



monroe one
EDUCATIONAL SERVICES

Daniel T. White
District Superintendent

Lisa N. Ryan
Assistant Superintendent for Finance & Operations

TO: Members of the Board of Education
Mr. Daniel White

FROM: Lisa N. Ryan 

SUBJECT: Contract Approvals

DATE: January 25, 2022

The purpose of this memo is to request that at our February 3, 2022, Board of Education meeting the Board adopt a resolution to approve the following contracts:

- Gipper Media, Inc. – Regional Information Center – per attached
- Computer Systems Asset Disposal - Regional Information Center – per attached
- Burke Group – Business Office - per attached

Should you have any questions please contact me prior to our February 3 meeting. Thank you.

GIPPER MEDIA, INC.
728 20th St.
Santa Monica, CA 90402

Tuesday, February 8, 2022

Monroe 1 BOCES
41 O'Connor Road
Fairport, NY 14450

Re: Engagement of Gipper Media, Inc.

Dear Sir or Madam:

The Company will provide you the following through June 30, 2023, at a cost of \$1,875.20, payable in two installments - the first, of \$525.20, due within 30 days of acceptance of this letter by you and the second, of \$1,350, by July 31, 2022:

1. The use of and access to the Gipper Graphics Platform (ATHLETIC - PRO)

This agreement shall automatically renew for one (1) year terms at an annual cost of \$1,500 with payment being due in full on July 1, 2023, unless either party provides notice to the other of its intent to terminate this agreement not less than thirty (30) days before the end of the then current term. This agreement will also cover any upgrades to your service or purchases of new Gipper products and services.

If these terms, including Gipper's Terms of Use and Privacy Policy (which are available on gipper.com and considered a part of this letter) are acceptable to you, please indicate so by signing where indicated below and returning this letter to me at the above address or at mglick@gipper.com.

We look forward to you becoming a Gipper Media, Inc. Partner School.

Sincerely,

GIPPER MEDIA, INC.

Matthew A. Glick, President

AGREED AND ACCEPTED:

MONROE ONE BOCES

By: 

Name: Lisa N. Ryan

Date: 2.9.2022

Appendix A
Compliance With New York State Education Law Section 2-d Contract Addendum ("Addendum")

The parties to this Agreement are the Monroe 1 Board of Cooperative Educational Services ("BOCES") and Gipper Media, Inc. ("Vendor"). BOCES is an educational agency, as that term is used in Section 2-d of the New York State Education Law ("Section 2-d") and its implementing regulations, and Vendor is a third-party contractor, as that term is used in Section 2-d and its implementing regulations. BOCES and Vendor have entered into this Agreement to conform to the requirements of Section 2-d and its implementing regulations. To the extent that any term of any other agreement or document conflicts with the terms of this Agreement, the terms of this Agreement shall apply and be given effect.

Definitions

As used in this Agreement and related documents, the following terms shall have the following meanings:

"Student Data" means personally identifiable information from student records that Vendor receives from an educational agency (including BOCES or a Participating School District) in connection with providing Services under this Agreement.

"Personally Identifiable Information" ("PII") as applied to Student Data, means personally identifiable information as defined in 34 CFR 99.3 implementing the Family Educational Rights and Privacy Act (FERPA), at 20 USC 1232g.

"Third Party Contractor," "Contractor" or "Vendor" means any person or entity, other than an educational agency, that receives Student Data from an educational agency pursuant to a contract or other written agreement for purposes of providing services to such educational agency, including, but not limited to data management or storage services, conducting studies for or on behalf of such educational agency, or audit or evaluation of publicly funded programs.

"BOCES" means Monroe #1 Board of Cooperative Educational Services.

"Parent" means a parent, legal guardian, or person in parental relation to a student.

"Student" means any person attending or seeking to enroll in an educational agency.

"Eligible Student" means a student eighteen years or older.

"State-protected Data" means Student Data, as applicable to Vendor's product/service.

"Participating School District" means a public school district or board of cooperative educational services that obtains access to Vendor's product/service through a cooperative educational services agreement ("CoSer") with BOCES, or other entity that obtains access to Vendor's product/service through an agreement with BOCES, and also includes BOCES when it uses the Vendor's product/service to support its own educational programs or operations.

