

AGREEMENT BETWEEN
THE SCHOOL BOARD OF CITRUS COUNTY, FLORIDA
AND
Progress Learning LLC
FOR ONLINE EDUCATION SERVICES

THIS AGREEMENT (“Agreement”) is entered into by and between The School Board of Citrus County, Florida, a political subdivision of the State of Florida and a body corporate pursuant to §1001.40, Florida Statutes, whose address is 1007 W. Main Street, Inverness, Florida 34450, hereinafter referred to as “CCSB” or “School Board” and Progress Learning LLC, Delaware Corporation registered to do business in the State of Florida) whose principal address is 800 Battery Ave SE, Suite 121, Atlanta, GA 30339, hereinafter referred to as “Contractor” or “Provider” (each a “Party” and collectively referred to as the “Parties”).

WHEREAS, CCSB is interested in utilizing the Contractor’s software license, hosting, implementation, and training services for Progress Learning providing educational technology products; and

WHEREAS, Florida Administrative Code 6A-1.0102(14) authorizes district school boards to acquire information technology as defined in Florida Statute §282.0041(14) by direct negotiation and contract with the Contractor as best fits the needs of the school district as determined by the district school board; and

WHEREAS, Contractor desires to provide their software license, hosting, implementation, and training services for the Citrus County School Board.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

- 1. Incorporation of Recitals.** The forgoing recitals (WHEREAS CLAUSES) are true and correct and are incorporated herein by reference.
- 2. Terms of Agreement.** The term of this Agreement shall commence on April 5, 2023 and continue until July 1, 2024. Notwithstanding any other termination referenced herein or attached hereto, the School Board reserves the right to terminate this Agreement within 30 days prior to the start of each fiscal year (July 1) during the term of this Agreement without cause or subject to any penalties or additional obligations.

- 3. Statement of Work.** The Contractor shall provide software license, hosting, implementation, and training services (“Products” and “Services”) as outlined in Attachment 1, Proposal Q-22322-1, which is incorporated in the Agreement by reference. Additional services and products may be offered through separate statements of work or proposals, all of which are subject to the terms and conditions of this Agreement and all Exhibits. In the event of a conflict of interest between the terms and conditions of this Agreement and any exhibits or attachments, the terms and conditions of this Agreement shall prevail, and the following order of precedence shall be observed:

 - 3.1. This Service Agreement.
 - 3.2. Attachment A – Student Data Privacy Agreement.
 - 3.3. Attachment B – –Proposal Q-22322-1
 - 3.4. Attachment C – Website Terms of Service
 - 3.5. Attachment D – Progress Learning Privacy Policy
- 4. Payment & Compensation.** The Contractor shall provide services in accordance with Attachment B, Proposal Q-22322-1, at the rate 92,432.00 fixed fee. The total compensation under this Agreement shall not exceed **NINETY TWO THOUSAND FOUR HUNDRED THIRTY TWO AND 00/100 DOLLARS (\$92,432.00)**. Payment will be made in accordance with Section 218.70, Florida Statutes, et. seq., the Local Government Prompt Payment Act.
- 5. CCSB Administrator.** The CCSB Administrator assigned to act on behalf of CCSB in all matters pertaining to this Agreement and to authorize services, accept and approve all reports, drafts, products or invoices is Director of Secondary Education and Area Schools, Darrick Buettner.
- 6. Background Screening:** In the event the requirements include the need for Contractor to visit schools with students present, Contractor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by CCSB in advance of Contractor or its personnel providing any services under the conditions described in the previous sentence. Contractor shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to Contractor and its personnel. The Parties agree that the failure of Contractor to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling CCSB to terminate this Agreement immediately with no

further responsibilities or duties to perform under this Agreement. Contractor agrees to indemnify and hold harmless CCSB, its officers and employees resulting from liability or claims made by any person who may suffer physical or mental injury, death or property damage resulting in the Contractor's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

- 7. Child Neglect.** The Contractor and its employees shall be subject to the requirements of §39.201, Florida Statute that requires the reporting of child abuse or child neglect to the State of Florida, Department of Children and Families via the Florida Abuse Hotline: 1-800-962-2873.
- 8. Indemnification.** The Contractor agrees to indemnify, hold harmless and defend CCSB, its officers, employees, agents and representatives from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which CCSB, its officers, employees, agents and representatives may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by the Contractor, its agents, servants or employees; the equipment of the Contractor, its agents, servants or employees while such equipment is on premises owned or controlled by CCSB; or the negligence of the Contractor or the negligence of the Contractor's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including CCSB's property, and injury or death of any person whether employed by the Contractor, CCSB or otherwise.
- 9. Insurance.** Contractors and vendors will provide a certificate(s) evidencing such insurance coverage to the extent listed in Sections 1-6 below before commencement of work.

Insurance listed in Section 1 below is required of all Contractors and vendors: CCSB and its board members, officers, and employees shall be named as an additional insured to the Commercial General Liability insurance policy on a form no more restrictive than ISO form CG 20 10 (Additional Insured – Owners, Lessees, or Contractor). If CCSB and its board members, officers, and employees are not named as additional insureds then CCSB reserves the right to terminate this Agreement.

Insurance listed in Section 2 below: All Contractors engaging in construction-related activities, as defined by 440.02(8) Florida Statutes, on behalf of CCSB are required to carry this insurance to the limit listed below. All non-construction Contractors whose work for CCSB includes products or services, and the value of these products or services in excess of \$25,000 are required to carry this insurance to the limit listed below.

Insurance listed in Section 3 below: Any Contractor or vendor transporting district employees, delivering, or transporting district owned equipment or property, or providing services or equipment where a reasonable person would believe CCSB is responsible for the work of the Contractor from portal to portal is required to carry this insurance to the limit listed below.

Insurance listed in Section 4 below: All non-construction Contractors and vendors that have one or more employees or subcontracts any portion of their work to another individual or company are required to have workers' compensation insurance. For contracts of \$25,000 or more, no State of Florida, Division of Workers' Compensation, Exemption forms will be accepted. All Contractors engaging in construction-related activities, as defined by 440.02(8) Florida Statutes, on behalf of CCSB are required to have workers' compensation insurance. All entities and individuals required to have workers compensation insurance must purchase a commercial workers' compensation insurance policy to the limits listed below. The Workers' Compensation policy must be endorsed to waive the insurer's right to subrogate against CCSB, and its board members, officers and employees in the manner which would result from the attachment of the NCCI Waiver Of Our Right To Recover From Others Endorsement (Advisory Form WC 00 03 13).

Insurance as listed in Section 5 below: All Contractors providing professional services including but not limited to architects, engineers, attorneys, auditors, accountants, etc. are required to have this insurance to the limits listed below.

Insurance as listed in Section 6 below: All Contractors or vendors providing software shall cover, at a minimum, the following:

- Data Loss and System Damage Liability
- Security Liability
- Privacy Liability
- Privacy/Security Breach Response Coverage, including Notification Expenses

Such Cyber Liability coverage must be provided on an Occurrence Form or, if on a Claims Made Form, the retroactive date must be no later than the first date of the Agreement and such claims-made coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

All Contractors will carry and maintain policies as described in Sections 1 to 6 above and as checked off in the box to the left of Section 1 to 6 below. All required insurance must be from insurance carriers that have a rating of "A" or better and a

financial size category of "VII" or higher according to the A. M. Best Company. All required insurance policies must be endorsed to provide for notification to CCSB thirty (30) days in advance of any material change in coverage or cancellation. This is applicable to the procurement and delivery of products, goods, or services furnished to the School Board of Citrus County, Florida.

The Contractor shall, within thirty (30) days after receipt of a written request from CCSB, provide CCSB with a certified copy or certified copies of the policy or policies providing the coverage required by this provision. The Contractor may redact or omit, or cause to be redacted or omitted, those provisions of the policy or policies which are not relevant to insurance required by provision 2.4.

<input checked="" type="checkbox"/>	1. Commercial General Liability Insurance:	
	Bodily Injury and Property Damage Per Occurrence	\$1,000,000
	General Aggregate	\$2,000,000
<input checked="" type="checkbox"/>	2. Product Liability and/or Completed Operations Insurance:	
	Bodily Injury and Property Damage Per Occurrence	\$1,000,000
	General Aggregate	\$2,000,000
<input checked="" type="checkbox"/>	3. Automotive Liability:	
	Bodily Injury and Property Damage: Combined Single Limit (each accident)	\$1,000,000
<input checked="" type="checkbox"/>	4. Workers' Compensation/Employer's Liability:	
	W.C. Limit Required*	Statutory Limits
	E.L. Each Accident	\$500,000
	E.L. Disease – Each Employee	\$500,000
	E.L. Disease – Policy Limit	\$500,000
<input checked="" type="checkbox"/>	5. Professional Liability Insurance (Errors and Omissions):	
	For services, goods or projects that will exceed \$1,000,000 in values over a year.	
	Each Claim	\$1,000,000
	Annual Aggregate	\$2,000,000
<input checked="" type="checkbox"/>	6. Cyber Liability and Data Storage:	
	Each Claim	\$1,000,000
	Annual Aggregate	\$1,000,000

Except as otherwise specifically authorized in this Agreement, no deductible or self-insured retention for any required insurance provided by the Contractor pursuant to this Agreement will be allowed. To the extent any required insurance is subject to any deductible or self-insured retention (whether with or without approval of CCSB), the Contractor shall be responsible for paying on behalf of CCSB (and any other person or organization that the Contractor has, in this Agreement, agreed to include as an insured for the required insurance) any such deductible or self-insured retention.

The Contractor shall continue to maintain products/completed operations coverage in the amounts stated above for a period of three (3) years after the final completion of the Work.

Professional Liability coverage must be maintained in the amounts stated above for a two-year period following completion of the contract.

Compliance with these insurance requirements shall not limit the liability of the Contractor, its subcontractors, sub-subcontractors, employees or agents. Any remedy provided to CCSB or CCSB's board members, officers or employees by the insurance provided by the Contractor shall be in addition to and not in lieu of any other remedy (including, but not limited to, as an indemnitee of the Contractor) available to CCSB under this Agreement or otherwise.

Neither approval nor failure to disapprove insurance furnished by the Contractor shall relieve the Contractor from the responsibility to provide insurance as required by this Agreement.

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

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

12. Access to and Retention of Documentation. The CCSB, the United States Department of Education, the Comptroller General of the United States, the Florida Department of Education or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to work and services to be performed under this Agreement for the purpose of audit, examination, excerpting and transcribing. The Parties will retain all such required records, and records required under any state or federal rules, regulations or laws respecting audit, for a period of four years after the CCSB has made final payment and all services have been performed under this Agreement.

13. Contractor's Public Records. Public Records Act/Chapter 119 Requirements. Contractor agrees to comply with the Florida Public Records Act (Chapter 119, Florida Statutes) to the fullest extent applicable, and shall, if this engagement is one for which services are provided, by doing the following:

13.1. Contractor and its subcontractors shall keep and maintain public records required by the CCSB to perform the service.

13.2. Contractor and its subcontractors shall upon request from the CCSB's custodian of public records, provide the CCSB with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed that provided in chapter 119, Florida Statutes or as otherwise provided by law;

13.3. Contractor and its subcontractors shall ensure that public records that are exempt or that are confidential and exempt from the public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the CCSB;

13.4. Contractor and its subcontractors upon completion of the contract shall transfer to the CCSB, at no cost, all public records in possession of the Contractor and its subcontractors or keep and maintain the public records required by the CCSB to perform the service. If the Contractor and its subcontractors transfer all public records to the CCSB upon completion of the contract, the Contractor and its subcontractors shall destroy any duplicate public records that are exempt or that are confidential and exempt from the public records disclosure requirements. If the Contractor and its subcontractors keep and maintain public records, upon completion of the contract, the Contractor and its subcontractors shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CCSB, upon request from the CCSB's custodian of public records, in a format that is compatible with the information technology systems of the CCSB.

