Master License and Service Agreement

This Master License and Service Agreement ("Agreement" or "MLSA") is made and entered into by and between Renaissance Learning, Inc. ("Vendor"), having its principal offices at 2911 Peach Street, Wisconsin Rapids, WI 54494, and the **Board of Cooperative Educational Services for the First Supervisory District, Erie County** ("Customer"), having its principal offices at 355 Harlem Road, West Seneca, NY 14224. Vendor and Customer are sometimes referred to herein, individually, as a "Party," and collectively, as the "Parties."

Boards of Cooperative Educational Services ("BOCES"), including Customer, are municipal corporations organized and existing under Section 1950 of the New York Education Law, and are authorized to provide cooperative educational services to school districts in New York State pursuant to cooperative educational service agreements ("CoSers") approved by the New York State Education Department.

Regional Information Centers ("RICs"), organized and administratively aligned under a BOCES, provide shared technology and other educational support services on a regional basis to its BOCES' component school districts, and to other BOCES and school districts located within the RIC's respective region.

Cooperative educational services provided by a BOCES (by the BOCES itself, or if applicable, its respective RIC) include shared computer services, software, and technical training and support that are provided to school districts that enter into applicable CoSers.

Customer is authorized to issue requests for proposals, award and enter into contracts for the purchase of instructional software applications that can be made available to school districts as part of applicable approved CoSers, on behalf of itself and other BOCES across New York State that participate in a statewide Regional Information Center Contract Consortium ("NYSRIC"). Through Customer's procurement process, Renaissance Learning, Inc. has been identified and accepted by Customer as a provider of Schoolzilla and eduCLIMBER, as more fully described herein (the "Product(s)").

As Customer and several other BOCES throughout New York State have expressed an interest in offering the Product(s) to school districts as part of the applicable approved CoSers, Customer wishes to make the Product(s) available through the NYSRIC. Accordingly, the Parties have entered into this Agreement to set forth the terms upon which the Product(s) will be made available by Customer to itself and to other BOCES and school districts through the NYSRIC.

1. TERM and TERMINATION

1.1 Term of Agreement. The Effective Date of this Agreement shall be July 1, 2023. The initial term of this Agreement shall commence on the Effective Date and continue until 11:59 pm June 30, 2026 ("the Initial Term"), unless earlier terminated as otherwise set forth herein. The Initial Term may be extended for successive renewal terms of three (3) years (each a "Renewal

Term") only by mutual execution by the Parties of either a written Amendment to this Agreement, or, a new Agreement.

1.2   Termination of Agreement. Either Party may terminate this Agreement for any reason prior to the expiration of its Initial Term (or the expiration of any Renewal Term) upon ninety (90) days' written notice to the other.

1.3   Termination by Customer. Customer shall have the right to terminate this Agreement at any time prior to the expiration of its Initial Term (or the expiration of any Renewal Term) in the event of Vendor's failure to cure any default or breach of this Agreement within (30) days written notice from Customer.

2.   SCOPE OF SERVICES

Acting as an independent contractor, Vendor will provide the Product(s) as more fully described and at the prices stated in **Exhibit A**, attached to this Agreement and incorporated by reference. Any services related to the Product(s) to be provided by Vendor, including but not limited to consulting, educational, hosting, system administration, training or maintenance and support services ("Services"), shall be as more fully described within this Agreement and at the prices stated in **Exhibit A**, attached to this Agreement and incorporated by reference.

3.   GRANT OF LICENSE

3.1   The Product(s) are provided under license. Vendor grants to Customer, as a participating BOCES in the NYSRIC on behalf of the Western New York Regional Information Center ("WNYRIC"), and to each other BOCES that is a participant in the NYRIC, a non-assignable, non-transferable and non-exclusive license to utilize the Product(s) pursuant to the terms and conditions set forth herein. Vendor further grants to each individual school district that contracts for the Product(s) with a BOCES through the NYSRIC by purchasing CoSer 7710 Computer Service: Management and provides professional development under the same CoSer, a non-assignable, non-transferable and non-exclusive license to utilize the Product(s) pursuant to the terms and conditions set forth herein. For purposes of the licenses granted by Vendor pursuant to this Agreement, Customer, each other RIC, and each individual school district as described herein may also be referred to individually as a "Licensee" and collectively as "Licensees." Licensees shall not assign, sublicense or otherwise encumber or transfer the Product(s) without the prior written consent of the Vendor. Nothing herein shall act to transfer any interest in the Product(s) to any Licensee, and title to and ownership of the Product(s) shall at all times remain with the Vendor.

3.2   Vendor may terminate the license granted to a Licensee under this Agreement if the Licensee fails to comply with any terms and conditions of this Agreement that are specifically applicable to that entity as a Licensee. Within five (5) days of receipt of such termination, the Licensee shall return all materials related to the Product(s) and, to the extent applicable, arrange with Vendor to remove the Product(s) from the computers located at the Licensee's sites or under the direct control of Licensee.

3.3   Vendor warrants that it has full power and authority to grant the rights herein described.   Vendor's obligation and liability under this Section 3 shall be to obtain any

authorization necessary to make effective the grant of license to Licensees to use the Product(s), in such a manner or method as determined by Vendor, at Vendor's own cost and expense.

4.   USE of PRODUCTS, PROTECTION OF APPLICATION and CONFIDENTIAL INFORMATION

4.1   Product(s) shall be utilized only at such licensed sites as shall be designated by Licensees (or utilized in a cloud environment as designated by Licensees) and shall be used solely for the benefit of Licensees.   Licensees shall not permit or provide for transfer or reproduction of the Product(s), or any portion thereof, to be placed on a computer not at the Licensee's designated sites or under the direct control of the Licensee, by physical or electronic means, unless specifically authorized by Vendor and/or as otherwise provided in this Agreement.

4.2   The Product(s) are protected by copyright law.   Vendor hereby confirms that Vendor is the owner of the copyright in the Product(s) described in **Exhibit A**, as well as an authorized source or reseller for the Product(s) in the state of New York.   Licensees shall not make or allow others to make copies or reproduction of the Product(s), or any portion thereof in any form without the prior written consent of Vendor and/or as otherwise provided in this Agreement.   The unauthorized copying, distribution or disclosure of the Product(s) is prohibited and shall be considered a material breach of this Agreement.

4.3   Except as expressly stated herein, no Licensee may alter, modify, or adapt the Product(s), including but not limited to translating, reverse engineering, decompiling, disassembling, or creating derivative works, and may not take any other steps intended to produce a source language state of the Product(s) or any part thereof, without the prior written consent of Vendor.

4.4   Licensees shall be the sole owner and custodian of any information or data transmitted to, received, or manipulated by the Product(s), except as otherwise specifically set forth in this Agreement.

4.5   **Confidential Information.** Each Party will use the same degree of care to protect the other Party's Confidential Information as it uses to protect its own confidential information of like nature, but in no circumstances less than reasonable care.   "Confidential Information" for purposes of this subparagraph means any information that is marked or otherwise indicated as confidential or proprietary, in the case of written materials, or, in the case of information that is disclosed orally or written materials that are not marked, by notifying the other Party of the proprietary and confidential nature of the information, such notification to be done orally, by email or written correspondence, or via other means of communication as might be appropriate. Notwithstanding the foregoing, (a) Confidential Information of Vendor shall include the Software and the terms of this Agreement (except those portions of the Agreement that Customer may be required to disclose by law or legal process) and (b) the Confidential Information of Customer shall include personally identifiable information regarding its and other Licensees' end users provided in connection with the Product(s). Confidential Information does not include information which (a) was known to the receiving Party or in the public domain before disclosure; (b) becomes part of the public domain after disclosure by a publication or other means except by a breach of this Agreement by the receiving Party; (c) was received from a third party under no duty or

obligation of confidentiality to the disclosing Party; or (d) was independently developed by the receiving Party without reference to Confidential Information. Disclosures of Confidential Information that are required to be disclosed by law or legal process shall not be considered a breach of this Agreement as long as the recipient notifies the disclosing Party, provides it with an opportunity to object and uses reasonable efforts (at the expense of the disclosing Party) to cooperate with the disclosing Party in limiting disclosure to the extent allowed by law.