"Breach" means the unauthorized access, use, or disclosure of personally identifiable information.

"Commercial or marketing purpose" means the sale of PII; and the direct or indirect use or disclosure of State-protected Data to derive a profit, advertise, or develop, improve, or market products or services to students other than as may be expressly authorized by the parties in writing (the "Services").

"Disclose", "Disclosure," and "Release" mean to intentionally or unintentionally permit access to State-protected Data; and to intentionally or unintentionally release, transfer, or otherwise communicate State-protected Data to someone not authorized by contract, consent, or law to receive that State-protected Data.

Vendor Obligations and Agreements

Vendor agrees that it shall comply with the following obligations with respect to any student data received in connection with providing Services under this Agreement and any failure to fulfill one of these statutory or regulatory obligations shall be a breach of this Agreement. Vendor shall:

(a) limit internal access to education records only to those employees and subcontractors that are determined to have legitimate educational interests in accessing the data within the meaning of Section 2-d, its implementing regulations and FERPA (e.g., the individual needs access in order to fulfill his/her responsibilities in providing the contracted services);

(b) only use personally identifiable information for the explicit purpose authorized by the Agreement, and must/will not use it for any purpose other than that explicitly authorized in the Agreement or by the parties in writing;

(c) not disclose any personally identifiable information received from BOCES or a Participating School District to any other party who is not an authorized representative of the Vendor using the information to carry out Vendor's obligations under this Agreement, unless (i) if student PII, the Vendor or that other party has obtained the prior written consent of the parent or eligible student, or (ii) the disclosure is required by statute or court order, and notice of the disclosure is provided to the source of the information no later than the time of disclosure, unless such notice is expressly prohibited by the statute or court order;

(d) maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the personally identifiable information in its custody;

(e) use encryption technology to protect data while in motion or in its custody (i.e., in rest) from unauthorized disclosure by rendering personally identifiable information unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified or permitted by the Secretary of the United

States department of health and human services in guidance issued under Section 13402(H)(2) of Public Law 111-5 using a technology or methodology specified or permitted by the secretary of the U.S.);

(f) not sell personally identifiable information received from BOCES or a Participating School District nor use or disclose it for any marketing or commercial purpose unless otherwise expressly authorized by the Services, or facilitate its use or disclosure by any other party for any marketing or commercial purpose or permit another party to do so;

(g) notify the educational agency from which student data is received of any breach of security resulting in an unauthorized release of such data by Vendor or its assignees in violation of state or federal law, or of contractual obligations relating to data privacy and security in the most expedient way possible and without unreasonable delay, in compliance with New York law and regulation;

(h) reasonably cooperate with educational agencies and law enforcement to protect the integrity of investigations into any breach or unauthorized release of personally identifiable information by Vendor;

(i) adopt technologies, safeguards, and practices that align with the NIST Cybersecurity Framework, Version 1.1, that are in substantial compliance with the BOCES data security and privacy policy, and that comply with Education Law Section 2-d, Part 121 of the Regulations of the Commissioner of Education and the Monroe #1 BOCES Parents' Bill of Rights for Data Privacy and Security, set forth below, as well as all applicable federal, state and local laws, rules and regulations;

(j) acknowledge and hereby agrees that the State-protected Data which Vendor receives or has access to pursuant to this Agreement may originate from several Participating School Districts located across New York State. Vendor acknowledges that the State-protected Data belongs to and is owned by the Participating School District or student from which it originates;

(k) acknowledge and hereby agrees that if Vendor has an online terms of service and/or Privacy Policy that may be applicable to its customers or users of its product/service, to the extent that any term of such online terms of service or Privacy Policy conflicts with applicable law or regulation, the terms of the applicable law or regulation shall apply;

(l) acknowledge and hereby agrees that Vendor shall promptly pay for or reimburse the educational agency for the full third party cost of a legally required breach notification to parents and eligible students due to the unauthorized release of student data caused by Vendor or its agent or assignee;

(m) ensure that employees, assignees and agents of Contractor who have access to student data, or teacher or principal data receive or will receive training on the federal and state laws governing confidentiality of such data prior to receiving access to such data; and

(n) ensure that any subcontractor that performs Contractor's obligations pursuant to the Agreement is legally bound by legally compliant data protection obligations imposed on the Contractor by law, the Agreement and this Agreement.