- 13.5. The Parties agree that if the Contractor and its subcontractors fail to comply with a public records request, then the CCSB must enforce the Agreement provisions in accordance with the Agreement and as required by Section 119.0701, Florida Statutes.
- 13.6. The failure of the Contractor to comply with the provisions set forth herein shall constitute a default and material breach of this Agreement, which may result in immediate termination, with no penalty to CCSB.
- 13.7. **IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, THE PUBLIC INFORMATION AND COMMUNICATIONS OFFICER, EMAIL ADDRESS: BLAIRL@CITRUS.K12.FL.US AND PUBRICRECORD@CITRUSSCHOOLS.ORG; TELEPHONE NUMBER: 352-726-1931 ext. 2211, 1007 W. MAIN STREET, INVERNESS, FLORIDA 34450.**
14. **Non-Discrimination.** The Parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities, and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.
15. **Termination.** This Agreement may be canceled with or without cause by CCSB during the term hereof upon thirty (30) days written notice to the other party of its desire to terminate this Agreement.
16. **Records.** Each Party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.
17. **Entire Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, Agreements and understandings applicable to the matters contained herein and the Parties agree that there are no commitments, Agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or Agreements, whether oral or written.

- 18. Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.
- 19. Preparation of Agreement.** The Parties acknowledge that they have sought and obtained competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.
- 20. Waiver.** The Parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term herein. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 21. Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.
- 22. Governing Law & Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of Citrus County, Florida.
- 23. Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
- 24. Assignment.** Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from CCSB. This contract may not be assigned by the Contractor in any fashion, whether by operation of law, or by conveyance of any type, including without limitation, transfer of stock in Contractor, without the prior written consent of the CCSB which consent the CCSB may withhold in its sole discretion.

25. Force Majeure. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

26. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not affect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

27. Notice. When any of the Parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To CCSB: The School Board of Citrus County, Florida
c/o Superintendent of Schools
1007 W. Main Street
Inverness, Florida 344450

With a Copy to: Director of Secondary Education and Area
Schools, Darrick Buettner
The School Board of Citrus County, Florida
1007 W. Main Street
Inverness, Florida 344450

And

Directory of Technology
3741 West Educational Path
Lecanto, Florida 34461

To: Contractor Progress Learning LLC
ATTN: Terry Mitchum
800 Battery Ave SE, Suite 100
Atlanta, GA 30339

With a Copy to: _____

- 28. Captions.** The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.
- 29. Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal authority to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- 30. Excess Funds.** Any party receiving funds paid by CCSB under this Agreement agrees to promptly notify CCSB of any funds erroneously received from CCSB upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to CCSB with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by CCSB.
- 31. Independent Contractor.** The Contractor certifies that it is an independent Contractor and shall not employ, contract with, or otherwise use the services of any officer or employee of CCSB. The Contractor certifies that its owner(s), officers, directors or agents, or members of their immediate family, do not have an employee relationship or other material interest with the CCSB.
- 32. Conduct While on School Property.** The Contractor acknowledges that its employees and agents will behave in an appropriate manner while on the premises of any school facility and shall at all times conduct themselves in a manner consistent with CCSB policies and within the discretion of the premises administrator (or designee). It is a breach of this Agreement for any agent or employee of the Contractor to behave in a manner which is inconsistent with good conduct or decorum or to behave in any manner that will disrupt the educational program or constitute any level of threat to the safety, health, and wellbeing of any student or employee of the CCSB. The Contractor agrees to immediately remove any agent or employee if directed to do so by the premises administrator or designee.
- 33. Copyrights.** The Contractor is hereby notified that the federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes: the copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and, any rights of copyright to which a grantee, subgrantee or a Contractor purchases ownership with grant support. Furthermore, the Parties agree that the CCSB has the right to make copies of any materials, whether in tangible or electronic

means or media, that are delivered under the provisions of this Agreement for use within the School District for purposes related to CCSB business, operations, the delivery of the educational program or to comply with the requirements of law, rule, policy or regulation. Any material not designated as reproducible by Contractor may not be copied by the CCSB provided that such material was copyrighted by Contractor before performance under this Agreement and was not developed specifically for CCSB under this Agreement.

34. Debarment. By signing this Agreement, Contractor certifies, to the best of its knowledge and belief, that it and its principals:

- 34.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency.
- 34.2. Have not, within the preceding five-year period, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- 34.3. Are not presently indicted or otherwise criminally charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in the preceding paragraph (b).
- 34.4. Have not within the preceding five-year period had one or more public transactions (federal, state or local) terminated for cause or default.
- 34.5. Contractor agrees to notify CCSB within 30 days after the occurrence of any of the events, actions, debarments, proposals, declarations, exclusions, convictions, judgments, indictments, informations, or terminations as described in paragraphs 34.1 through 34.4 above, with respect to Contractor or its principals.

35. Confidential Student Information. Notwithstanding any provision to the contrary contained in this Agreement between the Contractor and CCSB; Contractor and its officers, employees, agents, representatives, Contractors, and sub-Contractors shall fully comply with the requirements of Section 1002.22 and Section 1002.221, Florida Statutes, or any other law or regulation, either federal or State of Florida, regarding confidentiality of student information and records, Further, Contractor for itself and its officers, employees, agents, representatives, Contractors, or sub-Contractors, shall

fully indemnify and hold the CCSB and its officers and employees harmless for any violation of this covenant, including but not limited to defending the CCSB and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon the CCSB or payment of any and all costs(s), damages (s), judgment(s), or loss(es) incurred by or imposed upon the CCSB arising out of the breach of this covenant by the Contractor, or an officer, employee, agent, representative, Contractor, or sub-Contractor of the Contractor to the extent and only to the extent that the Contractor or an officer, employee, agent, representative, Contractor, or sub-Contractors of the Contractor shall either intentionally or negligently violate the provisions of this covenant, or Sections 1002.22 or 1002.221, Florida Statutes. This provision shall survive the termination of or completion of all performance or obligations under this Agreement and shall be fully binding upon Contractor until such time as any proceeding brought on account of this covenant is barred by any applicable statute of limitations.

36. Confidentiality of Data/Information Provided. CCSB will allow the Contractor access to limited data/information as identified in the Statement of Work as necessary to perform the Services and pursuant to the terms of this Agreement in compliance with FERPA, COPPA, PPRA, 34 CFR 99.31(b) and Florida Statutes sections 1001.41 and 1002.22 all other privacy statutes as it relates to data privacy and security. The Contractor shall only use the data and information provided by CCSB for the purpose specified in the Statement of Work, and shall not disclose, copy, reproduce or transmit such data/information obtained under this Agreement and/or any portion thereof, except as necessary to fulfill the Agreement or as may be required by law.

37. Protection and Handling of Data.

37.1. Data Confidentiality and Security - Contractor shall implement appropriate measures designed to ensure the confidentiality and security of Protected Information as required in the Student Data Privacy Agreement attached hereto as Attachment A.

37.2. Compliance - Contractor will not knowingly permit any Contractor's personnel to have access to any CCSB facility or any records or data of CCSB if the person has been convicted of a crime in connection with (i) a dishonest act, breach of trust, or money laundering, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, as described in Section 19 of the Federal Deposit Insurance Act, 12 U.S.C. §1829(a); or (ii) a felony. Contractor shall assure that all contracts with subcontractors impose these obligations on the subcontractors and shall monitor the subcontractors' compliance with such obligations. No subcontractors may be used without prior written consent of CCSB.

37.3.FERPA - To the extent services provided hereunder pertain to the access to student information, Contractor shall adhere to all standards included in the Family Educational Rights and Privacy Act (FERPA) and Sections 1001.41 and 1002.22, Florida Statutes (the Protection of Pupil Privacy Acts), and other applicable laws and regulations as they relate to the release of student information. Notwithstanding the above, it is understood and agreed that CCSB shall obtain any necessary consents from parents or students prior to providing student information to Contractor, and CCSB is wholly responsible for providing annual notice to students and parents of their rights with respect to Florida Statutes.

37.4.HIPAA, CIPA, and GLBA - Contractor also agrees to comply with all applicable state and federal laws and regulations, including Health Information Privacy and Accountability Act (HIPAA), Children Internet Protection Act (CIPA), and the Gramm-Leach Bliley Act (GLBA).

37.5.Data De-Identification - Contractor may use aggregate data only for product development, research, or other purposes. Contractor must have approval of the CCSB to publish or market CCSB data.

37.6.Data Security – Contractor agrees to protect and maintain the security of data with protection security measures that include maintaining secure environments that are patched with all appropriate security updates as designated by a relevant authority (e.g. Microsoft notifications, etc.) Likewise, CCSB agrees to conform to the following measures to protect and secure data:

37.6.1.Data Transmission. Contractor agrees that any and all transmission or exchange of system application data with CCSB and/or any other Parties shall take place via secure means, e.g. HTTPS, FTPS, SFTP, or equivalent.

37.6.2.Data Storage and Backup. Contractor agrees that any and all CCSB data will be stored, processed, and maintained solely on designated servers and that no CCSB data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless that storage medium is in use as part of Contractor's designated backup and recovery processes. All servers, storage, backups, and network paths utilized in the delivery of the service shall be contained within the states, districts, and territories of the United States unless specifically agreed to in writing by an CCSB officer with designated data, security, or signature authority. An appropriate officer with the necessary authority can be identified by the CCSB Director of Technology for any general or specific case.

Contractor agrees to store all CCSB backup data stored as part of its backup and recovery processes in encrypted form, using no less than 128 bit key.

- 37.6.3. Data Re-Use.** Contractor agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in this Agreement. Data shall not be distributed, repurposed, or shared across other applications, environments, or business units of Contractor. As required by Federal law, Contractor further agrees that no CCSB data of any kind shall be revealed, transmitted, exchanged, or otherwise passed to other Contractors or interested Parties except as necessary in order to perform the Services. Any other transmission or exchange of CCSB data is only permitted on a case-by-case basis as specifically agreed to in writing by an CCSB officer with designated data, security, or signature authority.
- 37.6.4. End of Agreement Data Handling.** Contractor will ensure that District Data is encrypted and that all device/medium will be scanned at the completion of any contract or service Agreement and/or research study or project to ensure that no District Data, PII, personal information and/or student record information is stored on such electronic devices/medium. Furthermore, Contractor will have in place a service that will allow Contractor to wipe the hard drive on any stolen laptop or mobile electronic device remotely and have a protocol in place to ensure compliant use by employees.
- 37.6.5.** Contractor agrees that upon termination of this Agreement and requested by CCSB in writing it shall erase, destroy, and render unreadable all CCSB data, and certify in writing that these actions have been completed within thirty (30) days of the termination of this Agreement or within seven (7) days of the request of an agent of CCSB, whichever shall come first.
- 37.6.6.** If CCSB receives a subpoena, warrant, or other legal order, demand (including an application for public information filed pursuant to Florida public records laws, or request seeking Data maintained by Contractor, the CCSB will promptly provide a copy of the application to Contractor. Contractor will promptly supply CCSB with copies of records or information required in order for the CCSB to respond, and will cooperate with the CCSB's reasonable requests in connection with its response.
- 37.6.7.** Upon receipt of a litigation hold request, Contractor will preserve all documents and CCSB data as identified in such request, and suspend any operations that involve overwriting, or potential destruction of documentation arising from such litigation hold.

37.7. Data Breach - Contractor agrees to comply with the State of Florida Database Breach Notification process and all applicable laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification. In the event of a breach of any of Contractor's security obligations or other event requiring notification under applicable law ("Notification Event"), Contractor agrees to notify CCSB immediately and assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless, and defend CCSB and its trustees, officers, and employees from and against any claims, damages, or other harm related to such Notification Event.