4.6   Vendor Obligations Under NYS Education Law 2-d.   For Student Data, or Teacher and Principal Data, as such terms are defined in New York Education Law Section 2-d, Vendor shall comply with all terms, conditions and obligations as set forth in the Data Sharing and Confidentiality Agreement incorporated into this Agreement by reference as **Exhibit D**. In the event that Vendor receives, stores or maintains Student Data, or Teacher and Principal Data provided to it by a Licensee, whether as a cloud provider or otherwise, the Vendor assumes all risks and obligations in the event of a breach of security of such data. Vendor shall not subcontract or assign its obligation to store or maintain Student Data, or Teacher and Principal Data provided to it pursuant to this Agreement to a third-party cloud provider unless granted specific prior written permission from Customer.

5.   REPRESENTATIONS, WARRANTIES AND DISCLAIMERS

5.1   Mutual.   Each Party represents and warrants that it has the power and authority to enter into this Agreement and that the Party's execution, delivery, and performance of this Agreement (a) have been authorized by all necessary action of the governing body of the Party; (b) do not violate the terms of any law, regulation, or court order to which such Party is subject or the terms of any agreement to which the Party or any of its assets may be subject; and (c) are not subject to the consent or approval of any third party, except as otherwise provided herein.

5.2   Intellectual Property.   Vendor warrants that use of the Product(s) does not infringe any United States patent, copyright, or trade secret. Vendor will indemnify Customer and any other applicable Licensee and hold it or them harmless from and against any and all claims, actions, damages, liabilities and expenses in connection with any allegation that the use of the Product(s) provided hereunder infringed upon any United States patent or pending application for letters patent or constituted an infringement of any trademark or copyright. Customer or the other Licensee, as applicable, will notify Vendor in writing of such suit, claim, action, proceeding or allegation(s). Vendor shall have sole control of the defense.   Customer or the other Licensee, as applicable, shall provide reasonable information and assistance to the Vendor at the Vendor's expense.

5.2.1   Vendor shall have the right to make such defense by counsel of its choosing and Customer or the other Licensee, as applicable, shall cooperate with said counsel and Vendor therein.

5.2.2   If the Product(s) are held to infringe, or in Vendor's opinion is likely to be held to infringe, any United States Patent or pending applications for Letters Patent, or any Trademark or Copyright, Vendor shall, in addition to its obligations as set forth in paragraphs 5.2 and 5.2.1 above, at its expense, (a) secure the right for Customer or the other Licensee, as applicable, to continue use of the Product(s) or (b) replace or modify the Product(s) to make it non-infringing. If commercially reasonable efforts to perform the foregoing are unsuccessful,

Customer or the other Licensee, as applicable, shall be entitled to a pro-rata refund of fees paid by Customer or the Licensee to Vendor pursuant to this Agreement, calculated as of the date Customer or the Licensee, as applicable, was prohibited from using the Product(s).

5.2.3 Vendor shall have no obligation with respect to any such claim of infringement based upon modifications of machines or programming made by Customer or any other Licensee without Vendor's approval, or upon their combination, operation, or use with apparatus, data, or programs not furnished by Vendor by Customer or any other Licensee, without Vendor's approval.

5.3 Warranties. Vendor represents and warrants that (a) the Product(s) will perform substantially in accordance with the specifications set forth in the then-current Documentation, if any, for such Product(s), and that (b) the Services will be performed in a professional and workmanlike manner. In the event of a non-conformance of the Product(s) or Services, reported to Vendor by Customer or any other Licensee, Vendor shall make commercially reasonable efforts to correct such non-conformance. In the event that Vendor is unable to correct such non-conformance, Vendor will provide Customer or the other Licensee, as applicable, with replacement or repair of defective Product(s), re-performance of Services, or a pro-rata refund of fees paid pursuant to this Agreement, calculated as of the date of commencement of any period of non-conformance.

5.4 Remedies available to Customer or any other Licensee for damage or loss to the Product(s) shall be the repair or replacement of the Product(s) or a pro-rata refund of fees paid pursuant to this Agreement, calculated as of the date of commencement of the damage or loss. Vendor shall have no liability or responsibility for damage or loss to the Product(s) caused by any alteration or modification by a Licensee not authorized by Vendor, or for damage or loss arising out of the malfunction of Licensee's equipment or other software not supplied by Vendor.

5.5 Disclaimers. EXCEPT AS EXPRESSLY PROVIDED HEREIN, VENDOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY WITH RESPECT TO THE PRODUCT(S) AND SERVICES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. VENDOR DOES NOT WARRANT THAT THE PRODUCT(S) WILL PERFORM OR OPERATE UNINTERRUPTED OR ERROR-FREE, OR THAT THE FUNCTIONS CONTAINED IN THE PRODUCT(S) WILL MEET ANY LICENSEE'S PARTICULAR REQUIREMENTS OR PURPOSE.

5.6 Customer Representations and Warranties. Customer hereby represent and warrants to Vendor:

5.6.1 That all RICs that are participants in the NYSRIC, including Customer, have agreed to be bound by the terms of this Agreement and perform their specific obligations as participating RICs herein.

5.6.2 That all RICs that are participants in the NYSRIC, including Customer, will take reasonable measures to ensure that all of the sites used by RICs and school district Licensees within their jurisdiction will meet the systems and network minimum requirements set forth on **Exhibit C**, attached to this Agreement and made a part hereof.

5.6.3 That all RICs that are participants in the NYSRIC, including Customer, will take steps to ensure that RICs and school district Licensees within their jurisdiction use their best efforts to make staff available for training in how to utilize the Product(s) as requested by Vendor.

5.6.4 That all RICs that are participants in the NYSRIC, including Customer, will provide Vendor with the name of a contact person (hereinafter referred to as the "BOCES/RIC Contact") who will have the authority to act on behalf of the RIC and school district Licensees within their jurisdiction with regards to any questions or issues that may arise during the installation or implementation of the Product(s). Unless directed by that BOCES/RIC Contact, the Vendor will have no other contact within the RIC regardless of previous working relationships. The Vendor will provide written communication to the BOCES/RIC Contact if it plans to demo/visit a RIC or school district Licensee within that RICS' jurisdiction. This communication will occur a minimum of two (2) days prior to the demo/visit.

6. INDEMNIFICATION

Customer shall indemnify and hold harmless Vendor and its officers, directors, employees and agents and hold them harmless from any and all third party claims, liabilities, costs, and expenses, including attorney fees and expenses, arising from or relating to any breach by Customer of this Agreement. Vendor shall indemnify and hold harmless Customer and its officers, directors, employees and agents and hold them harmless from any and all third party claims, liabilities, costs, and expenses, including attorney fees and expenses, arising from or relating to any breach by Vendor of this Agreement.

7. PRODUCT INQUIRIES AND DEMONSTRATIONS

Company representatives must provide each BOCES with notification if Company will be going onsite to talk to their districts or providing a demo. Notification can be accomplished by sending an email prior to heading to a region to meet with districts. Company may not go into a district or provide a webinar without letting the BOCES know. Likewise, if a BOCES/RIC receives an inquiry from a potential customer inquiring about Company products, BOCES/RIC will provide Company with a minimum of 24-hour email notice prior to any product demonstration/webinar taking place. Formal product demonstrations/webinars may only be delivered in partnership with Company.

8. FEES AND PAYMENT

8.1 **License Fees.** In consideration of the licenses granted to all Licensees as described herein, and the Services to be performed by Vendor, Customer agrees that each participating BOCES (including Customer) shall pay Vendor the applicable fees set forth in **Exhibit A** on behalf of each Licensee within its jurisdiction that participates in the applicable CoSers during any fiscal year within the Initial Term of this Agreement or any Renewal Term.

8.2 **Pricing**. The fees set forth in **Exhibit A** shall be applicable during the period July 1, 2023 through June 30, 2024 (the first fiscal year within the Initial Term of this Agreement).