Monroe #1 BOCES Parents' Bill of Rights for Data Privacy and Security

<https://www.monroe.edu/domain/1478>

The Monroe #1 BOCES seeks to use current technology, including electronic storage, retrieval, and analysis of information about students' education experience in the BOCES, to enhance the opportunities for learning and to increase the efficiency of our operations.

The Monroe #1 BOCES seeks to ensure that parents have information about how the BOCES stores, retrieves, and uses information about students, and to meet all legal requirements for maintaining the privacy and security of protected student data and protected principal and teacher data, including Section 2-d of the New York State Education Law.

To further these goals, the BOCES has posted this Parents' Bill of Rights for Data Privacy and Security.

1. A student's personally identifiable information cannot be sold or released for any commercial purposes.
2. Parents have the right to inspect and review the complete contents of their child's education record. The procedures for exercising this right can be found in Student Records Policy 6320. (<https://www.monroe.edu/6320>)
3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.
4. A complete list of all student data elements collected by the State is available at <http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx> and a copy may be obtained by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, New York 12234.
5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed in writing, to:
Chief Privacy Officer

New York State Education Department
Room 863 EBA
89 Washington Avenue
Albany, New York 12234.

or
Monroe One Data Protection Officer
William Gregory
Monroe #1 BOCES
41 O'Connor Road
Fairport, NY 14450

Supplemental Information About Agreement Between Gipper Media, Inc. and BOCES

(a) The exclusive purposes for which the personally identifiable information provided by BOCES or a Participating School District will be used by Vendor is to provide hosted services to BOCES or other Participating School District pursuant to a BOCES Purchase Order.

(b) Personally identifiable information received by Vendor, or by any assignee of Vendor, from BOCES or from a Participating School District shall not be sold or used for marketing purposes.

(c) Personally identifiable information received by Vendor, or by any assignee of Vendor shall not be shared with a sub-contractor except pursuant to a written contract that binds such a party to at least the same data protection and security requirements imposed on Vendor under this Agreement, as well as all applicable state and federal laws and regulations.

(d) The effective date of this Agreement shall be December 6, 2021 and the Agreement shall remain in effect for annual renewal periods, unless terminated by either party for any reason upon sixty (60) days' notice.

(e) Upon expiration or termination of the Agreement without a successor or renewal agreement in place, and upon request from BOCES or a Participating School District, Vendor shall transfer all educational agency data to the educational agency in a format agreed upon by the parties. Vendor shall thereafter securely delete all educational agency data remaining in the possession of Vendor or its assignees or subcontractors (including all hard copies, archived copies, electronic versions or electronic imaging of hard copies) as well as any and all educational agency data maintained on behalf of Vendor in secure data center facilities, other than any data that Vendor is required to maintain pursuant to law, regulation or audit requirements. Vendor shall ensure that no copy, summary or extract of the educational agency data or any related work papers are retained on any storage medium whatsoever by Vendor, its subcontractors or assignees, or the secure data center facilities unless Vendor is required to keep such data for legal, regulator, or audit purposes, in which case the data will be retained in compliance with the terms of this Agreement. To the extent that Vendor and/or its subcontractors or assignees may continue to be in possession of any de-identified data (data that has had all direct and indirect identifiers permanently removed with no possibility of reidentification), they each agree not to attempt to re-identify de-identified data and not to transfer de-identified data to any party. Upon request, Vendor and/or its subcontractors or assignees will provide a certification to the BOCES or Participating School District from an appropriate officer that the requirements of this paragraph have been satisfied in full.

(f) State and federal laws require educational agencies to establish processes for a parent or eligible student to challenge the accuracy of their student data. Third party contractors must cooperate with educational agencies in complying with the law. If a parent or eligible student submits a challenge to the accuracy of student data to the student's district of enrollment and the challenge is upheld, Vendor will cooperate with the educational agency to amend such data.

Vendor shall store and maintain PII in electronic format on systems maintained by Vendor in a secure data center facility in the United States in accordance with its Privacy Policy, NIST Cybersecurity Framework, Version 1.1, and the BOCES data security and privacy policy, Education Law Section 2-d, Part 121 of the Regulations of the Commissioner of Education, and the Monroe #1 BOCES Parents' Bill of Rights for Data Privacy and Security, set forth above. Encryption technology will be utilized while data is in motion and at rest, as detailed above.