37.7.1. Mandatory Disclosure of Protected Information - If Contractor becomes compelled by law or regulation (including securities laws) to disclose any Protected Information, Contractor will provide CCSB with written notice within 72 hours, so that CCSB may seek an appropriate protective order or other remedy. If a remedy acceptable to CCSB is not obtained by the date that Contractor must comply with the request, Contractor will furnish only that portion of the Protected Information that it is legally required to furnish, and Contractor shall require any recipient of the Protected Information to exercise commercially reasonable efforts to keep the Protected Information confidential. As soon as practicable, upon CCSB request, provide CCSB with a copy of its response.

37.7.2. Remedies for Disclosure of Confidential Information – Contractor and CCSB acknowledge that unauthorized disclosure or use of the Protected Information may irreparably damage CCSB in such a way that adequate compensation could not be obtained from damages in an action at law. Accordingly, the actual or threatened unauthorized disclosure or use of any Protected Information shall give CCSB the right to seek injunctive relief restraining such unauthorized disclosure or use, in addition to any other remedy otherwise available (including reasonable attorneys' fees). Contractor hereby waives the posting of a bond with respect to any action for injunctive relief. Contractor further grants CCSB the right, but not the obligation, to enforce these provisions in Contractor's name against any of Contractor's employees, officers, board members, owners, representatives, agents, Contractors, and subcontractors violating the above provisions.

37.7.3. Safekeeping and Security - As part of the Services, Contractor will be responsible for safekeeping all keys, access codes, combinations, access cards, personal identification numbers, and similar security codes and identifiers issued to Contractor's employees, agents, or subcontractors.

Contractor agrees to require its employees to promptly report a lost or stolen access device or information.

37.7.4. Non-Disclosure – Contractor is permitted to disclose Confidential Information to its employees, authorized subcontractors, agents, consultants, and auditors on a need to know basis only, provided that all such subcontractors, agents, consultants, and auditors have written confidentiality obligations to Contractor and CCSB.

37.7.5. Request for Additional Protection - From time to time, CCSB may reasonably request that Contractor protect the confidentiality of certain Protected Information in particular ways to ensure that confidentiality is maintained. Contractor has the right to reasonably decline CCSB's request.

37.7.6. Data Ownership- Unless expressly agreed to the contrary in writing, all CCSB Data or PII prepared by Contractor (or its subcontractors) for the CCSB will not be disclosed to any other person or entity.

37.7.7. Contractor warrants to the CCSB that the CCSB will own all rights, title and interest in any and all intellectual property created in the performance of this Agreement and will have full ownership and beneficial use thereof, free and clear of claims of any nature by any third party including, without limitation, copyright or patent infringement claims. Contractor agrees to assign and hereby assigns all rights, title, and interest in any and all CCSB created intellectual property created in the performance of the Agreement to the CCSB, and will execute any future assignments or other documents needed for the CCSB to document, register, or otherwise perfect such rights. Notwithstanding the foregoing, Contractor retains all right, title and interest in and to its software, documentation, training and implementation materials and other materials provided in connection with Contractor's services (collectively, "Contractor IP"). Contractor grants to the CCSB a personal, nonexclusive license to use the Contractor IP for its own non-commercial, incidental use as set forth in the end user license Agreement accompanying such software and as contemplated herein. All data of the CCSB remains the property of the CCSB.

37.7.8. It is understood and agreed that the CCSB is the exclusive Owner of the CCSB data and that at no point in time does or will the Contractor become the Owner of any CCSB Data, PII or CCSB files, and that should the Contractor be subject to dissolution or insolvency, CCSB data, PII, or files will not be considered an asset or property of the Contractor. The CCSB reserves the right to demand the prompt return of any and all CCSB data and PII at any time and for any reason whatsoever.

38. Illegal Alien Labor. The Parties shall each comply with all federal and state laws, including but not limited to section 448.095, Florida Statutes, prohibiting the hiring and continued employment of aliens not authorized to work in the United States. The Parties must not knowingly employ unauthorized aliens working under this Agreement and should such violation occur shall be cause for termination of the Agreement. The Parties will utilize the E-verify system established by the U.S. Department of Homeland Security to verify the employment eligibility of its new employees working under this Agreement hired during the contract term, and will further include in all subcontracts for subcontractors performing work or providing services pursuant to this Agreement an express written requirement that the subcontractor utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor to work under this Agreement during the contract term. The Contractor shall receive and retain an affidavit from the subcontractor stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien to work under this Agreement. Contractor's knowing failure to comply with this subsection may result in termination of the Agreement and debarment of the Contractor from all public contracts for a period of no less than one (1) year.

39. FEDERAL GRANTS TERMS AND CONDITIONS. For any Agreement that involves, receives or utilizes Federal Grants funding, the following terms and conditions shall be considered a part of the Agreement and the Contractor accepts and acknowledges that it is and will continue to be in compliance with said terms and conditions for the term of the award:

39.1. Recovered Materials (2 CFR §200.322) applies to all contracts greater than \$10,000. Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

39.2. Federal Drug Free Workplace. Contractor agrees to comply with the drug-free workplace requirements for federal Contractors pursuant to 41 U.S.C.A. § 8102.

39.3. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) applies if contract is greater than or equal to \$100,000. Contractor certifies that it has filed the required certification and that it will not and has not used Federal appropriated

funds to pay any person or organization for influencing or attempting to influence an officer or employee of an agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

39.4. Energy Efficiency / Conservation (42 U.S.C. 6201). Contractor agrees to comply with the mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

39.5. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended applies to contracts and subgrants in excess of \$150,000. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Contractor shall report any and all violations to the Federal awarding agency and the Regional Office of the EPA, and notify CCSB concurrently within 30 days of notice of the violation.

39.6. Remedies For Violation or Breach of Contract. Failure of the vendor to provide products within the time specified in the ITB shall result in the following: The Buyer shall notify vendor in writing within five (5) calendar days via the Vendor Performance Form and provide five (5) calendar days to cure. If awarded vendor cannot provide product, CCSB reserves the right to purchase product from the next lowest responsive and responsible bidder. The defaulting vendor may be responsible for reimbursing CCSB for the price differences.

39.7. Debarment and Suspension. Contractor certifies that it complies fully with the Federal Debarment Certification regarding debarment suspension, ineligibility and voluntary exclusion. In accordance with 2 CFR part 180 that implement Executive Orders 12549 and 12689. Furthermore, Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

39.8. Equal Employment Opportunity. During the performance of this contract, Contractor agrees as follows:

39.8.1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure

that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

39.8.2. Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

39.8.3. Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

39.8.4. Contractor will send to each labor union or representative of workers with which he has a collective bargaining Agreement or other contract or understanding, a Record Retention and access requirements to all records. Contractor will send to each labor union or representative of workers with which he has a collective bargaining Agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

39.8.5. Contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

39.8.6. Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

39.8.7. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

39.8.8. Contractor will include the provisions of paragraphs 39.8 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

39.9. Copeland "Anti-Kickback" Act (18 U.S.C. 874 And 40 U.S.C. 276c). Contractor certifies that it is, and will continue to be, for the term of this contract in for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each Contractor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

39.10. Davis-Bacon Act, as Amended (40 U.S.C. 276A TO A-7). Contractor certifies that it is, and will continue for the term of this contract, to be in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, the Contractor is herein required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor agrees to pay wages not less than once a week. Contractor must provide a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. Contractor acknowledges that the decision to award this contract or subcontract is conditioned upon the acceptance of the wage determination which the Contractor accepts. Contractor agrees to report all suspected or reported violations to the Federal awarding agency and to notify CCSB concurrently. Contractor certifies that it is, and will continue to be, for the term of this contract in full compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each Contractor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

39.11. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333). Contractor certifies that it is, and will continue for the term of this contract, to be in compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each Contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

39.12. Health And Safety Standards in Building Trades and Construction Industry (40 U.S.C. 3704). No laborer or mechanic must be required to work in

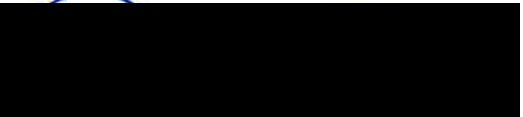

surroundings or under working conditions which are unsanitary, hazardous, or dangerous.

39.13. All website or software terms contained in click-through Agreements in connection with Contractors services are disclaimed by CCSB to the extent the terms are in addition to, conflict or are inconsistent with the terms of this Agreement.

40. **Authority to Execute Agreement.** Each person signing this Agreement on behalf of either Party individually warrants that he or she has full legal power to execute this Agreement on behalf of the Party for whom he or she is signing, and to bind and obligate such Party with respect to all provisions contained in this Agreement.

THE PARTIES REPRESENT THAT THEY HAVE THOROUGHLY DISCUSSED ALL ASPECTS OF THE AGREEMENT AND ADDENDUM WITH THEIR RESPECTIVE ATTORNEY(S), THAT THEY FULLY UNDERSTAND ALL OF ITS PROVISIONS, AND THAT THEY ARE VOLUNTARILY ENTERING INTO THE AGREEMENT AND ADDENDUM WITH THE FULL KNOWLEDGE OF ITS LEGAL SIGNIFICANCE AND WITH THE INTENT TO BE LEGALLY BOUND BY ITS TERMS.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

<p>School Board:</p>  <p>Douglas A. Dodd, <i>Chairman</i> Chairperson</p> <p>Date: <u>7/11/23</u></p>	<p>Contractor:</p>  <p>By: Terry Mitchum</p> <p>Title: CTO</p> <p>Date: <u>4/21/2023</u></p>
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Attachments: (list all attachments with the exact title of the document)

- Attachment A, Student Data Privacy Agreement
- Attachment B, Proposal Q-22322-1
- Attachment C, Website Terms of Service
- Attachment D, Progress Learning Privacy Policy

Contractor Contact Name: Stephanie Lozano

Phone Number: 877-377-9537

Email Address: stephanie.lozano@progresslearning.com

ATTACHMENT A
AGREEMENT BETWEEN
THE SCHOOL BOARD OF CITRUS COUNTY, FLORIDA
AND
Progress Learning LLC
STANDARD STUDENT DATA PRIVACY AGREEMENT

This Student Data Privacy Agreement (“DPA”), as developed by the Student Data Privacy Consortium (“SDPC”) and as modified by The School Board of Citrus County, Florida is entered into on the date of full execution (the “**Effective Date**”) and is entered into by and between:

The School Board of Citrus County, Florida, located at 1007 W. Main Street, Inverness, Florida 34450 (the “**LEA**”)

and

Progress Learning LLC, located at 800 Battery Ave SE, Suite 100, Atlanta GA 30339 (the “**Provider**”).

WHEREAS, the Provider is providing educational or digital services to LEA.

WHEREAS, the Provider and LEA recognize the need to protect personally identifiable student information and other regulated data exchanged between them as required by applicable laws and regulations, such as the Family Educational Rights and Privacy Act (“**FERPA**”) at 20 U.S.C. § 1232g (34 CFR Part 99); the Children’s Online Privacy Protection Act (“**COPPA**”) at 15 U.S.C. § 6501-6506 (16 CFR Part 312), , and applicable state privacy laws and regulations and

WHEREAS, the Provider and LEA desire to enter into this DPA for the purpose of establishing their respective obligations and duties in order to comply with applicable laws and regulations.

NOW THEREFORE, for good and valuable consideration, LEA and Provider agree as follows:

1. A description of the Services to be provided, the categories of Student Data that may be provided by LEA to Provider, and other information specific to this DPA are contained in the Standard Clauses hereto.