Vendor will provide to Customer proposed new pricing for each succeeding fiscal year within the Initial Term of this Agreement (or each succeeding fiscal year within any Renewal Term) by November 1 of each fiscal year, by notification to Michelle Okal-Frink, Erie 1 BOCES through the Vendor Hub Site - https://sites.google.com/e1b.org/erie1bocesvendorhub/home   or by certified letter addressed to 355 Harlem Road, West Seneca, NY 14224.   Michelle Okal-Frink will work with the Vendor to evaluate and accept pricing to be applicable during each succeeding fiscal year; however, in no event shall software pricing increase by more than 2% annually. The Parties shall revise **Exhibit A** as needed to reflect any new prices as mutually agreed. If no notification is received by November 1 of any fiscal year, the fees established for the then current fiscal year will remain in effect for the subsequent fiscal year. After acceptance of the annual price list, vendors will send out renewal quotes to the individual RICs by Dec 1st of that contract year. Quotes will be prorated for new business or renewals to align with the agreement annual terms ending June 30th as agreed to in the RFP response.

8.3 **Quotes**. Quotes applicable to any RIC or school district Licensees based on the fees set forth in **Exhibit A** shall be provided to each BOCES/RIC Contact (including Customer's) or his/her designee. The Vendor will not provide RIC quotes directly to any school district. Each quote will be made out to the RIC requesting the quote, reference the NYSRIC contract number, identify the beginning and end date, have the name of the district included and identify the name and email of the rep sending the quote. Each participating RIC (including Customer) will issue a purchase order to Vendor on behalf of each Licensee within its jurisdiction that wishes to participate in the applicable CoSers. All quotes after July 1 will be prorated to end June 30 of that fiscal year. The Vendor will not provide a RIC quote to any BOCES outside of the consortium.

8.4 **Invoices.**   When invoicing Customer, Vendor shall send Erie 1 BOCES invoices addressed to 355 Harlem Road, West Seneca, NY 14224 (Attention: Business Office) or email to ap@e1b.org; any other RIC invoices shall be sent by Vendor to the other participating RIC initiating the request. Vendor shall contact the BOCES/RIC contact at each other participating RIC to receive the proper invoicing address. Payment shall be made by each participating RIC (including Customer) within forty-five (45) days of either completion of the activation of the Product(s) at the site of a Licensee, or the implementation meeting for service. Invoices must match the RIC/BOCES PO in order for payment to be released. This includes the contract number, purchase order number and the cost on the invoice must match the cost on the purchase order.

8.5 **Withdrawal.**   Vendor acknowledges that due to the nature of BOCES services, individual Licensees may from time to time, during the Initial Term of this Agreement or any Renewal Term, withdraw from or choose not to renew their participation in the applicable BOCES service for a subsequent fiscal year. Each participating RIC (including Customer) shall provide written notification to Vendor of any such withdrawal or non-renewal by any Licensee within its jurisdiction no later than thirty (30) days prior to its effective date (typically July 1st), without penalty. Any Licensee will need to partner with the vendor contact with a license change notification for any changes that need to made within the 30 days prior to the payment of the purchase order. After the 30 days, other changes may be made, with the agreement of the vendor on an exception basis, up until the second week of the school year. This may result in additional charges, a credit or a refund. Upon receipt of notification, Vendor shall securely delete or otherwise destroy any and all Protected Data received from that Licensee remaining in the possession of Vendor or any of its subcontractors or other authorized persons or entities to whom it has disclosed the Protected Data; if requested by the Licensee, Vendor will assist in exporting

all Protected Data previously received back to the Licensee prior to deletion. Vendor will provide Customer and the Licensee with written certification from an appropriate officer that these requirements have been satisfied in full. For purposes of this subsection 7.5, "Protected Data" shall have the same meaning as set forth in the Data Sharing and Confidentiality Agreement incorporated into this Agreement by reference as **Exhibit D**. Notwithstanding the non-renewal or withdrawal of any Licensee, the terms of this Agreement shall continue in full force and effect with respect to Customer and any other remaining BOCES or school district Licensees.

9. IMPLEMENTATION ASSISTANCE SERVICES AND TRAINING SUPPORT

9.1 Training. The Vendor will provide initial training, at no cost, to Customer's staff and the staff of each participating RIC so that they are able to turn key and train school district Licensees using RIC accounts or Product(s) provided to the RIC/BOCES at no cost, at four (4) sites during each year of this Agreement. These accounts will be fully active within the system and not simply a training site. This training should be in person and be robust whereas the RIC staff developers are able to provide the support and professional development to the school district Licensee in order to promote a successful implementation. The 4 initial training days (per product) should be held in person if possible. Renaissance shall receive notification 4 weeks in advance of each session. The 4 additional update training sessions (per product) may be held virtually. This is a total of 8 sessions, per product, awarded. The Vendor will provide on-site training and installation to the BOCES staff as outlined in **Exhibit B**, attached and incorporated herein by reference. BOCES training must be available to District by solution to show full integration of products when more than one product is purchased.

9.2 Use of Training Materials. Customer, all other participating (Regional Information Centers "RIC"s), and all school district Licensees may use the entire Vendor provided training materials, on an ongoing basis, at no cost. Customer, all other participating Regional Information Centers, and all Licensee school districts may modify the Documentation for use solely within the Licensee school districts that have purchased the Product(s) pursuant to this Agreement.

9.3 Training Logins & Sites. The Vendor will provide Customer and all other participating Regional Information Centers the Product(s) or application logins and demo sites, at no cost, for utilizing the Product(s) while training Licensee school districts. The Vendor will provide administrative logins to Customer and all other participating RICSs for each Licensee school district in order for Customer and all other participating RICs, as owners of the equipment/licenses, to manage and maintain accounts as required by the State Department of Education. The Vendor will provide updates and training each year for four additional sites throughout New York State for new and current trainers to be coordinated through Michelle Okal-Frink or her designee. Michelle Okal-Frink or her designee must approve any marketing that would include the name and or logo of Customer or any other participating RICs.

10. TECHNICAL SUPPORT SERVICES

10.1 Technical support and updates provided by Vendor shall include assistance and consultation by phone or chat to assist Customer, any other participating RICS, or any school district Licensee in resolving problems with the use of the Product(s), at no charge.

10.2 Vendor shall provide support for the Product(s) for at least one (1) year following any notification by Vendor to Customer, any other participating RICS, or any school district Licensee that the Product(s) has been discontinued.

10.3 All requests for assistance to Vendor by Customer, any other participating RICs, and/or any school district Licensee to resolve problems which cause the software to become "inoperative" will be acknowledged by Vendor by phone or email within twenty-four (24) hours during Vendor's normal support hours. For less severe problems, Vendor must acknowledge the request for assistance by phone or email within forty-eight (48) hours.

10.4 Vendor also agrees to provide the following technical support services to Customer, any other participating RICs, and any school district Licensee:

10.4.1 Toll Free Number support 800-338-4204 from 7:30 A.M. to 8:00 P.M. EST (Eastern Standard Time).

10.4.2 Bug Correction – Vendor shall use its best efforts to correct any software bugs in the Product(s). Customer, any other participating RICS, and any school district Licensee shall allow Vendor in each instance the opportunity to make repeated efforts within a reasonable time to correct any such bugs.

10.4.3 Training, free of charge, for technical staff of Customer and/or any other participating RICS to install or upgrade any equipment. This training can be provided via webinar.

11.   APPLICABLE LAW

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of New York without regard to that State's choice-of-law provisions. In the event a dispute arises between the Parties in connection with this Agreement, the Parties shall use good faith efforts to resolve such dispute by negotiation. In the event the Parties are unable to resolve such dispute by negotiation, the matter shall be venued in any court of competent jurisdiction located in the County of Erie, State of New York and the Parties hereby agree to submit to personal jurisdiction in any such court.

12.   FORCE MAJEURE

Notwithstanding anything to the contrary contained herein, neither Party shall have any liability to the other Party for any default or delay in performance of its obligations hereunder to the extent attributable to unforeseen events beyond the reasonable control of the Party. Such events shall include but not be limited to, natural disasters or "acts of God;" war; acts of public enemies; terrorism; flood; government action, orders or regulations; fire; civil disturbance or unrest; work stoppage or strike; unusually severe weather conditions; disease, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restriction (each, a "Force Majeure" event). Vendor's performance of some or all of its obligations hereunder may also cease at any time upon mutual written agreement between the Parties. Any warranty period affected by a Force Majeure event shall be extended for a period equal to the duration of such Force Majeure event.