Gipper Media, Inc.

By:



Signature

Title: Chief Operating Officer



Date

Gipper Media, Inc. Terms of Use

Thank you for using Gipper! Gipper enables you to create content and graphics for your organization's social media channels. These Terms of Use ("Agreement") are between you and Gipper Media, Inc. ("Company" or "we" or "our" or "us") and govern your browsing, viewing and other use of the Gipper web site and the services we offer (collectively, the "Service").

BEFORE USING THE SERVICE, PLEASE READ THIS AGREEMENT CAREFULLY. BY CLICKING ON "ACCEPT" OR OTHERWISE USING THE SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THIS AGREEMENT, INCLUDING THE PROVISIONS OF SECTION 13 UNDER WHICH YOU AGREE NOT TO BRING OR PARTICIPATE IN CLASS ACTION CLAIMS. IF YOU DO NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, THEN PLEASE DO NOT CLICK "ACCEPT" OR OTHERWISE USE THE SERVICE.

IF THE INDIVIDUAL ENTERING INTO THIS AGREEMENT IS DOING SO ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT HE OR SHE HAS THE REQUISITE AUTHORITY TO BIND SUCH ENTITY, ITS AFFILIATES AND ALL USERS WHO ACCESS OUR SERVICES THROUGH SUCH ENTITY'S ACCOUNT TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY, ITS AFFILIATES AND USERS ASSOCIATED WITH IT. YOU UNDERSTAND AND AGREE THAT YOUR RELATIONSHIP WITH COMPANY IS LIMITED TO BEING A USER OF THE SERVICE, AND NOT AN EMPLOYEE, AGENT, JOINT VENTURER OR PARTNER OF COMPANY FOR ANY REASON, AND YOU ACT EXCLUSIVELY ON YOUR OWN BEHALF AND FOR YOUR OWN BENEFIT, AND NOT ON BEHALF OF OR FOR THE BENEFIT OF COMPANY.

Note for Children. The Services are not for persons under the age of 13. If you are under 13 years of age, then please do not use the Service. By clicking the "I Agree" button or by otherwise using or registering an account for the Service, you represent that you are at least 13 years of age.

The attached Appendix A, describes the collection, use and disclosure of data and information (including usage data) by the Company in connection with the Service. Appendix A, is hereby incorporated into this Agreement, and the Parties hereby agree to the collection, use and disclosure practices set forth therein.

1. User Content. You represent and warrant to Company that (a) you own all photographs, content and other materials which you upload or otherwise make available on or to the Service ("User Content"), or otherwise have all necessary rights to do so, and (b) you are in no way violating or infringing upon the intellectual property rights or other rights of others. Upon our request, you agree to provide evidence of all required permissions from the applicable intellectual property owners. Furthermore, you agree to pay all license fees, royalties or any other amounts which may be owed to any person in connection with any User Content which you upload to the Service.

While you will retain ownership of your User Content, you grant Company a worldwide, perpetual, irrevocable, non-exclusive, transferable, sublicensable, fully-paid and royalty-free license to use, copy, modify, create derivative works of, display, publicly perform, and distribute any User Content for any purpose whatsoever, in any medium or format, on any platform, and via any distribution channel or service, as long as the disclosure does not violate Appendix A.

You acknowledge that the Company cannot prevent users from placing prohibited or inappropriate User Content on the Service. In addition, the Company does not monitor or review all User Content posted on the Service. If at any point Company does choose to monitor the Service, in no event will Company have any liability or responsibility for modifying or removing any User Content or for failing to modify or remove any User Content. Under no circumstances will Company have any liability or responsibility whatsoever for the conduct of any user on the Service or the content, quality, character or accuracy of any User Content or the use of any User Content by any person.

Company reserves the right to reject or remove any User Content, messages or other materials from the Service without notice to the user, for any reason or no reason. This includes the right to suspend a user's ability to access or utilize the Service in Company's sole discretion and without prior notice. Company shall have no liability whatsoever in exercising these rights.