2. Special Provisions. Check if Required

<input type="checkbox"/>	If checked, the Supplemental State Terms and attached hereto as Exhibit "G" are hereby incorporated by reference into this DPA in their entirety.
<input checked="" type="checkbox"/>	If checked, LEA and Provider agree to the additional terms or modifications set forth in Exhibit "H" . (Optional)
<input type="checkbox"/>	If Checked, the Provider, has signed Exhibit "E" to the Standard Clauses, otherwise known as General Offer of Privacy Terms

3. In the event of a conflict between the SDPC Standard Clauses, the State or Special Provisions will control. In the event there is conflict between the terms of the DPA and any other writing, including, but not limited to the Service Agreement and Provider Terms of Service or Privacy Policy the terms of this DPA shall control.
4. This DPA shall stay in effect for three (3) years. **Exhibit "E"** will expire three (3) years from the date the original DPA was signed.
5. The services to be provided by Provider to LEA pursuant to this DPA are detailed in **Exhibit "A"** (the "**Services**").
6. **Notices.** All notices or other communication required or permitted to be given hereunder may be given via e-mail transmission, or first-class mail, sent to the designated representatives below.

The designated representative for the LEA for this DPA is:

Name: Darrick Buettner
 Title: Director of Secondary Education and Area Schools
 Address: 1007 W. Main St., Inverness, FL 34450
 Phone: (352) 726-1931 ext. 2241
 Email: buettnerd@citruschools.org

The designated representative for the Provider for this DPA is:

Name: Terry Mitchum
Title: CTO
Address: 800 Battery Ave SE, Suite 100, Atlanta, GA 30339
Phone: 877-377-9537
Email: terry.mitchum@progresslearning.com

IN WITNESS WHEREOF, LEA and Provider execute this DPA as of the Effective Date.

LEA: The School Board of Citrus County, Florida.

Signature:



Printed Name: Douglas A. Dodd

Title:

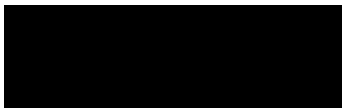
~~Chairperson~~ Chairman

Date:

7/11/23

Provider: Progress Learning LLC

Signature:



Printed Name: Terry Mitchum

Title: CTO

Date: 4/21/2023

STANDARD CLAUSES

Version 1.0

Article I. ARTICLE I: PURPOSE AND SCOPE

1. **Purpose of DPA**. The purpose of this DPA is to describe the duties and responsibilities to protect Student Data including compliance with all applicable federal, state, and local privacy laws, rules, and regulations, all as may be amended from time to time. In performing the Services, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the LEA. Provider shall be under the direct control and supervision of the LEA, with respect to its use of Student Data
2. **Student Data to Be Provided**. In order to perform the Services described above, LEA shall provide Student Data as identified in the Schedule of Data, attached hereto as **Exhibit "B"**.
3. **DPA Definitions**. The definition of terms used in this DPA is found in **Exhibit "C"**. In the event of a conflict, definitions used in this DPA shall prevail over terms used in any other writing, including, but not limited to the Service Agreement, Terms of Service, Privacy Policies etc.

Article II. ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

1. **Student Data Property of LEA**. All Student Data transmitted to the Provider pursuant to the Service Agreement is and will continue to be the property of and under the control of the LEA. The Provider further acknowledges and agrees that all copies of such Student Data transmitted to the Provider, including any modifications or additions or any portion thereof from any source, are subject to the provisions of this DPA in the same manner as the original Student Data. The Parties agree that as between them, all rights, including all intellectual property rights in and to Student Data contemplated per the Service Agreement, shall remain the exclusive property of the LEA. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the LEA as it pertains to the use of Student Data, notwithstanding the above.
2. **Parent Access**. To the extent required by law the LEA shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review Education Records and/or Student Data correct erroneous information, and procedures for the transfer of student-generated content to a personal account, consistent with the functionality of services. Provider shall respond in a reasonably timely manner (and no later than forty-five (45) days from the date

of the request or pursuant to the time frame required under state law for an LEA to respond to a parent or student, whichever is sooner) to the LEA's request for Student Data in a student's records held by the Provider to view or correct as necessary. In the event that a parent of a student or other individual contacts the Provider to review any of the Student Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the LEA, who will follow the necessary and proper procedures regarding the requested information.

3. **Separate Account**. If Student-Generated Content is stored or maintained by the Provider, Provider shall, at the request of the LEA, transfer, or provide a mechanism for the LEA to transfer, said Student-Generated Content to a separate account created by the student.
4. **Law Enforcement Requests**. Should law enforcement or other government entities ("Requesting Party(ies)") contact Provider with a request for Student Data held by the Provider pursuant to the Services, the Provider shall notify the LEA in advance of a compelled disclosure to the Requesting Party, unless lawfully directed by the Requesting Party not to inform the LEA of the request.
5. **Subprocessors**. Provider shall enter into written Agreements with all Subprocessors performing functions for the Provider in order for the Provider to provide the Services pursuant to the Service Agreement, whereby the Subprocessors agree to protect Student Data in a manner no less stringent than the terms of this DPA.

Article III. ARTICLE III: DUTIES OF LEA

1. **Provide Data in Compliance with Applicable Laws**. LEA shall provide Student Data for the purposes of obtaining the Services in compliance with all applicable federal, state, and local privacy laws, rules, and regulations, all as may be amended from time to time.
2. **Annual Notification of Rights**. If the LEA has a policy of disclosing Education Records and/or Student Data under FERPA (34 CFR § 99.31(a)(1)), LEA shall include a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest in its annual notification of rights.
3. **Reasonable Precautions**. LEA shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the services and hosted Student Data.

4. **Unauthorized Access Notification**. LEA shall notify Provider promptly of any known unauthorized access. LEA will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.

Article IV. ARTICLE IV: DUTIES OF PROVIDER

1. **Privacy Compliance**. The Provider shall comply with all applicable federal, state, and local laws, rules, and regulations pertaining to Student Data privacy and security, all as may be amended from time to time.
2. **Authorized Use**. The Student Data shared pursuant to the Service Agreement, including persistent unique identifiers, shall be used for no purpose other than the Services outlined in **Exhibit "A"** or stated in the Service Agreement and/or otherwise authorized under the statutes referred to herein this DPA.
3. **Provider Employee Obligation**. Provider shall require all of Provider's employees and agents who have access to Student Data to comply with all applicable provisions of this DPA with respect to the Student Data shared under the Service Agreement. Provider agrees to require and maintain an appropriate confidentiality Agreement from each employee or agent with access to Student Data pursuant to the Service Agreement.
4. **No Disclosure**. Provider acknowledges and agrees that it shall not make any re-disclosure of any Student Data or any portion thereof, including without limitation, user content or other non- public information and/or personally identifiable information contained in the Student Data other than as directed or permitted by the LEA or this DPA. This prohibition against disclosure shall not apply to aggregate summaries of De-Identified information, Student Data disclosed pursuant to a lawfully issued subpoena or other legal process, or to Subprocessors performing services on behalf of the Provider pursuant to this DPA. Provider will not Sell Student Data to any third party.
 - (a) **De-Identified Data**: Provider agrees not to attempt to re-identify De-Identified Student Data. De- Identified Data may be used by the Provider for those purposes allowed under FERPA and the following purposes: (1) assisting the LEA or other governmental agencies in conducting research and other studies; and (2) research and development of the Provider's educational sites, services, or applications, and to demonstrate the effectiveness of the Services; and (3) for adaptive learning purpose and for customized student learning. Provider's use of De-Identified Data shall survive termination of this DPA or any request by LEA to return or destroy Student Data. Except for Subprocessors, Provider agrees not to transfer de-identified Student Data to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written

notice has been given to the LEA who has provided prior written consent for such transfer. Prior to publishing any document that names the LEA explicitly or indirectly, the Provider shall obtain the LEA's written approval of the manner in which De-Identified Data is presented.

5. **Disposition of Data**. Upon written request from the LEA, Provider shall dispose of or provide a mechanism for the LEA to transfer Student Data obtained under the Service Agreement, within sixty (60) days of the date of said request and according to a schedule and procedure as the Parties may reasonably agree. Upon termination of this DPA, if no written request from the LEA is received, Provider shall dispose of all Student Data after providing the LEA with reasonable prior notice. The duty to dispose of Student Data shall not extend to Student Data that had been De-Identified or placed in a separate student account pursuant to section II 3. The LEA may employ a **“Directive for Disposition of Data”** form, a copy of which is attached hereto as **Exhibit “D”**. If the LEA and Provider employ **Exhibit “D”**, no further written request or notice is required on the part of either party prior to the disposition of Student Data described in **Exhibit “D”**.
6. **Advertising Limitations**. Provider is prohibited from using, disclosing, or selling Student Data to (a) inform, influence, or enable Targeted Advertising; or (b) develop a profile of a student, family member/guardian or group, for any purpose other than providing the Service to LEA. This section does not prohibit Provider from using Student Data (i) for adaptive learning or customized student learning (including generating personalized learning recommendations); or (ii) to make product recommendations to teachers or LEA employees; or (iii) to notify account holders about new education product updates, features, or services or from otherwise using Student Data as permitted in this DPA and its accompanying exhibits.

Article V. ARTICLE V: DATA PROVISIONS

1. **Data Storage**. Where required by applicable law, Student Data shall be stored within the United States. Upon request of the LEA, Provider will provide a list of the locations where Student Data is stored.
2. **Audits**. No more than once a year, or following unauthorized access, upon receipt of a written request from the LEA with at least ten (10) business days' notice and upon the execution of an appropriate confidentiality Agreement, the Provider will allow the LEA to audit the security and privacy measures that are in place to ensure protection of Student Data or any portion thereof as it pertains to the delivery of services to the LEA. The Provider will cooperate reasonably with the LEA and any local, state, or federal agency with oversight authority or jurisdiction in connection with any audit or investigation of the Provider and/or

delivery of Services to students and/or LEA, and shall provide reasonable access to the Provider's facilities, staff, agents and LEA's Student Data and all records pertaining to the Provider, LEA and delivery of Services to the LEA. Failure to reasonably cooperate shall be deemed a material breach of the DPA.

3. **Data Security**. The Provider agrees to utilize administrative, physical, and technical safeguards designed to protect Student Data from unauthorized access, disclosure, acquisition, destruction, use, or modification. The Provider shall adhere to any applicable law relating to data security. The provider shall implement an adequate Cybersecurity Framework based on one of the nationally recognized standards set forth in **Exhibit "F"**. Exclusions, variations, or exemptions to the identified Cybersecurity Framework must be detailed in an attachment to **Exhibit "H"**. Additionally, Provider may choose to further detail its security programs and measures that augment or are in addition to the Cybersecurity Framework in **Exhibit "F"**. Provider shall provide, in the Standard Schedule to the DPA, contact information of an employee who LEA may contact if there are any data security concerns or questions.
4. **Data Breach**. In the event of an unauthorized release, disclosure or acquisition of Student Data that compromises the security, confidentiality or integrity of the Student Data maintained by the Provider the Provider shall provide notification to LEA within seventy-two (72) hours of confirmation of the incident, unless notification within this time limit would disrupt investigation of the incident by law enforcement. In such an event, notification shall be made within a reasonable time after the incident. Provider shall follow the following process:
 - (1) The security breach notification described above shall include, at a minimum, the following information to the extent known by the Provider and as it becomes available:
 - i. The name and contact information of the reporting LEA subject to this section.
 - ii. A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.
 - iii. If the information is possible to determine at the time the notice is provided, then either (1) the date of the breach, (2) the estimated date of the breach, or (3) the date range within which the breach occurred. The notification shall also include the date of the notice. Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided; and
 - iv. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

- (2) Provider agrees to adhere to all federal and state requirements with respect to a data breach related to the Student Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.
- (3) Provider further acknowledges and agrees to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incident or unauthorized acquisition or use of Student Data or any portion thereof, including personally identifiable information and agrees to provide LEA, upon request, with a summary of said written incident response plan.
- (4) LEA shall provide notice and facts surrounding the breach to the affected students, parents or guardians.
- (5) In the event of a breach originating from LEA's use of the Service, Provider shall cooperate with LEA to the extent necessary to expeditiously secure Student Data.