13. CONSENT TO BREACH NOT WAIVER

No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent to breach shall be in writing and signed by the Party granting the waiver or consent. If either Party grants a waiver or consent to a breach of a term or provision of this Agreement, such waiver or consent shall not constitute or be construed as a waiver of or consent to any other or further breach of that term or provision or any other different or subsequent breach of any other term or provision.

14. SEVERABILITY

If any term, clause or provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be deemed severed from the Agreement.

15. RISK OF LOSS OR DAMAGE

Vendor and its insurers agree at a minimum to assume all risks of loss and damage to the Product(s) during transportation except for loss or damage caused by the gross negligence of Customer, any other participating RICS, and/or any school district Licensee.

Vendor assumes all risks for injuries to or death of its employees and for damage to its tangible property, excluding damage to data, while on the premises of, or traveling to or from, facilities of Customer, any other participating RICS, and/or any school district Licensee. Vendor shall provide assistance to recover or resolve any damaged data to the reasonable satisfaction of Customer, any other participating RICS, and/or any school district Licensee.

16. AMENDMENT

This Agreement may be amended by Customer and Vendor provided that any such changes or modifications shall be in writing signed or initialed by the parties hereto.

17. HEADINGS

The headings of the paragraphs and sections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part hereof.

18. NOTICES

Except as otherwise provided in this Agreement, all notices required hereunder shall be in writing and sent by certified mail, return receipt requested to the Party at the address written above, or such other address as noticed to the other Party.

19. CONFLICT OF INTEREST

Vendor represents and warrants that Vendor presently has no interest and shall not acquire any interest, direct or indirect that would conflict in any manner or degree with the performance of

Vendor's obligations under this Agreement. Vendor further represents and warrants that it has not employed nor retained any person or company, other than a bona fide employee working solely for Vendor or the Vendor's bona fide agent, to solicit or secure any agreement with any other participating RICS or any school district Licensee. Further, Vendor represents that Vendor has not paid, given, or agreed to pay or give any company or person, other than a bona fide employee working solely for Vendor or the Vendor's bona fide agent, any fee, commission, percentage, brokerage fee, gift, contribution, or any other consideration contingent upon or resulting from the award or making of any agreement with any other participating RICS or any school district Licensee. Upon discovery of a breach or violation of the provisions of this paragraph, Customer shall have the right to terminate this Agreement in accordance with subsection 1.3, however, it may do so immediately and without providing Vendor the opportunity to cure such breach or violation.

20. EMPLOYMENT PRACTICES

Vendor warrants that there shall be no discrimination against any employee who is employed in the work covered by the Agreement, or against any applicant for such employment, because of race, religion, color, sex, age or national origin. This shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, lay-off, termination, rates of pay or other tools of compensation, and selection for training, including apprenticeship. Vendor shall insert similar provisions in any authorized subcontracts for the performance of Services covered by this Agreement.

21. EXECUTORY CLAUSE

This Agreement shall be deemed executory only to the extent of monies appropriated and available to Customer or any other RICS or school district Licensee for the purpose of this Agreement, and no liability on account thereof shall be incurred by Customer or any other RICS or school district Licensee beyond the amount of such monies. The Agreement is not a general obligation of Customer or any other RICS or school district Licensee. Neither the full faith and credit nor the taxing power of any school district Licensee is pledged to the payment of any amount due or to become due under this Agreement. It is understood that neither this Agreement nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or to make monies available from the purpose of this Agreement.

22. NON-ASSIGNMENT

This Agreement shall be binding on the Parties and on their successors and assigns. Vendor is prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or its right, title or interest therein, or its power to execute this Agreement or any amendment thereto, or its power to perform the obligations required by this Agreement to any other person or corporation without the previous consent, in writing, of Customer; and any attempts to assign the Agreement without Customer's prior written consent are null and void. For the avoidance of doubt, Vendor may assign this Agreement to an Affiliate or any entity that acquires substantially all of its respective stock, assets or business.

23. ENTIRE UNDERSTANDING

This Agreement and all Exhibits attached hereto constitute the entire understanding between Customer and Vendor.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the dates set forth below.

Renaissance Learning, Inc.

By: _Ted Wolf_
C98BB492F082447...

Printed Name: Ted wolf

Title: VP Global Controller

Date: 7/5/2023

ERIE 1 BOCES

By: _James Fregelette_
9AEB9EED72B74AB...

Printed Name: James Fregelette

Title: Executive Director, Administrative Services & Operations

Date: 7/5/2023

EXHIBIT A

Please refer to the following Erie 1 BOCES contracted pricing.

Exhibit A-2: Erie 1 BOCES contracted pricing

Contract No. 7710 contracted pricing for 2023-2024

Price updates will be provided for quoting by November 1, 2022. Volume discounts will not apply to this already discounted pricing. Subscription dates begin on the first of the month and are based on a 12-month subscription from date of purchase. Only new customers may prorate the subscription period and amount.

Table 1. Schoolzilla pricing for subscription plan options

Data solution	2023-2024 school year price (RIC pricing)	% change from 2022-2023	Comments
Schoolzilla professional subscription plan (renewals only)			
Schoolzilla professional subscription plan	$5.20 per student *List price:* *$7.00 per student*	+2%	Annual, per-student pricing based on the total student enrollment of the entire district. Includes and automated data integration to RIC-hosted SMS, state assessment data, unlimited access to full library of assessment and data connectors, ability to load custom metrics and configure custom demographic groups. 1,000 student minimum purchase.
RIC or BOCES supported SMS connection implementation and services fee	Year 1: $6,750.00 per district Subsequent years (ongoing services fee): $1,040.80 per district *List price:* *$6,750 (Year 1),* *$1,950.00 (Subsequent years)*	+0% +2%	Exclusive to New York Regional Information Centers − required annual purchase. Subscription packages require a complementary service bundle which includes initial setup to configure dashboards that align with each district's unique context, as well as virtual learning and ongoing progress meetings to demonstrate how to easily answer critical questions and examine trends. It is our goal to inform transformation with impactful data so districts will also receive access to a self-serve portal of resources and tutorials.

Table 2. eduCLIMBER

eduCLIMBER BOCES pricing	2023-2024 school year price	% change from 2022-2023	Comments
eduCLIMBER − costs for year one (based on regional student count)			

RENAISSANCE®

eduCLIMBER BOCES pricing	2023-2024 school year price	% change from 2022-2023	Comments
eduClimber Achievement Dashboard Bundle	$5.00 *List Price $6.00*	0%	Bolster your multi-tiered system of support (MTSS) and school improvement practices with an interactive district-level to whole child data management solution. Includes comprehensive progress monitoring and intervention tracking.
Comprehensive Implementation Costs	$10,000.00	0%	
eduCLIMBER – costs for year two (based on regional student count)			
eduClimber Achievement Dashboard Bundle	$5.00 *List price $6.00*	0%	
Comprehensive Implementation Costs	$0	0%	

Table 3. Shipping and payment terms.

Shipping and payment terms
All prices are FOB Destination. Shipping charges do not apply to customer downloads or subscriptions. Appropriate shipping and processing fees are applied to orders based on weight of product shipped, order destination, carrier fuel surcharges, and special handling/services used. Note that these fees may be adjusted during the contract year.
Payment terms are Net 45 days.

RENAISSANCE®   ©Copyright 2019 Renaissance Learning, Inc. All rights reserved.

EXHIBIT B

Please refer to the following Erie 1 BOCES professional learning and agendas.

Professional learning and agendas

This document provides an updated overview of complimentary resources included with purchase; as well as an overview of the train-the-trainers professional development plan that Erie 1 BOCES has approved with previous iterations of this contract. The information in this document is current as of the date of publication listed in the document header.