2. **Proprietary Rights; Confidentiality.** As between you and the Company, the Company owns all worldwide right, title and interest, including all intellectual property and other proprietary rights, in and to the Service, all templates, images, videos and other content available in connection therewith (excluding User Content) and all usage and other data generated or collected in connection with the use thereof (the "Company Materials"). Company grants you a nonexclusive, nontransferable, revocable right to use, copy, modify, create derivative works of, display, publicly perform, and distribute the templates made available by the Service to publish content for your organization via designated social media channels. Under no circumstances may you resell the Company Materials or otherwise use them for commercial purposes. Except for the foregoing license, you agree not to license, distribute, copy, modify, publicly perform or display, transmit, publish, edit, adapt, create derivative works from, or otherwise make any unauthorized use of, the Company Materials. You agree not to reverse-engineer, decompile, disassemble or otherwise attempt to discover the source code, algorithm or programs underlying the Service or the Company Materials. The Company reserves the right to modify the Service or any version(s) thereof at any time in its sole discretion, with or without notice. You agree to keep strictly confidential and not use for any purpose any confidential or proprietary information the Company provides or makes available to you in connection with your use of the Service.

3. **Fees.** You will be charged on an annual basis for your use of the Service, unless (a) we have agreed to a different subscription length or (b) you are using a free "sandbox" account. You agree and understand that failure to pay the Company in a timely fashion may result in immediate suspension or cancellation of your account and access to the Service, without notice or liability. No refunds will be provided under any circumstances.

4. **Feedback.** You agree that the Company will have all rights to any feedback or suggestions (which may include suggested features, functionality, methods and techniques) regarding your use of the Service. As such, you assign all rights in such feedback or suggestions to the Company.

5. **Third Party Sites.** The Service may include advertisements or other links that allow you to access web Services or other online services that are owned and operated by third parties. You acknowledge and agree that the Company is not responsible and shall have no liability for the content of such third party sites and services, products or services made available through them, or your use of or interaction with them.

6. **Third-Party Services.** The Service may include features or functionality that interoperate with online services operated by third parties (such services, "Third-Party Services"), pursuant to agreements between Company and the operators of such Third-Party Services (such agreements, "Third-Party Agreements" and such operators, "Operators") or through application programming interfaces or other means of interoperability made generally available by the Operators ("Third-Party APIs") which Company does not control. Third-Party Agreements and Third-Party APIs (and the policies, terms and rules applicable to Third-Party APIs) may be modified, suspended or terminated at any time. Company shall have no liability with respect to any such modification, suspension or termination. You are responsible for ensuring that your use of the Service in connection with any Third-Party Service complies with all agreements, policies, terms and rules applicable to such Third-Party Service.

7. **Prohibited Uses.** As a condition of your use of the Service, except as otherwise provided above, you agree not to: (a) use the Service for any unlawful, offensive, harmful, invasive, infringing, defamatory, misleading, abusive, disruptive, or fraudulent purpose or to transmit content which is defamatory, obscene, harassing, pornographic, violent or otherwise objectionable or in violation of this Agreement; (b) use the Service in any manner that, in our sole discretion, could damage, disable, overburden, impair or interfere with any other party's use of it (including by distributing viruses, worms, Trojan horses, corrupted files, hoaxes, time-bombs, cancelbots or other malicious software code); (c) obtain or attempt to obtain any materials or information through any means not intentionally made available through the Service; (d) not to scrape or otherwise use automated means to access or gather information from the Service, and agree not to bypass any robot exclusion measures we may put into place; (e) not to use false or misleading information in connection with your user account, and acknowledge that we reserve the right to disable any user account with a profile which we believe (in our sole discretion) is false or misleading (including a profile that impersonates a third party); (f) violate or misappropriate the legal rights of others, including, but not limited to, privacy rights and intellectual property rights, or expose trade secrets or other confidential information of others; (g) use the Service to sell fraudulent goods or services or to offer or promote money-making schemes; (h) reproduce, duplicate, copy or resell any part of the Service; (i) distribute, publish, send or facilitate the sending of unsolicited mass email or other messages, promotions, advertising or solicitations (such as "spam"), including commercial advertising and informational announcements; (j) circumvent any aspect of the Service, including, but not limited to, permitting or facilitating unauthorized access to the Service or avoiding any usage, storage license restrictions; (k) probe, scan, penetrate, reverse-engineer, monitor or test the vulnerability of any Company system, software or network (unless authorized in writing by us) or breach our security measures, whether directly or indirectly; or (l) use the Service in any other manner not authorized by us or in any manner that we reasonably believe to be damaging to our reputation, business, system or network or may result in retaliation or legal action against us by an offended party.