Article VI. ARTICLE VI: GENERAL OFFER OF TERMS

Provider may, by signing the attached form of "General Offer of Privacy Terms" (General Offer, attached hereto as **Exhibit "E"**), be bound by the terms of **Exhibit "E"** to any other LEA who signs the acceptance on said Exhibit. The form is limited by the terms and conditions described therein.

Article VII. MISCELLANEOUS

1. **Termination**. In the event that either Party seeks to terminate this DPA, they may do so by mutual written consent so long as the Service Agreement has lapsed or has been terminated. Either party may terminate this DPA and any service Agreement or contract if the other party breaches any terms of this DPA.
2. **Effect of Termination Survival**. If the Service Agreement is terminated, the Provider shall destroy all of LEA's Student Data pursuant to Article IV, section 6.
3. **Priority of Agreements**. This DPA shall govern the treatment of Student Data in order to comply with the privacy protections, including those found in FERPA and all applicable privacy statutes identified in this DPA. In the event there is conflict between the terms of the DPA and the Service Agreement, Terms of Service, Privacy Policies, or with any other bid/RFP, license Agreement, or writing, the terms of this DPA shall apply and take precedence. In the event of a conflict between **Exhibit "H"**, the SDPC Standard Clauses, and/or the

Supplemental State Terms, **Exhibit "H"** will control, followed by the Supplemental State Terms. Except as described in this paragraph herein, all other provisions of the Service Agreement shall remain in effect.

4. **Entire Agreement.** This DPA and the Service Agreement constitute the entire Agreement of the Parties relating to the subject matter hereof and supersedes all prior communications, representations, or Agreements, oral or written, by the Parties relating thereto. This DPA may be amended and the observance of any provision of this DPA may be waived (either generally or in any particular instance and either retroactively or prospectively) only with the signed written consent of both Parties. Neither failure nor delay on the part of any Party in exercising any right, power, or privilege hereunder shall operate as a waiver of such right, nor shall any single or partial exercise of any such right, power, or privilege preclude any further exercise thereof or the exercise of any other right, power, or privilege.
5. **Severability.** Any provision of this DPA that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DPA, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the Parties, it shall, as to such jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this DPA or affecting the validity or enforceability of such provision in any other jurisdiction.
6. **Governing Law; Venue and Jurisdiction.** THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF THE LEA, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS FOR THE COUNTY OF THE LEA FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS DPA OR THE TRANSACTIONS CONTEMPLATED HEREBY.
7. **Successors Bound:** This DPA is and shall be binding upon the respective successors in interest to Provider in the event of a merger, acquisition, consolidation or other business reorganization or sale of all or substantially all of the assets of such business In the event that the Provider sells, merges, or otherwise disposes of its business to a successor during the term of this DPA, the Provider shall provide written notice to the LEA no later than sixty (60) days after the closing date of sale, merger, or disposal. Such notice shall include a written, signed assurance that the successor will assume the obligations of the

- DPA and any obligations with respect to Student Data within the Service Agreement. The LEA has the authority to terminate the DPA if it disapproves of the successor to whom the Provider is selling, merging, or otherwise disposing of its business.
8. **Authority**. Each party represents that it is authorized to bind to the terms of this DPA, including confidentiality and destruction of Student Data and any portion thereof contained therein, all related or associated institutions, individuals, employees or Contractors who may have access to the Student Data and/or any portion thereof.
 9. **Waiver**. No delay or omission by either party to exercise any right hereunder shall be construed as a waiver of any such right and both Parties reserve the right to exercise any such right from time to time, as often as may be deemed expedient.

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EXHIBIT "A"

DESCRIPTION OF SERVICES

Progress Learning helps teachers monitor individual student progress on a deeper level through remediation and adaptive intervention. An easy dot rank system breaks down each domain to see where students stand in comparison to state standards.



LEAP Learning and Education Gateway are now Progress Learning

Progress Learning, LLC
 800 Battery Ave SE, Suite 100
 Atlanta, GA 30339
 US
 Phone: 1-877-377-9537
 Fax: 877-816-0808
 Email:
 orders@progresslearning.com

Quote

Quote #: Q-22322-1
Date: 4/4/2023 3:34 PM
Expires On: 6/30/2023
Quote Total: \$92,432.00

Ship To
 Citrus County Schools
 1007 W Main St
 Inverness, FL 34450
 United States

Bill To
 1007 W Main St
 Inverness, FL 34450
 United States

SALESPERSON	EMAIL	PAYMENT METHOD
Brett Kushner	brett.kushner@progresslearning.com	Net 30

*For credit card payments, a 3% processing fee will be applied at time of payment
 The credit card total after fees will be \$95,204.96*

Subscription Information

Citrus High School

License	Start Date	End Date	List	Discount	Total
High School Progress Learning	7/1/2023	6/30/2024	\$30,000.00	\$14,100.00	\$15,900.00
Citrus High School Subtotal:					\$30,000.00
Citrus High School Discount:					\$14,100.00
Citrus High School Total:					\$15,900.00

Lecanto High School

License	Start Date	End Date	List	Discount	Total
High School Progress Learning	7/1/2023	6/30/2024	\$30,000.00	\$14,100.00	\$15,900.00
Lecanto High School Subtotal:					\$30,000.00
Lecanto High School Discount:					\$14,100.00
Lecanto High School Total:					\$15,900.00



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Crystal River Middle School

License	Start Date	End Date	List	Discount	Total
Middle School Progress Learning	7/1/2023	6/30/2024	\$12,500.00	\$5,875.00	\$6,625.00
Liftoff - Middle	7/1/2023	6/30/2024	Included	\$0.00	\$0.00
Crystal River Middle School Subtotal:					\$12,500.00
Crystal River Middle School Discount:					\$5,875.00
Crystal River Middle School Total:					\$6,625.00

Citrus Springs Middle School

License	Start Date	End Date	List	Discount	Total
Middle School Progress Learning	7/1/2023	6/30/2024	\$12,500.00	\$5,875.00	\$6,625.00
Liftoff - Middle	7/1/2023	6/30/2024	Included	\$0.00	\$0.00
Citrus Springs Middle School Subtotal:					\$12,500.00
Citrus Springs Middle School Discount:					\$5,875.00
Citrus Springs Middle School Total:					\$6,625.00

Academy of Environmental Science

License	Start Date	End Date	List	Discount	Total
High School Progress Learning	7/1/2023	6/30/2024	\$10,000.00	\$4,700.00	\$5,300.00
Academy of Environmental Science Subtotal:					\$10,000.00
Academy of Environmental Science Discount:					\$4,700.00
Academy of Environmental Science Total:					\$5,300.00

Inverness Middle School

License	Start Date	End Date	List	Discount	Total
Middle School Progress Learning	7/1/2023	6/30/2024	\$20,000.00	\$9,400.00	\$10,600.00



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 Quote Total: \$92,432.00

License	Start Date	End Date	List	Discount	Total
Liftoff - Middle	7/1/2023	6/30/2024	Included	\$0.00	\$0.00
Inverness Middle School Subtotal:					\$20,000.00
Inverness Middle School Discount:					\$9,400.00
Inverness Middle School Total:					\$10,600.00

Lecanto Middle School

License	Start Date	End Date	List	Discount	Total
Middle School Progress Learning	7/1/2023	6/30/2024	\$12,500.00	\$5,875.00	\$6,625.00
Liftoff - Middle	7/1/2023	6/30/2024	Included	\$0.00	\$0.00
Lecanto Middle School Subtotal:					\$12,500.00
Lecanto Middle School Discount:					\$5,875.00
Lecanto Middle School Total:					\$6,625.00

Crystal River High School

License	Start Date	End Date	List	Discount	Total
High School Progress Learning	7/1/2023	6/30/2024	\$30,000.00	\$14,100.00	\$15,900.00
Crystal River High School Subtotal:					\$30,000.00
Crystal River High School Discount:					\$14,100.00
Crystal River High School Total:					\$15,900.00

CREST - Citrus Resources for Exceptional Student Transition

License	Start Date	End Date	List	Discount	Total
High School Progress Learning	7/1/2023	6/30/2024	\$9,950.00	\$4,676.50	\$5,273.50
Middle School Progress Learning	7/1/2023	6/30/2024	\$6,950.00	\$3,266.50	\$3,683.50



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Quote

Quote #: Q-22322-1
 Date: 4/4/2023 3:34 PM
 Expires On: 6/30/2023
 Quote Total: \$92,432.00

License	Start Date	End Date	List	Discount	Total
Liftoff - Middle	7/1/2023	6/30/2024	Included	\$0.00	\$0.00
CREST - Citrus Resources for Exceptional Student Transition Subtotal:					\$16,900.00
CREST - Citrus Resources for Exceptional Student Transition Discount:					\$7,943.00
CREST - Citrus Resources for Exceptional Student Transition Total:					\$8,957.00
Subtotal:					\$174,400.00
Discount					\$81,968.00
Total:					\$92,432.00

One time 47% discount applied.

EXHIBIT "B"
SCHEDULE OF DATA

Category of Data	Elements	Check if Used by Your System
Application Technology Meta Data	IP Addresses of users, Use of cookies, etc.	X
	Other application technology meta data-Please specify:	
Application Use Statistics	Meta data on user interaction with application	X
Assessment	Standardized test scores	
	Observation data	
	Other assessment data-Please specify:	
Attendance	Student school (daily) attendance data	
	Student class attendance data	
Communications	Online communications captured (emails, blog entries)	
Conduct	Conduct or behavioral data	
Demographics	Date of Birth	
	Place of Birth	
	Gender	
	Ethnicity or race	
	Language information (native, or primary language spoken by student)	

Category of Data	Elements	Check if Used by Your System
	Other demographic information-Please specify:	
Enrollment	Student school enrollment	X
	Student grade level	X
	Homeroom	X
	Guidance counselor	
	Specific curriculum programs	
	Year of graduation	
	Other enrollment information-Please specify:	
Parent/Guardian Contact Information	Address	
	Email	
	Phone	
Parent/Guardian ID	Parent ID number (created to link parents to students)	
Parent/Guardian Name	First and/or Last	
Schedule	Student scheduled courses	
	Teacher names	X
Special Indicator	English language learner information	
	Low income status	
	Medical alerts/ health data	



Category of Data	Elements	Check if Used by Your System
	Student disability information	
	Specialized education services (IEP or 504)	
	Living situations (homeless/foster care)	
	Other indicator information-Please specify:	
Student Contact Information	Address	
	Email	X
	Phone	
Student Identifiers	Local (School district) ID number	
	State ID number	
	Provider/App assigned student ID number	X
	Student app username	X
	Student app passwords	X
Student Name	First and/or Last	X
Student In App Performance	Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level)	
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	
Student Survey Responses	Student responses to surveys or questionnaires	
Student work	Student generated content; writing, pictures, etc.	



Category of Data	Elements	Check if Used by Your System
	Other student work data -Please specify:	
Transcript	Student course grades	
	Student course data	
	Student course grades/ performance scores	
	Other transcript data - Please specify:	
Transportation	Student bus assignment	
	Student pick up and/or drop off location	
	Student bus card ID number	
	Other data – Please specify:	
Other	Please list each additional data element used, stored, or collected by your application:	
None	No Student Data collected at this time. Provider will immediately notify LEA if this designation is no longer applicable.	

EXHIBIT “C”

DEFINITIONS

De-Identified Data and De-Identification: Records and information are considered to be De-Identified when all personally identifiable information has been removed or obscured, such that the remaining information does not reasonably identify a specific individual, including, but not limited to, any information that, alone or in combination is linkable to a specific student and provided that the educational agency, or other party, has made a reasonable determination that a student’s identity is not personally identifiable, taking into account reasonable available information.

Educational Records: Educational Records are records, files, documents, and other materials directly related to a student and maintained by the school or local education agency, or by a person acting for such school or local education agency, including but not limited to, records encompassing all the material kept in the student’s cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement, and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.