Complimentary resources provide essential support

Every Renaissance subscription includes varied resources that are offered at no additional charge. Teachers and administrators may:

- **Get unlimited technical support** by calling our customer service experts toll-free at (800) 338-4204; sending an e-mail to support@renaissance.com; or launching a live chat via the customer's Renaissance hosted site or www.renaissance.com. Live chat and toll-free phone support is available between 7:30 am and 8 pm eastern time, Monday through Friday.
- **Visit Renaissance support center** online at https://www.renaissance.com/support-center/ to access:
  o Back-To-School resources, to-do lists, and student engagement kits
  o Family and educator resources
  o Product-specific help files that provide step-by-step directions to use Renaissance solutions
  o System Status to diagnose any connection problems to the servers associated with the customer's Renaissance site
  o System requirements to review supported devices, operating systems, and web browsers for Renaissance solutions
  o Product updates and release notes to understand new features and enhancements
- **Explore Smart Start introductory videos and resources** to help users achieve proficiency in navigating Renaissance products and using best practices (https://renaissance.widen.net/s/hvsjwqpbgx/smart-start-landing-page)
- **Register to attend upcoming live webinars, or view on-demand webinars** to improve product knowledge and explore key topics in education (https://www.renaissance.com/webinars)
  o **National webinars** address broad educational topics, including multi-tiered systems of supports, progress monitoring, digital literacy, the science of reading, differentiating instruction, supporting emergent bilinguals, how kids are reading and performing, using trip steps to guide literacy and math education, ensuring continuous learning, and using focus skills to close learning gaps
  o **How-to webinars** provide product-specific learning opportunities for teachers and administrators in core areas, including getting started, interpreting data, and enhancing instruction. Additional webinar topics include how to set up a Renaissance site for the new school year; how to roster students, teachers, courses, and classes; how to enhance foundational literacy instruction; how to use varying

RENAISSANCE

Renaissance solutions together, and how to use Star assessments to screen for characteristics of dyslexia

- **Search the Help articles database**, which includes implementation guides, test administration manuals, topic overviews, report information, step-by-step directions to perform specific tasks, troubleshooting tips, and links to additional resources (https://help2.renaissance.com)

- **Use the Knowledge Base**, which provides detailed answers to common technical questions in an easy-to-search format (https://support.renaissance.com/techkb/)

- **Access Renaissance Everywhere resources**, which include parent and family program guides and recommendations for family learning strategies and activities. Many of these resources are available in Spanish as well as English, and select materials are available in additional languages (https://www.renaissance.com/renaissance-everywhere/)

- **Join the Renaissance Royals educator community**, which provides participants with the latest resources to support their implementations, along with discussion boards to seek or offer advice, engage in discussions, share how they are using Renaissance solutions in their classrooms, or connect with fellow educators. Participants can complete engaging activities to earn badges and points that can be redeemed for rewards (https://royals.renaissance.com/users/sign_up?join-code=Ren-Ucom)

- **Participate in the National Honor Roll Program**, which provides implementation strategies and encourages teachers, librarians, and administrators to participate in challenge activities and data check-ins to promote the use of best practices for the Star assessments. (https://www.renaissance.com/honor-roll/)

Paid professional services offer targeted learning and support

Renaissance has extensive experience delivering quality professional services to schools and districts across the country, as well as with state-level projects and implementations. Our paid professional learning services go beyond simple product training to focus on what is more fundamental in accelerating learning: building teacher capacity in best classroom practices.

Research shows that staff development is most effective when content delivery is accompanied by guidance and support, and when an organization develops the internal capacity to maintain a high level of implementation fidelity. Renaissance is committed to providing professional learning that strengthens schools' internal expertise.

Build capacity with a training-of-trainers program

As part of the original contract, Renaissance proposed **Champions Academy**, which is our training-of-trainers model that helps BOCES staff deliver professional learning to component school districts. This program will equip a team from your BOCES with the knowledge, skills, and materials they need to provide customized, just-in-time professional learning to component school districts. As a result, districts will gain the internal capacity to build and sustain an effective solution implementation over time and ensure that each school or district integrates processes that promote success for all learners.

Champions learn best practices for effective implementation, as well as how to support their colleagues and implementation goals. This blended learning model provides three customized professional learning days, which may be delivered in person or online, with **Renaissance-U** online course content.

RENAISSANCE

A member of the Renaissance professional learning team will be available on an ongoing basis to provide training and support to BOCES staff on Renaissance solutions. This professional learning increases the capacity of BOCES staff to help every educator integrate educational technology and data into the daily routines of teaching and learning.

Once Champions Academy participants have time to apply content from the initial professional learning for solutions provided by Renaissance, follow-up learning on additional features and advanced topics will be presented through six hours of remote professional learning and consulting. This professional learning will allow the Renaissance consultant the opportunity to answer implementation questions on topics from the initial professional learning as well as introduce more advanced features and topics.

Following are details and examples of the research-based, Champions Academy training-of-trainers services Renaissance consultants can provide.

Interoperability and Solution Based Professional Learning

The best professional learning is not a one-size-fits-all, off-the-shelf solution. We help you assemble the right blend of services that build an understanding of, and the power behind, our interoperable solutions.

- **Assessments to eduCLIMBER and Schoolzilla** – Improve student outcomes and promote equity through data-based decision making

Support Data Driven Decisions with eduCLIMBER

The eduCLIMBER train-the-trainer session will bring participants through basic navigation of the platform and explore additional features to leverage the data within the platform. Participants will walk away from this session with the resources to enhance personal learning and train other educators in the district. The final 6 hours of training are customized to meet district goals.

- 12-Hour Initial Training (part of the train-the-trainer package)
  - Get started with eduCLIMBER
  - There's a Cohort for that! Develop Custom Cohorts
  - Design Custom Collections of Data
  - The Power of the Dynamic Data Definer: Students 3D
  - Take Action on Data: Interact with Meetings
  - And one of the following
    - Provide Students with Supports: Interventions in eduCLIMBER
    - Customize Forms for Students and Systems: Understand, Create, and Utilize smartFORMS
    - Monitor Academic, Incident, and Attendance Data Automatically: Develop Customized Thresholds
    - Analyze Data in Unique Ways to See the Big Picture
- 3-Hour Knowledge Transfer Workshop (part of the train-the-trainer package)

o   Topic to be determined to best match district goal. Topics can be selected from the <u>linked module library</u>.

Support Data Analytics with Schoolzilla

The Data Analytics Training of Trainers sessions focused on Schoolzilla will equip trainers with the knowledge, skills, and materials they need to provide customized professional development to their colleagues.

To best prepare trainers to master Schoolzilla, sessions could cover topics such as, but not limited to, the following:

- Topic 1: Navigating the Schoolzilla platform.
- Topic 2: Customizing goals and tracking performance with Schoolzilla's connector tiles.
- Topic 3: Zeroing in on demographic focal points.
- Topic 4: Analyzing equity across schools with the use of multiple data measures.

Topics will be customized in ongoing consultation between your Renaissance Consultant and BOCES leadership. The goal is to provide the level of training that advances trainers knowledge and best prepares administrators and teachers to meet goals within Data Analytics focus areas.

These sessions are followed by a year of consulting and implementation support for the team leader. A Renaissance Consultant will work remotely with the team leader over the course of a year after this training to review content, provide ideas for problem solving, and answer questions.

Additional professional learning services are available

In addition to the complimentary resources and Champions Academy training-of-trainers professional learning program described earlier in this document, Renaissance also offers these services for individual purchase, should Erie 1 BOCES wish to pursue them:

- **Renaissance-U** provides access to engaging online tutorials, videos, and activities whenever and wherever educators and administrators wish. This award-winning, research-based solution provides constantly evolving content for educators in distinct learning paths:
  - **Accelerated Teaching course** topics include formative assessment, blended learning, personalized learning, and close reading.
  - **Assessment** course topics include schoolwide planning for assessment, test administration, establishing a data culture, preparing to work with data, universal screening, using learning progressions to inform instruction, setting goals and monitoring progress, and measuring growth and interpreting change, and creating new skills checks and items.
  - **Classroom Data Connections** course topics include establishing a road map for success, evaluating student learning, managing student groups, planning instruction and practice, setting and monitoring student goals, and moving students to mastery.