8. **Additional Terms.** When you use certain features or materials on the Service, or participate in a particular promotion, event or contest through the Service, such use or participation may be subject to additional terms and conditions posted on the Service. Such additional terms and conditions are hereby incorporated within this Agreement, and you agree to comply with such additional terms and conditions with respect to such use or participation.

9. Termination. The Parties agree that the Parties, for any or no reason, may terminate this Agreement at any time with appropriate notice, provided that you will be able to continue to use the Service for the duration of your subscription. The Company may also in its sole discretion and at any time discontinue providing the Service, or any part thereof, with or without notice, and you shall have no obligation to pay the remaining pro-rata fee for the terminated services. You agree that the Company shall not be liable to you or any third-party for any such termination. Sections 1, 2 (excluding the license granted therein) and 8 through 13 will survive any termination of this Agreement.

10. Disclaimers; No Warranties. THE SERVICE, THE COMPANY MATERIALS AND ANY MEDIA, INFORMATION OR OTHER MATERIALS MADE AVAILABLE IN CONJUNCTION WITH OR THROUGH THE SERVICE ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, THE COMPANY AND ITS LICENSORS, SERVICE PROVIDERS AND PARTNERS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS. THE COMPANY AND ITS LICENSORS, SERVICE PROVIDERS AND PARTNERS DO NOT WARRANT THAT THE FEATURES AND FUNCTIONALITY OF THE SERVICE OR ANY THIRD-PARTY SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SERVICE OR THE SERVERS THAT MAKE AVAILABLE THE FEATURES AND FUNCTIONALITY THEREOF ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE FOREGOING DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

11. Indemnification. You agree to indemnify and hold the Company and its affiliated companies, and each of their officers, directors and employees, harmless from any claims, losses, damages, liabilities, costs and expenses, including reasonable attorney's fees, (any of the foregoing, a "Claim") arising out of or relating to your use or misuse of the Service, breach of this Agreement or infringement, misappropriation or violation of the intellectual property or other rights of any other person or entity, provided that the foregoing does not obligate you to the extent the Claim arises out of the Company's willful misconduct or negligence. The Company agrees to indemnify and hold you harmless for any claims, losses, damages, liabilities, costs and expenses, including reasonable attorney's fees, arising out of or relating to the Company's negligent or intentional acts, including but not limited to, violating the provisions of Appendix A. The Company reserves the right, at our own expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us and you agree to cooperate with our defense of these claims.

12. Miscellaneous. The Company may make modifications, deletions and/or additions to this Agreement ("Changes") at any time, except to Appendix A. Changes will be effective: (i) thirty (30) days after the Company provides notice of the Changes, whether such notice is provided through the Service user interface, is sent to the e-mail address associated with your account or otherwise; or (ii) when you opt-in or otherwise expressly agree to the Changes or a version of this Agreement incorporating the Changes, whichever comes first. Under this Agreement, you consent to receive communications from the Company electronically. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any principles of conflicts of law. You agree that any action at law or in

equity arising out of or relating to this Agreement or the Service shall be filed only in the state or federal courts in the State of New York (or a small claims court of competent jurisdiction) and you hereby consent and submit to the personal jurisdiction of such courts for the purposes of litigating any such action. Notwithstanding the foregoing, either party may petition any court of competent jurisdiction for injunctive or other equitable relief. You agree not to bring any claims as a plaintiff or class member in any purported class or representative action or proceeding. The failure of any party at any time to require performance of any provision of this Agreement shall in no manner affect such party's right at a later time to enforce the same. A waiver of any breach of any provision of this Agreement shall not be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement. If any provision of this Agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions. This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by the Company without restriction. This is the entire agreement between us relating to the subject matter herein and shall not be modified except in a writing, signed by both parties, or by a change to this Agreement made by the Company as set forth herein.

13. Contact. The services hereunder are offered by Gipper Media, Inc.,
email: support@gogipper.com; address: 240 Waverly PI #54, New York, NY 10014.

