passed:** Award RFP No. 19/20-02 Assessment Platform and authorize the President to execute and deliver a Master Agreement to Illuminate Education, Inc. for Sections 1, 2, 3, and 4 (full award) contingent upon successful contract negotiations.

Passed with a motion by Kevin Monsma and a second by Michael Johnston.

Yes Brianne Ford  
Yes Michael Johnston  
Yes Mike McAdam  
Yes Kevin Monsma  
Yes John Morgan

**11.g.** Approve Award of RFP No. 19/20-02 Assessment Platform to Instructure, Inc.

**Motion Passed:** Award RFP No. 19/20-02 Assessment Platform and authorize the President to execute and deliver a Master Agreement to Instructure, Inc. for Sections 1, 2, 3, and 4 (full award) contingent upon successful contract negotiations.

Passed with a motion by Kevin Monsma and a second by Michael Johnston.



Yes     Brienne Ford  
Yes     Michael Johnston  
Yes     Mike McAdam  
Yes     Kevin Monsma  
Yes     John Morgan

**11.h.** Approve Award of RFP No. 19/20-02 Assessment Platform to NCS Pearson, Inc..

**Motion Passed:** Award RFP No. 19/20-02 Assessment Platform and authorize the President to execute and deliver a Master Agreement to NCS Pearson, Inc. for Sections 1, 2, 3, and 4 (full award) contingent upon successful contract negotiations.

Passed with a motion by Kevin Monsma and a second by Michael Johnston.

Yes     Brienne Ford  
Yes     Michael Johnston  
Yes     Mike McAdam  
Yes     Kevin Monsma  
Yes     John Morgan

**11.i.** Approve Award of RFP No. 19/20-02 Assessment Platform to Schoology, Inc. as recently acquired by PowerSchool Group LLC.

**Motion Passed:** Award RFP No. 19/20-02 Assessment Platform and authorize the President to execute and deliver a Master Agreement to Schoology, Inc., as recently acquired by PowerSchool Group LLC, for Sections 1, 2, 3, and 4 (full award) contingent upon successful contract negotiations.

Passed with a motion by Kevin Monsma and a second by Michael Johnston.

Yes     Brienne Ford  
Yes     Michael Johnston  
Yes     Mike McAdam  
Yes     Kevin Monsma  
Yes     John Morgan

**11.j.** Approve Award of RFP No. 19/20-02 Assessment Platform to SchoolSpire, Inc..

**Motion Passed:** Award RFP No. 19/20-02 Assessment Platform and authorize the President to execute and deliver a Master Agreement to SchoolSpire, Inc. for Sections 1, 2, 3, and 4 (full award) contingent upon successful contract negotiations.

Passed with a motion by Kevin Monsma and a second by Michael Johnston.

Yes     Brienne Ford  
Yes     Michael Johnston  
Yes     Mike McAdam  
Yes     Kevin Monsma  
Yes     John Morgan

## **12. NEW BUSINESS (NON ACTION ITEMS)**

**12.a.** Marketing and Communications Update.  
Minutes: No updates.

## **13. PERSONNEL ITEMS**

Minutes: None.

## **14. REPORT OF EXECUTIVE DIRECTOR AND SPECIAL COMMITTEES OF ADVISORY COUNCIL**

Minutes: None.

## **15. PRESENTATION OF WRITTEN COMMUNICATIONS**

Minutes: None.

## **16. SCHEDULING OF NEXT MEETING**

The next Regular Meeting shall be held on January 23, 2020 at 2:30PM at 5050 Barranca Parkway, Irvine, CA 92604, but may be changed at the discretion of the board.

## **17. ADJOURNMENT**

**Motion Passed:** Adjourn the meeting at 3:18.

Passed with a motion by Kevin Monsma and a second by Michael Johnston.

Yes     Brienne Ford  
Yes     Michael Johnston  
Yes     Mike McAdam  
Yes     Kevin Monsma  
Yes     John Morgan