RENAISSANCE

- o **Literacy** course topics include preparing for reading practice, helping students select the right books and articles, motivating students with meaningful goals, monitoring and guiding students' reading practice, deepening your use of student data, personalized reading, exploring data and making resource connections, teaching media literacy, cultivating a culture of reading, independent reading practice, and instructional reading practice, using data to monitor progress, and accelerating growth with individualized goals.
  - o **Connections** courses help educators gain critical knowledge and implement best practices.
- **On-site seminars** provide active professional learning sessions tailored to educators' specific learning goals. Through hands-on learning and modeling of best practices, participants deepen their understanding of Renaissance solutions, learn how to strengthen their implementations, and discover how to make the greatest impact on student achievement. Each six-hour session is facilitated by a Renaissance professional learning facilitator for up to 30 participants per session.
- **Virtual seminars** provide an interactive, affordable option to deepen educators' knowledge of effective strategies for using Renaissance solutions that is delivered by a Renaissance professional learning facilitator to maximize student growth. A school staff member serves as an on-site facilitator to plan the seminar with the Renaissance facilitator, test the technology, and help lead the seminar. During the event, the on-site facilitator will ensure all participants are logged into the seminar and have working audio and video capabilities to fully participate. These 60- or 90-minute virtual seminars are personalized, fit easily into any schedule, and provide interactive training for up to 30 attendees.
- **Project Management** services partner a Renaissance project manager with key district stakeholders to oversee implementation of the purchased Renaissance solutions. Project manager helps districts identify needs, evaluate change, and implement change successfully. The project manager will facilitate significant and sustained change that aligns to district goals and priorities by connecting key personnel, planning for success, and reporting progress toward milestones. The project manager offers districts a convenient, single point of contact who leads project planning, establishes key milestones, provides ongoing monitoring, measures success, and manages risk.

Summary

New York State districts have already demonstrated their commitment to increasing achievement with their investment in Renaissance products. With Renaissance's Training of Trainers program, BOCES trainers will develop the embedded experts to sustain a successful data-driven model where data is continuously and systemically used to inform instruction.

Agendas

Schoolzilla

- Overview of Schoolzilla
- Guided Walkthrough of Schoolzilla
- Leveraging data

eduCLIMBER

Professional learning and agendas

RENAISSANCE

Erie 1 BOCES
June 2023

Topic	
Day 1	
Welcome and Introductions	5 minutes
Login and Tour the Launchpad Login to the System Tour the Launchpad Understand the Navigation Tabs	50 minutes
Navigate Data Navigate Academic Data Navigate Incident Data Navigate Attendance Data Navigate the Student Profile	120 minutes
Closing	5 minutes
Day 2	
Welcome Back	5 minutes
Review Platform Navigation Through a Scavenger Hunt	20 minutes
There's a Cohort for That! Develop Custom Cohorts What is the Use of Tags in eduCLIMBER? Create Tags from Charted Data Assign Tags from a Data Wall Add a Tag from the Student Tab Manage Tags and Apply Tags to Data Searches	75 minutes
Design Custom Collections of Data Why Create Collections? Pin a Chart Pin a Data Wall Interact with Collections	75 minutes
Closing	5 minutes
Day 3	

Professional learning and agendas

RENAISSANCE

Welcome Back	5 minutes
The Power of Dynamic Data Definer: Students 3D Learn the Power of Students 3D Group Students Filter Data Navigate Charted Reports and Tables	85 minutes
Take Action on Your Data: Interacting with Meetings What is the Benefit of Using Meetings in eduCLIMBER? Create a Meeting Interact with a Meeting Monitor Action Items Access Meeting Summaries	85 minutes
Closing	5 minutes
Day 4	
Welcome Back	5 minutes
Provide Students with Supports: Interventions in eduCLIMBER Understand Interventions in eduCLIMBER Configure Interventions Create Interventions and Log Progress Analyze Interventions Adjust Interventions	150 minutes
Team Planning Time	20 minutes
Closing & Evaluation	5 minutes

EXHIBIT C

Please refer to the following technical recommendations.

Technical Recommendations

A successful Renaissance Growth Platform software implementation requires compliance with the recommendations in this document.

Supported Web Browsers

Windows − Microsoft Edge Chromium[1], Firefox − five most recent versions[2], Chrome − five most recent versions[3]

Macintosh − Safari − five most recent versions[4], Firefox − five most recent versions[2], Chrome − five most recent versions[3]

Screen Resolution

1024 x 768 or higher

We recommend enabling "full screen" mode in the browser and setting the zoom to 100% when students take Star tests to help ensure no scrolling is needed. Note browsers with additional customizations (bookmark tabs, plugins) and lower screen resolutions result in a smaller available space, and may require students to scroll down to view the Next button.

Internet Connection

Broadband Internet connection (DSL, satellite, or cable). Verify you have adequate bandwidth to support task usage estimates. See Knowledge Base article #13002501 https://support.renaissance.com/techkb/techkb/13002501e.asp for more information.

Devices

- Tablets − Tablets are supported when using a web browser on tablets 7 inches or larger. Supported browsers are listed above. Tablets with resolutions below 2,048 x 1,536 may require students to scroll to see the entire interface. Performance may be degraded on single-core processor devices.
- Chromebooks − Renaissance web-based products are compatible with Chromebooks and other Chrome OS devices.

Accessibility

Assistive Technology - Renaissance supports assistive technology for students taking Star Reading and Star Math (English) assessments with the Accommodations preference. The appropriate settings should be selected for students who use screen readers, speech-to-text (speech recognition), switch devices, other assistive technology, and keyboards without a mouse.

Screen readers − Renaissance uses and recommends the Jaws screen reader on Windows in Chrome.

---

[1] Microsoft Edge based on Chromium was released in January 2020. Microsoft Edge Legacy is not supported.
[2] As of July 6, 2022, the five most recent versions of Firefox are 98-102.
[3] As of July 6, 2022, the five most recent versions of Chrome are 99-103.
[4] As of July 6, 2022, the five most recent versions of Safari are 11-15.

Additional Client Requirements and Recommendations

- If using a firewall, proxy, and/or content filter, some changes may need to be made for Renaissance applications to function properly.

    - Allow inbound and outbound HTTP and HTTPS communication with the Renaissance and third-party domains listed in Knowledge Base article #9345286
      https://support.renaissance.com/techkb/techkb/9345286e.asp

    - Users may experience errors in the software if the proxy server caches Renaissance web pages. You may want to configure your network so that users bypass the proxy server entirely when accessing Renaissance.

    - Star Early Literacy requires students to download an MP3 file from Renaissance, and uses an MP4 file when the class preference is set to show the demo video. The Star Math and Star Reading Indiana assessments use MP4 files for the video tutorials that are shown to students in some grades. If you use these programs, be sure to allow this type of activity in your content filtering software.

- Browser cookies must be enabled in order to log in to Renaissance as a student or personnel user. Refer to our Application and Hosting Privacy Policy at http://doc.renlearn.com/KMNet/R60990.pdf for complete details.

- Microsoft Word 2007 or above is required to author content, including Accelerated Reader quizzes and articles and Star Custom assessment items. Note Microsoft Word Online is not compatible.

- Accelerated Reader Recorded Voice Quizzes, Star Early Literacy, and Star Math with Audio support: Sound card or integrated audio, and headphones or speakers.

- Star Math with Audio support: Audio may be prevented from playing automatically in certain browsers on iOS devices. When this occurs, students will need to tap the Play button within the assessment to hear the audio. On older devices, they may see the Play button on each question.

- Star CBM Audio recording: Sound card or integrated audio, microphone for student recording, and headphones or speakers for playback. Note CBM audio recording is not supported in Safari 14.01 or below.

As technology advances it becomes necessary for software companies to drop support for older operating systems and browsers. Although Renaissance will not discontinue support for older products immediately, we will continue to evaluate system requirements and do our best to provide advance notice when it becomes necessary to raise our requirements. It is the responsibility of customers to keep their computers, networks, operating systems, and third-party software up-to-date and functional. We will do our best to support new technologies as they become available but cannot recommend them until they are properly vetted and proven compatible.

If you have any technical questions about Renaissance, call: (800) 338-4204.

Supplement to

MASTER LICENSE AND SERVICES AGREEMENT
(Term Ending June 30, 2026)

Renaissance Learning, Inc. having its principal offices at *2911 Peach Street, Wisconsin Rapids, WI 54494*,, and Board of Cooperative Educational Services for the First Supervisory District, Erie County having its principal offices at 355 Harlem Road, West Seneca, NY 14224 ("Erie 1 BOCES"), have entered into a Master License and Services Agreement, the term of which ends June 30, 2026 (the "Agreement"). By this Supplement, *Renaissance Learning, Inc*. and Erie 1 BOCES wish to provide for the potential purchase of Schoolzilla and eduCLIMBER licenses and services by other Board of Cooperative Educational Services (BOCES) in the State of New York (intermediate units of the NYS Education Department) on the same terms and conditions.