Metadata: means information that provides meaning and context to other data being collected; including, but not limited to: date and time records and purpose of creation Metadata that have been stripped of all direct and indirect identifiers are not considered Personally Identifiable Information.

Operator: means the operator of an internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used for K–12 school purposes. Any entity that operates an internet website, online service, online application, or mobile application that has entered into a signed, written Agreement with an LEA to provide a service to that LEA shall be considered an “operator” for the purposes of this section.

Originating LEA: An LEA who originally executes the DPA in its entirety with the Provider.

Provider: For purposes of the DPA, the term “Provider” means provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Student Data. Within the DPA the term “Provider” includes the term “Third Party” and the term “Operator” as used in applicable state statutes.

Student Generated Content: The term “Student-Generated Content” means materials or content created by a student in the services including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, videos, and account information that enables ongoing ownership of student content.

□

School Official: For the purposes of this DPA and pursuant to 34 CFR § 99.31(b), a School Official is a Contractor that: (1) Performs an institutional service or function for which the agency or institution would otherwise use employees; (2) Is under the direct control of the agency or institution with respect to the use and maintenance of Student Data including Education Records; and (3) Is subject to 34 CFR § 99.33(a) governing the use and re-disclosure of Personally Identifiable Information from Education Records.

Service Agreement: Refers to the Contract, Purchase Order or Terms of Service or Terms of Use.

Student Data: Student Data includes any data, whether gathered by Provider or provided by LEA or its users, students, or students' parents/guardians, that is descriptive of the student including, but not limited to, information in the student's educational record or email, first and last name, birthdate, home or other physical address, telephone number, email address, or other information allowing physical or online contact, discipline records, videos, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security numbers, biometric information, disabilities, socioeconomic information, individual purchasing behavior or preferences, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, geolocation information, parents' names, or any other information or identification number that would provide information about a specific student. Student Data includes Meta Data. Student Data further includes "Personally Identifiable Information (PII)," as defined in 34 C.F.R. § 99.3 and as defined under any applicable state law. Student Data shall constitute Education Records for the purposes of this DPA, and for the purposes of federal, state, and local laws and regulations. Student Data as specified in **Exhibit "B"** is confirmed to be collected or processed by the Provider pursuant to the Services. Student Data shall not constitute that information that has been anonymized or De-Identified, or anonymous usage data regarding a student's use of Provider's services.

Subprocessor: For the purposes of this DPA, the term "Subprocessor" (sometimes referred to as the "Subcontractor") means a party other than LEA or Provider, who Provider uses for data collection, analytics, storage, or other service to operate and/or improve its service, and who has access to Student Data.

Subscribing LEA: An LEA that was not party to the original Service Agreement and who accepts the Provider's General Offer of Privacy Terms.

Targeted Advertising: means presenting an advertisement to a student where the selection of the advertisement is based on Student Data or inferred over time from the usage of the operator's Internet web site, online service or mobile application by such



student or the retention of such student's online activities or requests over time for the purpose of targeting subsequent advertisements. "Targeted Advertising" does not include any advertising to a student on an Internet web site based on the content of the web page or in response to a student's response or request for information or feedback.

Third Party: The term "Third Party" means a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of Education Records and/or Student Data, as that term is used in some state statutes. However, for the purpose of this DPA, the term "Third Party" when used to indicate the provider of digital educational software or services is replaced by the term "Provider."

EXHIBIT "D"

DIRECTIVE FOR DISPOSITION OF DATA

[Insert Name of District or LEA] Provider to dispose of data obtained by Provider pursuant to the terms of the Service Agreement between LEA and Provider. The terms of the Disposition are set forth below:

1. Extent of Disposition

- Disposition is partial. The categories of data to be disposed of are set forth below or are found in an attachment to this Directive:

[Insert categories of data here]

- Disposition is Complete. Disposition extends to all categories of data.

2. Nature of Disposition

- Disposition shall be by destruction or deletion of data.
- Disposition shall be by a transfer of data. The data shall be transferred to the following site as follows:

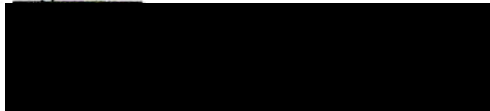
[Insert or attach special instructions]

3. Schedule of Disposition

Data shall be disposed of by the following date:

- As soon as commercially practicable.
- By **[Insert Date]**

4. Signature



Authorized Representative of LEA

7/11/23
Date

5. Verification of Disposition of Data



Authorized Representative of Provider

4/24/2023

Date

EXHIBIT "E"

GENERAL OFFER OF TERMS

1. OFFER OF TERMS – NOT APPLICABLE FOR THIS CONTRACT

Provider offers the same privacy protections found in this DPA between it and **[Insert Name of Originating LEA]** ("Originating LEA") which is dated **[Insert Date]**, to any other LEA ("Subscribing LEA") who accepts this General Offer of Privacy Terms ("General Offer") through its signature below. This General Offer shall extend only to privacy protections, and Provider's signature shall not necessarily bind Provider to other terms, such as price, term, or schedule of services, or to any other provision not addressed in this DPA. The Provider and the Subscribing LEA may also agree to change the data provided by Subscribing LEA to the Provider to suit the unique needs of the Subscribing LEA. The Provider may withdraw the General Offer in the event of: (1) a material change in the applicable privacy statutes; (2) a material change in the services and products listed in the originating Service Agreement; or three (3) years after the date of Provider's signature to this Form. Subscribing LEAs should send the signed **Exhibit "E"** to Provider at the following email address:

*Provider Name

BY: _____

Date: _____

Printed Name:

Title/Position:

1. Subscribing LEA

A Subscribing LEA, by signing a separate Service Agreement with Provider, and by its signature below, accepts the General Offer of Privacy Terms. The Subscribing LEA and the Provider shall therefore be bound by the same terms of this DPA for the term of the DPA between the **[Insert Name of Originating LEA]** and the Provider. ****PRIOR TO ITS EFFECTIVENESS, SUBSCRIBING LEA MUST DELIVER NOTICE OF ACCEPTANCE TO PROVIDER PURSUANT TO ARTICLE VII, SECTION 5. ****

The School Board of Citrus County, Florida

BY: _____

Date: _____

Printed Name: Douglas A. Dodd

Title/Position: _____

~~Chairperson~~ *Chairman*

SCHOOL DISTRICT NAME: THE SCHOOL BOARD OF CITRUS COUNTY, FLORIDA
DESIGNATED REPRESENTATIVE OF LEA:

Name: Darrick Buettner

Title: Director of Secondary Education and Area Schools

Address: 1007 W. Main St.
Inverness, FL 34450

Telephone
Number

Email:
buettnerd@citrusschools.org

EXHIBIT “F”

DATA SECURITY REQUIREMENTS

Adequate Cybersecurity

Frameworks 2/24/2020

The Education Security and Privacy Exchange (“Edspex”) works in partnership with the Student Data Privacy Consortium and industry leaders to maintain a list of known and credible cybersecurity frameworks which can protect digital learning ecosystems chosen based on a set of guiding cybersecurity principles* (“Cybersecurity Frameworks”) that may be utilized by Provider.

Cybersecurity Frameworks:

	MAINTAINING ORGANIZATION/GROUP	FRAMEWORK(S)
<input type="checkbox"/>	National Institute of Standards and Technology (NIST)	NIST Cybersecurity Framework Version 1.1
<input type="checkbox"/>	National Institute of Standards and Technology (NIST)	NIST SP 800-53, Cybersecurity Framework for Improving Critical Infrastructure Cybersecurity (CSF), Special Publication 800-171
<input type="checkbox"/>	International Standards Organization (ISO)	Information technology — Security techniques — Information security management systems (ISO 27000 series)
<input type="checkbox"/>	Secure Controls Framework Council, LLC	Security Controls Framework (SCF)
<input checked="" type="checkbox"/>	Center for Internet Security (CIS) <i>*(pending compliance review)</i>	CIS Critical Security Controls (CSC, CIS Top 20)
<input type="checkbox"/>	Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD(A&S))	Cybersecurity Maturity Model Certification (CMMC, ~FAR/DFAR)

Please visit <http://www.edspex.org> for further details about the noted frameworks.

*Cybersecurity Principles used to choose the Cybersecurity Frameworks are located here.

**Progress Learning has committed to being CIS compliant by the third quarter of 2023.*

The Parties hereby stipulate and agree that if Progress Learning is not CIS compliant by September 30, 2023, that is a material breach of this Agreement and CCSB may immediately terminate this Agreement, at its sole discretion, and Progress Learning will refund a prorated amount of the payment and compensation outlined in paragraph 4 of this Agreement.

EXHIBIT “G”

Supplemental SDPC State Terms for [State]

Version _____

[The State Supplement is an ***optional*** set of terms that will be generated on an as-needed basis in collaboration between the national SDPC legal working group and the State Consortia. The scope of these State Supplements will be to address any state specific data privacy statutes and their requirements to the extent that they require terms in addition to or different from the National Standard Clauses. The State Supplements will be written in a manner such that they will not be edited/updated by individual Parties and will be posted on the SDPC website to provide the authoritative version of the terms. Any changes by LEAs or Providers will be made in amendment form in an Exhibit (**Exhibit “H”** in this proposed structure).]

EXHIBIT "H"

Additional Terms or Modifications

THIS EXHIBIT "H" effective simultaneously with attached Student Data Privacy Agreement ("DPA") between The School Board of Citrus County, Florida, (the "Local Education Agency" or "LEA") and Progress Learning LLC, (the "Provider") is incorporated in the attached DPA and amends the DPA (and all supplemental terms and conditions and policies applicable to the DPA) as follows:

1. The second WHEREAS CLAUSE is amended to add "the Protection of Pupil Rights Amendment ("PPRA") at 20 U.S.C. 1232h (34 CFR Part 98)" after "15 U.S.C. § 6501-6506 (16 CFR Part 312)".
2. Paragraph 3 on the page 2 of the DPA is deleted in its entirety and replaced with the following: In the event of a conflict between the DPA Standard Clauses, the State or Special Provisions will control. In the event there is conflict between the terms of the DPA and any other writing, including Provider Terms of Service or Privacy Policy, the terms of Technology Master Service Agreement, and then this DPA shall control.
3. The last sentence of Article II, Paragraph 1 is amended as follows: Provider agrees that for purposes of this Agreement, it will be designated a "School Official," under the control and direction of the LEA as it pertains to the use of Student Data, with "legitimate educational interests" as those terms have been interpreted and defined under FERPA. Provider may transfer student-generated content to a separate account, according to the procedures set forth below. Provider agrees to abide by FERPA and Fla. Stat. 1002.22 while performing its service for the LEA.
4. Article I, Paragraph 2 is amended to add the following: Indemnification. Provider shall indemnify, hold harmless, and defend the SB and all of SB's current, past, and future officers, agents, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any breach of this Agreement by Provider, third-Parties, or subprocessor(s) related to Attachment A, Exhibit B (Schedule of Data), including but not limited to, failure to notify the SB of any additional students' PII collected and not updated by Provider in Exhibit B.