Renaissance Learning, Inc. agrees to honor the pricing in Exhibit A only for the BOCES that adopt the contract at their Boards of Education. If a RIC or BOCES has not adopted the resolution *Renaissance Learning, Inc.* may not extend the same or lesser pricing than has been set forth in Exhibit A. Lower prices will not be offered to school districts/BOCES/RICs in NY state. Vendors may utilize national promotions or sales within the state of New York and those prices would be extended through the contract after the approval of Michelle Okal-Frink or her designee. Special pricing for specific BOCES or RICs is not allowable under this contract.

Erie 1 BOCES and *Renaissance Learning, Inc.* hereby agree:

1. From time to time during the term of the Agreement, another BOCES in New York State (an "Other BOCES") may adopt a Board of Education resolution that permits Erie 1 BOCES to represent the Other BOCES' interests and to enter into the Agreement on behalf of the Other BOCES.

2. The Other BOCES shall purchase under the Agreement by issuing an Addendum in the form of a Board resolution, appropriately amended to reflect that the Other BOCES is the purchaser. By issuing that Addendum, the Other BOCES will agree to be bound by all of the terms of the Agreement with respect to its purchase thereunder.

IN WITNESS WHEREOF, the parties have signed this Supplement to Agreement.

Erie 1 Board of Cooperative Educational Services   *Renaissance Learning, Inc.*

By: _James Fregelette_ _____   By: _Ted Wolf_ _____
  9AEB9EED72B74AB...   C98BB492F082447...
Authorized Signature   Authorized Signature

Name: ___James Fregelette_____   Name: Ted Wolf _____

Title: Executive Director _____   Title: VP Global Controller _____

Address: 355 Harlem Rd _____   Address: 2911 Peach Street Wisconsin Rapids, WI 54494

West Seneca, NY 14224   Date: 7/5/2023

EXHIBIT D

DATA SHARING AND CONFIDENTIALITY AGREEMENT

INCLUDING
PARENTS BILL OF RIGHTS FOR DATA SECURITY AND PRIVACY
AND
SUPPLEMENTAL INFORMATION ABOUT THE MLSA

1. **Purpose**

   (a) This Exhibit supplements the Master License and Service Agreement ("MLSA") to which it is attached, to ensure that the MLSA conforms to the requirements of New York State Education Law Section 2-d and any implementing Regulations of the Commissioner of Education (collectively referred to as "Section 2-d"). This Exhibit consists of the terms of this Data Sharing and Confidentiality Agreement, a copy of Erie 1 BOCES' Parents Bill of Rights for Data Security and Privacy signed by the Vendor, and the Supplemental Information about the MLSA that is required to be posted on Erie 1 BOCES' website.

   (b) To the extent that any terms contained within the MLSA, or any terms contained within any other Exhibits attached to and made a part of the MLSA, conflict with the terms of this Exhibit, the terms of this Exhibit will apply and be given effect. In the event that Vendor has online or written Terms of Service ("TOS") that would otherwise be applicable to its customers or users of its Product that is the subject of the MLSA, to the extent that any term of the TOS conflicts with the terms of this Exhibit, the terms of this Exhibit will apply and be given effect.

2. **Definitions**

   Any capitalized term used within this Exhibit that is also found in the MLSA will have the same definition as contained within the MLSA.

   In addition, as used in this Exhibit:

   (a) "Student Data" means personally identifiable information, as defined in Section 2-d, from student records that Vendor receives from a Participating Educational Agency pursuant to the MLSA.

   (b) "Teacher or Principal Data" means personally identifiable information relating to the annual professional performance reviews of classroom teachers or principals that is confidential and not subject to release under the provisions of New York Education Law Sections 3012-c or 3012-d, that Vendor receives from a Participating Educational Agency pursuant to the MLSA.

(c) "Protected Data" means Student Data and/or Teacher or Principal Data to the extent applicable to Vendor's Product.

(d) "Participating Educational Agency" means a school district within New York State that purchases certain shared instructional technology services and software through a Cooperative Educational Services Agreement with a RICS, and as a result is licensed to use Vendor's Product pursuant to the terms of the MLSA. For purposes of this Exhibit, the term also includes Erie 1 BOCES or another RIC that is licensed to use Vendor's Product pursuant to the MLSA to support its own educational programs or operations.

(e) "Deidentified Data" is data that has had any personally identifiable information removed to such a degree that there is no reasonable basis to believe that the remaining data can be used to identify an individual.

3.   **Confidentiality of Protected Data**

(a) Vendor acknowledges that the Protected Data it receives pursuant to the MLSA may originate from several Participating Educational Agencies located across New York State, and that this Protected Data belongs to and is owned by the Participating Educational Agency from which it originates.

(b) Vendor will maintain the confidentiality of the Protected Data it receives in accordance with federal and state law (including but not limited to Section 2-d) and Erie 1 BOCES's policy on data security and privacy. Vendor acknowledges that Erie 1 BOCES is obligated under Section 2-d to adopt a policy on data security and privacy. Erie 1 BOCES will provide Vendor with a copy of its policy. Vendor and Erie 1 BOCES agree to engage in good faith negotiations to modify this Data Sharing Agreement to the extent necessary to ensure Vendor's continued compliance with Section 2-d.

4.   **Data Security and Privacy Plan**

Vendor agrees that it will protect the confidentiality, privacy and security of the Protected Data received from Participating Educational Agencies in accordance with Erie 1 BOCES' Parents Bill of Rights for Data Privacy and Security, a copy of which has been signed by the Vendor and is set forth below.

Additional elements of Vendor's Data Security and Privacy Plan are as follows:

(a) In order to implement all state, federal, and local data security and privacy requirements, including those contained within this Data Sharing and Confidentiality Agreement, consistent with Erie 1 BOCES' data security and privacy policy, Vendor will: Review its data security and privacy policy and practices to ensure that they are in conformance with all applicable federal, state, and local laws and the terms of this Data Sharing and Confidentiality Agreement. In the event Vendor's policy and practices are not in conformance, the Vendor will implement commercially reasonable efforts to ensure such compliance.

(b) In order to protect the security, confidentiality and integrity of the Protected Data that it receives under the MLSA, Vendor will have the following reasonable administrative, technical, operational and physical safeguards and practices in place throughout the term of the MLSA: Please refer to the attached Information Security Overview.

(c) Vendor will comply with all obligations set forth in Erie 1 BOCES' "Supplemental Information about the MLSA" below.

(d) For any of its officers or employees (or officers or employees of any of its subcontractors or assignees) who have access to Protected Data, Vendor has provided or will provide training on the federal and state laws governing confidentiality of such data prior to their receiving access, as follows: Annually, Vendor will require that all of its employees (or officers or employees of any of its subcontractors or assignees) undergo data security and privacy training to ensure that these individuals are aware of and familiar with all applicable data security and privacy laws.

(e) Vendor [*check one*] __X____will _____will not utilize sub-contractors for the purpose of fulfilling one or more of its obligations under the MLSA. In the event that Vendor engages any subcontractors, assignees, or other authorized agents to perform its obligations under the MLSA, it will require such subcontractors, assignees, or other authorized agents to execute written agreements as more fully described in Erie 1 BOCES' "Supplemental Information about the MLSA," below.

(f) Vendor will manage data security and privacy incidents that implicate Protected Data, including identifying breaches and unauthorized disclosures, and Vendor will provide prompt notification of any breaches or unauthorized disclosures of Protected Data in accordance with Section 6 of this Data Sharing and Confidentiality Agreement.

(g) Vendor will implement procedures for the return, transition, deletion and/or destruction of Protected Data at such time that the MLSA is terminated or expires, as more fully described in Erie 1 BOCES' "Supplemental Information about the MLSA," below.

5.   **Additional Statutory and Regulatory Obligations**

Vendor acknowledges that it has the following additional obligations with respect to any Protected Data received from Participating Educational Agencies, and that any failure to fulfill one or more of these statutory or regulatory obligations shall be a breach of the MLSA and the terms of this Data Sharing and Confidentiality Agreement:

(a) Limit internal access to education records to those individuals that are determined to have legitimate educational interests within the meaning of Section 2-d and the Family Educational Rights and Privacy Act (FERPA).