5. Article II, Paragraph 5 is deleted in its entirety and replaced with the following: Provider shall enter into written Agreements with all Subprocessors performing functions for the Provider in order for the Provider to provide the Services pursuant to the Service Agreement, whereby the Subprocessors agree to protect Student Data in a manner consistent with the terms of this DPA. Provider agrees to share the Subprocessors names and Agreements with LEA upon LEA's request.
6. Article III, Paragraph 1 is amended to add the following sentence: LEA will allow Provider access to Student Data necessary to perform the Services and pursuant to the terms of this DPA and in compliance with FERPA, COPPA, PPRA, and all other privacy statutes cited in this DPA.
7. Article IV, Paragraph 1 is amended to add the following sentence: The Parties expect and anticipate that Provider may receive personally identifiable information in education records from the District only as an incident of service or training that Provider provides to the LEA pursuant to this Agreement. The Provider shall comply with all applicable State and Federal laws and regulations pertaining to Student Data privacy and security, including FERPA, COPPA, PPRA, Florida Statutes Sections 1001.41 and 1002.22, and all other privacy statutes cited in this DPA. The Parties agree that Provider is a "school official" under FERPA and has a legitimate educational interest in personally identifiable information from education records because for purposes of the contract, Provider: (1) provides a service or function for which the LEA would otherwise use employees; (2) is under the direct control of the LEA with respect to the use and maintenance of education records; and (3) is subject to the requirements of FERPA governing the use and redisclosure of personally identifiable information from education records
8. Article IV, Paragraph 2 is amended to add the following sentence: Provider also acknowledges and agrees that it shall not make any re-disclosure of any Student Data or any portion thereof, including without limitation, meta Student Data, user content or other non-public information and/or personally identifiable information contained in the Student Data, without the express written consent of the LEA.
9. Article IV, Paragraph 7 is deleted in its entirety and replaced with the following: Provider is prohibited from using or selling Student Data to (a) market or advertise to students or families/guardians; (b) inform, influence, or enable marketing, targeted advertising, or other commercial efforts by Provider; (c) develop a profile of a student, family member/guardian or group, for any commercial purpose other than providing the Service to LEA; or (d) use the Student Data for the development of commercial products or services, other than as necessary to provide the Service to LEA. This

section does not prohibit Provider from generating legitimate personalized learning recommendations.

10. Article V, Paragraph 1 is deleted in its entirety and replaced with the following: Student Data shall be stored within the United States. Upon request of the LEA, Provider will provide a list of the locations where Student Data is stored. Provider shall not, without the express prior written consent of District: Transmit Student Data or PII to any Providers or Subprocessors located outside of the United States; distribute, repurpose or share Student Data or PII with any Partner Systems not used for providing services to the LEA; use PII or any portion thereof to inform, influence or guide marketing or advertising efforts, or to develop a profile of a student or group of students for any commercial purpose [or for any other purposes]; use PII or any portion thereof to develop commercial products or services; use any PII for any other purpose other than in connection with the services provided to the LEA; and engage in targeted advertising, based on the Student Data collected from the LEA.
11. Article VII, is hereby amended to add Paragraph 10 as follows: **Assignment.** None of the Parties to this DPA may assign their rights, duties, or obligations under this DPA, either in whole or in part, without the prior written consent of the other party to this DPA.
12. Article VII, is hereby amended to add Paragraph 11 as follows: **Click through.** Any “click through” terms and conditions or terms of use are superseded by the Technology Master Service Agreement and this DPA, and acceptance of the terms and conditions or terms of use through the “click through” do not indicate acceptance by the entity.
13. Article VII, is hereby amended to add Paragraph 12 as follows: **Security Controls.** Security Controls. Provider represents and warrants that any software licensed hereunder shall not contain any virus, worm, Trojan Horse, tracking software or be capable of identifying non-approved users or tracking any approved user, or any undocumented software locks or drop dead devices that would render inaccessible or impair in any way the operation of the software or any other hardware, software or data for which the software is designed to work with.
14. Article VII, is hereby amended to add Paragraph 13 as follows: **Authority to Execute Agreement.** Each person signing this Agreement on behalf of either Party individually warrants that he or she has full legal power to execute this Agreement on behalf of the Party for whom he or she is signing, and to bind and obligate such Party with respect to all provisions contained in this Agreement.

THE PARTIES REPRESENT THAT THEY HAVE THOROUGHLY DISCUSSED ALL ASPECTS OF THE AGREEMENT AND ADDENDUM WITH THEIR RESPECTIVE ATTORNEY(S), THAT THEY FULLY UNDERSTAND ALL OF ITS PROVISIONS, AND THAT THEY ARE VOLUNTARILY ENTERING INTO THE AGREEMENT AND ADDENDUM WITH THE FULL KNOWLEDGE OF ITS LEGAL SIGNIFICANCE AND WITH THE INTENT TO BE LEGALLY BOUND BY ITS TERMS.

Local Education Agency:



Douglas A. Dodd, ~~Chairperson~~

Date: 7/11/23

Provider:



By: Terry Mitchum

Title: CTO

Date: ^{4/21/2023}

ATTACHMENT B



USA Testprep and Education Gateway are now Progress Learning

Progress Learning, LLC
 800 Battery Ave SE, Suite 100
 Atlanta, GA 30339
 US
 Phone: 1-877-377-9537
 Fax: 877-816-0808
 Email:
 orders@progresslearning.com

Quote

Quote #: Q-22322-1
 Date: 4/4/2023 3:34 PM
 Expires On: 6/30/2023
 Quote Total: \$92,432.00

Ship To
 Citrus County Schools
 1007 W Main St.
 Inverness, FL 34450
 United States

Bill To
 1007 W Main St
 Inverness, FL 34450
 United States

SALESPERSON	EMAIL	PAYMENT METHOD
Brett Kushner	brett.kushner@progresslearning.com	Net 30

*For credit card payments, a 3% processing fee will be applied at time of payment.
 The credit card total after fees will be \$95,204.96.*

Subscription Information

Citrus High School

License	Start Date	End Date	List	Discount	Total
High School Progress Learning	7/1/2023	6/30/2024	\$30,000.00	\$14,100.00	\$15,900.00
Citrus High School Subtotal:					\$30,000.00
Citrus High School Discount:					\$14,100.00
Citrus High School Total:					\$15,900.00

Lecanto High School

License	Start Date	End Date	List	Discount	Total
High School Progress Learning	7/1/2023	6/30/2024	\$30,000.00	\$14,100.00	\$15,900.00
Lecanto High School Subtotal:					\$30,000.00
Lecanto High School Discount:					\$14,100.00
Lecanto High School Total:					\$15,900.00



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Crystal River Middle School

License	Start Date	End Date	List	Discount	Total
Middle School Progress Learning	7/1/2023	6/30/2024	\$12,500.00	\$5,875.00	\$6,625.00
Liftoff - Middle	7/1/2023	6/30/2024	Included	\$0.00	\$0.00
Crystal River Middle School Subtotal:					\$12,500.00
Crystal River Middle School Discount:					\$5,875.00
Crystal River Middle School Total:					\$6,625.00

Citrus Springs Middle School

License	Start Date	End Date	List	Discount	Total
Middle School Progress Learning	7/1/2023	6/30/2024	\$12,500.00	\$5,875.00	\$6,625.00
Liftoff - Middle	7/1/2023	6/30/2024	Included	\$0.00	\$0.00
Citrus Springs Middle School Subtotal:					\$12,500.00
Citrus Springs Middle School Discount:					\$5,875.00
Citrus Springs Middle School Total:					\$6,625.00

Academy of Environmental Science

License	Start Date	End Date	List	Discount	Total
High School Progress Learning	7/1/2023	6/30/2024	\$10,000.00	\$4,700.00	\$5,300.00
Academy of Environmental Science Subtotal:					\$10,000.00
Academy of Environmental Science Discount:					\$4,700.00
Academy of Environmental Science Total:					\$5,300.00

Inverness Middle School

License	Start Date	End Date	List	Discount	Total
Middle School Progress Learning	7/1/2023	6/30/2024	\$20,000.00	\$9,400.00	\$10,600.00



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Quote #: Q-22322-1
 Date: 4/4/2023 3:34 PM
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 Quote Total: \$92,432.00

License	Start Date	End Date	List	Discount	Total
Liftoff - Middle	7/1/2023	6/30/2024	Included	\$0.00	\$0.00
Inverness Middle School Subtotal:					\$20,000.00
Inverness Middle School Discount:					\$9,400.00
Inverness Middle School Total:					\$10,600.00

Lecanto Middle School

License	Start Date	End Date	List	Discount	Total
Middle School Progress Learning	7/1/2023	6/30/2024	\$12,500.00	\$5,875.00	\$6,625.00
Liftoff - Middle	7/1/2023	6/30/2024	Included	\$0.00	\$0.00
Lecanto Middle School Subtotal:					\$12,500.00
Lecanto Middle School Discount:					\$5,875.00
Lecanto Middle School Total:					\$6,625.00

Crystal River High School

License	Start Date	End Date	List	Discount	Total
High School Progress Learning	7/1/2023	6/30/2024	\$30,000.00	\$14,100.00	\$15,900.00
Crystal River High School Subtotal:					\$30,000.00
Crystal River High School Discount:					\$14,100.00
Crystal River High School Total:					\$15,900.00

CREST - Citrus Resources for Exceptional Student Transition

License	Start Date	End Date	List	Discount	Total
High School Progress Learning	7/1/2023	6/30/2024	\$9,950.00	\$4,676.50	\$5,273.50
Middle School Progress Learning	7/1/2023	6/30/2024	\$6,950.00	\$3,266.50	\$3,683.50



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Quote #: Q-22322-1
 Date: 4/4/2023 3:34 PM
 Expires On: 6/30/2023
 Quote Total: \$92,432.00

License	Start Date	End Date	List	Discount	Total
Liftoff - Middle	7/1/2023	6/30/2024	Included	\$0.00	\$0.00
CREST - Citrus Resources for Exceptional Student Transition Subtotal:					\$16,900.00
CREST - Citrus Resources for Exceptional Student Transition Discount:					\$7,943.00
CREST - Citrus Resources for Exceptional Student Transition Total:					\$8,957.00
Subtotal:					\$174,400.00
Discount					\$81,968.00
Total:					\$92,432.00

One time 47% discount applied.

ATTACHMENT C

PROGRESS LEARNING LLC - WEBSITE TERMS OF SERVICE

Effective Date: July 11, 2022

Welcome to www.ProgressLearning.com (the "Website"), a website owned and operated by Progress Learning, LLC ("Progress Learning"). These Terms of Use apply to your use of the Website, and only the Website. To review the Terms of Service for the Progress Learning Offerings, [please click here](#).

The following Terms of Use for the Website is a legal contract between you ("you," "You," or, collectively, "Users") and Progress Learning, regarding your use of the Website.

PLEASE READ CAREFULLY THE FOLLOWING TERMS OF USE. BY REGISTERING FOR AN ACCOUNT WITH, ACCESSING, BROWSING, DOWNLOADING FROM OR USING THE WEBSITE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS, INCLUDING ANY ADDITIONAL GUIDELINES AND FUTURE MODIFICATIONS (COLLECTIVELY, THE "TERMS"). IF AT ANY TIME YOU DO NOT AGREE TO THESE TERMS, PLEASE IMMEDIATELY TERMINATE YOUR USE OF THE WEBSITE.

1. Eligibility

The Website is a resource for customers and potential customers. By registering for an account with the Website, you represent that you are at least 13 years of age and have not been previously suspended or removed from any Progress Learning web service.

2. Privacy

1. We take the protection of your personal information seriously, which is why Progress Learning has adopted the following privacy policy, which can be found by clicking here: [privacy policy](#). Progress Learning's Privacy Policy is hereby incorporated into these Terms by reference. Please read our Privacy Policy carefully for information relating to Progress Learning's collection, use, and disclosure of your personal information.

3. Individual Features and Services

1. When using the Website, you will be subject to any additional posted guidelines or rules applicable to specific services and features that may be posted from time to time (the "Guidelines"). All such Guidelines are hereby incorporated by reference into these Terms.

4. Modification of These Terms

Progress Learning reserves the right, at our discretion, to change, modify, add, or remove portions of these Terms at any time with or without notice. Please check these Terms and any Guidelines periodically for changes. Your continued use of the Website after the posting of changes constitutes your binding acceptance of such changes.

5. Digital Millennium Copyright Act

Progress Learning respects authors' and content holders' rights. It is Progress Learning's policy to respond to notices of alleged infringement that comply with the Digital Millennium Copyright Act (the "DMCA"). For more information, please go to Progress Learning's DMCA

6. Ownership and License Grants

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7. Prohibited Conduct

1. The following behaviors are prohibited by Progress Learning. You hereby agree that you shall not:
 - o rent, lease, loan, sell, resell, sublicense, distribute, or otherwise transfer the licenses granted herein or any Materials;
 - o download or copy account information for the benefit of another merchant;
 - o impersonate any person or entity, falsely claim an affiliation with any person or entity, access the Website accounts of others without permission, or perform any other similar fraudulent activity;
 - o delete the copyright or other proprietary rights on the Website;
 - o use the Website for any illegal purpose, or in violation of any local, state, national, or international law, including, without limitation, laws governing intellectual property and other proprietary rights, and data protection and privacy;
 - o remove, circumvent, disable, damage, or otherwise interfere with security-related features of the Website, features that prevent or restrict use or copying of any content accessible through the Website, or features that enforce limitations on the use of the Website;
 - o reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code of the Website or any part thereof, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation;
 - o modify, adapt, translate, or create derivative works based upon the Website or any part thereof;
 - o intentionally interfere with or damage operation of the Website or any User's enjoyment of them, by any means, including uploading or otherwise disseminating viruses, adware, spyware, worms, or other malicious codes;

- use any robot, spider, scraper, or other automated means to access the Website for any purpose or bypass any measures Progress Learning may use to prevent or restrict access to the Website;
- interfere with or disrupt the Website, servers, or networks connected to the Website, or disobey any requirements, procedures, policies, or regulations of networks connected to the Website;
- post, upload, or distribute marketing material, advertisements, spam, content designed to aid search engine optimization, content in HTML format with links or redirects, or other commercial content that detracts from the Progress Learning experience;
- upload any student work product or other materials that could be considered "education records" under the Family Educational Rights and Privacy Act ("FERPA").

8. Right to Exercise

Progress Learning reserves the right to exercise whatever lawful means it deems necessary to prevent unauthorized or inappropriate use of the Website.

9. Account

When you use the Website to create an account, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password and for restricting access to your account, and you agree to accept responsibility for all activities that occur under your account or password. You agree that the information you provide to Progress Learning on registration and at all other times will be true, accurate, current, and complete. If you give us your email address, Progress Learning may use it from time to time to notify you about new products or to confirm transactions. If you have reason to believe that your account is no longer secure (e.g., in the event of a loss, theft, or unauthorized disclosure or use of your account ID or password), then you agree to immediately notify Progress Learning. All quotes generated by the Website are estimates based upon the information you provide and are not a contract or agreement to provide products or services.

10. Indemnification; Disclaimer; Limitation of Liability

1. You agree to indemnify, defend, and hold Progress Learning, its affiliated companies, contractors, employees, agents, and its third-party suppliers, licensors, and partners harmless from any claims, losses, damages, liabilities, including legal fees and expenses, arising out of your use or misuse of the Website, any violation by you of these Terms, or any breach of the representations, warranties, and covenants made by you herein. Progress Learning reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify Progress Learning, and you agree to cooperate with Progress Learning's defense of these claims. Progress Learning will use reasonable efforts to notify you of any such claim, action, or proceeding upon becoming aware of it.

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CERTAIN JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF YOU RESIDE IN SUCH A JURISDICTION, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS. THE LIMITATIONS OR EXCLUSIONS OF WARRANTIES, REMEDIES, OR LIABILITIES CONTAINED IN THESE TERMS OF USE APPLY TO YOU TO THE FULLEST EXTENT THAT SUCH LIMITATIONS OR EXCLUSIONS ARE PERMITTED UNDER THE LAWS OF THE JURISDICTION WHERE YOU ARE LOCATED.

11. Miscellaneous

The failure of Progress Learning to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision. If any provision of these Terms or any Guidelines is held to be unlawful, void, or for any reason unenforceable, then that provision will be limited or eliminated from these Terms to the minimum extent necessary and will not affect the validity and enforceability of any remaining provisions. These Terms will be governed by and construed in accordance with the laws of the state of Georgia, 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 these Terms will be filed only in the state or federal courts in and for Atlanta, Georgia, and you hereby consent and submit to the personal and exclusive jurisdiction of such courts for the purposes of litigating any such action. These Terms, and all rights and licenses granted hereunder, may be assigned by Progress Learning without restriction. You may not assign or transfer your Progress Learning account.

Contacting Us

Please contact us at info@Progress Learning.com if you have any questions or comments about this Policy. You can also contact us by general mail or phone listed below. General comments about our web site can be directed to info@Progress Learning.com.

General Mail

Progress Learning
2201 N Central Expy
Suite #121
Richardson, Texas, 75080 **Toll-Free Number:** 877-377-9537

ATTACHMENT D

PROGRESS LEARNING LLC – PRIVACY POLICY

Progress Learning Inc. (“Progress Learning,” “we,” “us,” and “our”) owns and operates this website. This Notice describes our commitment to privacy and reflects the importance we place on earning and keeping your trust.

If you have any questions about this Notice or our privacy practices, please contact us by e-mail at info@progresslearning.com, by phone at 877-377-9537, or by mail at 2201 N Central Expy, Suite 121, Richardson, TX 75080.

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We have provided this Notice so that you will know what information we collect, how we use this information, the types of third parties with whom we may share this information, and some of the choices that are available to you.

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Non-personal demographic and profile data is used to tailor your experience at our site, showing you content we think you might be interested in.

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This Notice is part of the Terms of Use that govern your use of this Site. A link to our Terms of Use is also provided at the bottom of this Site.

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This Notice May Change

This Notice describes our current policies and practices with regard to the information we collect through this Site.

We are continually improving and adding to the features and functionality of this Site and the services we offer through this Site. As a result of these changes (or changes in the law), we may need to update or revise this Notice. Accordingly, we reserve the right to update or modify this Notice at any time, without prior notice, by posting the revised version of this Notice behind the link marked "Online Privacy Policy" at the bottom of each page of this Site.

Your continued use of this Site after we have posted the revised Notice constitutes your agreement to be bound by the revised Notice. However, we will honor the terms that were in effect when we gathered information from you. You may access the current version of this Notice at any time by clicking the link marked "Online Privacy Policy" at the bottom of each page of this Site.

Types of Information We Collect

Information You Manually Provide. We collect the information you manually provide (using your keyboard, mouse, or touchscreen) when you use this Site. For example, we collect the information you provide when you complete a contact form, reach out to us with questions, or otherwise interact with this Site. Some of the information you manually provide may be personal information, such as your name and contact information.

Information from your browser or device. We collect information that is sent to us automatically by your web browser and/or mobile device. This information typically includes your IP address, the name of your operating system, the name and version of your browser, the date and time of your visit, and the pages you visit. The information we receive may depend on your browser or device settings.

The information we receive from your web browser and device is not, in and of itself, personally identifiable. Generally, we use this information in the aggregate to help us improve this Site and make it more compatible with the technology used by our visitors. However, we may combine it with other information in an attempt to identify you or we may combine it with information that does identify you.

Information Collected by Cookies and Other Technologies. We use "cookies," web beacons, and other technologies to collect information. For example, we may use these technologies to

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How We Use Personal Information Collected Through This Site

Generally, we use the information we collect through this Site:

- to provide the information, products and services you request;
- to provide you with effective customer service;
- to provide you with a personalized experience when you use this Site;
- to contact you with information and notices related to your use of this Site;
- to contact you with special offers and other information we believe will be of interest to you (in accordance with any privacy preferences you have expressed to us);
- to invite you to participate in surveys and provide Feedback to us (in accordance with any privacy preferences you have expressed to us);
- to improve the content, functionality and usability of this Site;
- to better understand your needs and interests;
- to improve our products and services;
- to improve our marketing and promotional efforts;
- for security, credit or fraud prevention purposes; and
- for any other purpose identified in any other applicable agreement between you and us.

How to Access, Update, Or Correct Your Information

If you have created an account on this Site, you may be able to access, update or correct your information through your account settings. Otherwise, you may need our help. Please contact us using the information provided above. We will respond to you within a reasonable time and, in any case, within the time limits established by applicable law. We may ask you for additional information to verify your identity. In most cases, we will provide access and correct or delete any inaccurate information you discover. In some cases, however, we may limit or deny your request if the law permits or requires us to do so or if we are unable to verify your identity.

Steps We Take to Safeguard Your Information

We maintain reasonable administrative, physical and technological measures to protect the confidentiality and security of information you submit on or through this Site. Unfortunately, no website, server or database is completely secure or “hacker proof.” We therefore cannot

guarantee that your information will not be disclosed, misused or lost by accident or by the unauthorized acts of others.

How We Share Your Information

With Third-Party Vendors. We may share information collected through this Site with third-party vendors who act for us or on our behalf. For example, we use third-party vendors to design and operate this Site; to conduct surveys; and to help us with our promotional efforts. These third-party vendors may need information about you to perform their functions.

With Our Affiliates. We may share the information collected through this Site with our affiliate companies. These affiliate companies are permitted to use your information for their own marketing purposes and in a manner otherwise consistent with this Notice. However, before sharing your information in this fashion, we may offer you the opportunity to “opt out” or “opt in,” to the extent required by applicable law.

With Other, Carefully Selected Business Partners. From time to time, we may share your information with selected third parties for their own marketing purposes. For example, we may partner with third parties to sponsor contests or other promotions, and we may share with these third parties the information you submit to us to participate in the contest or take advantage of the promotion. Before doing so, however, we may offer you the opportunity to “opt out” or “opt in,” to the extent required by applicable law.

In Aggregate or De-identified Form. We use information collected through this Site to create a compiled, aggregate view of usage patterns. We may share aggregate information with third parties so they can better understand our user base. We may also share with third parties information about how particular individuals use this Site, but only when the data has been de-identified cannot reasonably be re-identified. (“Individualized Data”). Individualized Data is not personally identifiable, but it does reflect the usage patterns of a particular Site user, as opposed to Site users collectively. We may provide basic demographic information (gender and age) in conjunction with providing Individualized Data. Third parties typically use this information for analytical purposes and to market their own products and services.

As Part of a Business Transfers. Your information may be transferred to successor organization if, for example, we transfer the ownership or operation of this Site to another organization or if we merge with or are acquired by another organization, or if we liquidate our assets and sell them individually. If such a transfer occurs, the successor organization’s use of your information will still be subject to this Notice and the privacy preferences you have expressed to us.

To Comply with Laws and Protect Our Rights and the Rights of Others. We may disclose your information when we, in good faith, believe disclosure is appropriate to comply with the law, a court order or a subpoena. We may also disclose your information to prevent or investigate a possible crime, such as fraud or identity theft; to protect the security of this Site; to enforce or apply our online [Terms of Use](#) or other agreements; or to protect our own rights or property or the rights, property or safety of our users or others. *As Described in any other Applicable Notice.* We reserve the right to disclose your information as described in any privacy notice posted on a page of this Site where you provide that information. By providing your information on that

page you will be consenting to the disclosure of your information as described in that privacy notice.

Children Under the Age of 13

We are proud of this Site and we strive to ensure that it does not offend people of any age. However, this Site is not intended for children or minors under the age of thirteen years without the permission of a parent or guardian. If you believe that a child has submitted personal information on or through this Site without the consent and supervision of a parent or guardian, please contact us using the information provided above so that we can take appropriate action.

Links to Other Sites

This Site may contain links to websites operated by other organizations, including websites operated by our third-party service providers and other third parties. This Notice does not apply to information collected on any of these third-party websites. When you access third-party websites through a link on this Site, please take a few minutes to review the privacy notice posted on that site.

Governing Law

This Notice shall be governed under the laws of the State of Georgia in United States of America without regard to its conflicts of law provisions.

Contacting Us

Please contact us at info@Progress Learning.com if you have any questions or comments about this Policy. You can also contact us by general mail or phone listed below. General comments about our website can be directed to info@Progress Learning.com.

General Mail

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2201 N Central Expy
Suite #121
Richardson, Texas, 75080 **Toll-Free Number: 877-377-9537**