(b) Limit internal access to Protected Data to only those employees or subcontractors that need access in order to assist Vendor in fulfilling one or more of its obligations under the MLSA.

(c) Not use education records for any purposes other than those explicitly authorized in this Data Sharing and Confidentiality Agreement. For the avoidance of doubt, Vendor may use Deidentified Data as outlined in the attached Privacy Notice and as allowable by FERPA.

(d) Not disclose any personally identifiable information to any other party, except for authorized representatives of Vendor using the information to carry out Vendor's obligations under the MLSA, unless:

   (i) the parent or eligible student has provided prior written consent; or
   (ii) the disclosure is required by statute or court order and notice of the disclosure is provided to Participating Educational Agency no later than the time of disclosure, unless such notice is expressly prohibited by the statute or court order.

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

(f) Use encryption technology that complies with Section 2-d, as more fully set forth in Erie 1 BOCES' "Supplemental Information about the MLSA," below.

(g) Provide notification to Erie 1 BOCES (and Participating Educational Agencies, to the extent required by, and in accordance with, Section 6 of this Data Sharing and Confidentiality Agreement) of any breach of security resulting in an unauthorized release of Protected Data by Vendor or its assignees or subcontractors in violation of state or federal law or other obligations relating to data privacy and security contained herein.

(h) Promptly reimburse Erie 1 BOCES, another RIC, or a Participating School District for the full cost of notification, in the event they are required under Section 2-d to notify affected parents, students, teachers or principals of a breach or unauthorized release of Protected Data attributed to Vendor or its subcontractors or assignees.

6.   **Notification of Breach and Unauthorized Release**

(a) Vendor shall promptly notify Erie 1 BOCES of any confirmed breach or unauthorized release of Protected Data in the most expedient way possible and without unreasonable delay, but no more than seven (7) calendar days after Vendor has discovered or been informed of the breach or unauthorized release.

(b) Vendor will provide such notification to Erie 1 BOCES by contacting Michelle Okal-Frink directly by email at mokal@e1b.org, or by calling (716) 821-7200 (office) or (716) 374-5460 (cell).

(c) Vendor will cooperate with Erie 1 BOCES and provide as much information as possible directly to Michelle Okal-Frink or her designee about the incident, including but not limited to: a description of the incident, the date of the incident, the date Vendor discovered or was informed of the incident, a description of the types of personally identifiable information involved, an estimate of the number of records affected, the Participating Educational Agencies affected, what the Vendor has done or plans to do to investigate

the incident, stop the breach and mitigate any further unauthorized access or release of Protected Data, and contact information for Vendor representatives who can assist affected individuals that may have additional questions.

(d) Vendor acknowledges that upon initial notification from Vendor, Erie 1 BOCES, as the educational agency with which Vendor contracts, has an obligation under Section 2-d to in turn notify the Chief Privacy Officer in the New York State Education Department ("CPO"). Vendor shall not provide this notification to the CPO directly. In the event the CPO contacts Vendor directly or requests more information from Vendor regarding the incident after having been initially informed of the incident by Erie 1 BOCES, Vendor will promptly inform Michelle Okal-Frink or her designees.

(e) Vendor will consult directly with Michelle Okal-Frink or her designees prior to providing any further notice of the incident (written or otherwise) directly to any other RIC or Regional Information Center, or any affected Participating Educational Agency.

wnyric
www.wnyric.org
Erie 1 BOCES Education Campus • 355 Harlem Road • West Seneca, NY 14224-1892

erie boces

PARENTS BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

Erie 1 BOCES is committed to protecting the privacy and security of student, teacher, and principal data. In accordance with New York Education Law § 2-d, the BOCES wishes to inform the community of the following:

(1) A student's personally identifiable information cannot be sold or released for any commercial purposes.

(2) Parents have the right to inspect and review the complete contents of their child's education record.

(3) State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.

(4) A complete list of all student data elements collected by the State is available for public review at **http://www.nysed.gov/data-privacy-security/student-data-inventory**, or by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, New York 12234.

(5) Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed in writing to the Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234. Complaints may also be submitted using the form available at the following website **http://www.nysed.gov/data-privacy-security/report-improper-disclosure**.

BY THE VENDOR:

Ted Wolf

Signature

Ted Wolf

Printed Name

VP Global Controller

Title

7/5/2023

Date

SUPPLEMENTAL INFORMATION

ABOUT THE MASTER LICENSE AND SERVICE AGREEMENT
BETWEEN
ERIE 1 BOCES AND RENAISSANCE LEARNING, INC.

Erie 1 BOCES has entered into a Master License and Service Agreement ("MLSA") with Renaissance Learning, Inc. which governs the availability to Participating Educational Agencies of the following Product(s):

Schoolzilla and eduCLIMBER

Pursuant to the MLSA, Participating Educational Agencies may provide to Vendor, and Vendor will receive, personally identifiable information about students, or teachers and principals, that is protected by Section 2-d of the New York State Education Law ("Protected Data").

Exclusive Purpose for which Protected Data will be Used: The exclusive purpose for which Vendor is being provided access to Protected Data is to provide Participating Educational Agencies with the functionality of the Product(s) listed above. Vendor agrees that it will not use the Protected Data for any other purposes not explicitly authorized in the MLSA. Protected Data received by Vendor, or any of Vendor's subcontractors, assignees, or other authorized agents, will not be sold, or released or used for any commercial or marketing purposes.

Oversight of Subcontractors: In the event that Vendor engages subcontractors, assignees, or other authorized agents to perform one or more of its obligations under the MLSA (including any hosting service provider), it will require those to whom it discloses Protected Data to execute legally binding agreements acknowledging the obligation under Section 2-d of the New York State Education Law to comply with the same data security and privacy standards required of Vendor under the MLSA and applicable state and federal law. Vendor will ensure that such subcontractors, assignees, or other authorized agents abide by the provisions of these agreements by: Renaissance maintains a vendor compliance program. Vendors' security and privacy practices are reviewed and evaluated. Renaissance vendors are contractually bound to comply with the security and privacy requirements of both Renaissance and our customers.

Duration of MLSA and Protected Data Upon Expiration:

- The MLSA commences on July 1, 2023 and expires on June 30, 2026.
- Upon expiration of the MLSA without renewal, or upon termination of the MLSA prior to expiration, Vendor will securely delete or otherwise destroy any and all Protected Data remaining in the possession of Vendor or its assignees or subcontractors or other authorized persons or entities to whom it has disclosed Protected Data. If requested by Erie 1 BOCES and/or any Participating Educational Agency, Vendor will assist a Participating Educational Agency in exporting all Protected Data previously received back

to the Participating Educational Agency for its own use, prior to deletion, in such formats as may be requested by the Participating Educational Agency.

- In the event the Master Agreement is assigned to a successor Vendor (to the extent authorized by the Master Agreement), the Vendor will cooperate with Erie 1 BOCES as necessary to transition Protected Data to the successor Vendor prior to deletion.
- With the exception of De-identified Data, neither Vendor nor any of its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data will retain any Protected Data, copies, summaries or extracts of the Protected Data, on any storage medium whatsoever. Upon request, Vendor and/or its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data, as applicable, will provide Erie 1 BOCES with a certification from an appropriate officer that these requirements have been satisfied in full.

Challenging Accuracy of Protected Data: Parents or eligible students can challenge the accuracy of any Protected Data provided by a Participating Educational Agency to Vendor, by contacting the student's district of residence regarding procedures for requesting amendment of education records under the Family Educational Rights and Privacy Act (FERPA). Teachers or principals may be able to challenge the accuracy of APPR data provided to Vendor by following the appeal process in their employing school district's applicable APPR Plan.

Data Storage and Security Protections: Any Protected Data Vendor receives will be stored on systems maintained by Vendor, or by a data storage/data hosting subcontractor under the direct control of Vendor, in a secure data center facility located within the United States. The measures that Vendor will take to protect Protected Data include adoption of technologies, safeguards and practices that align with the NIST Cybersecurity Framework and industry best practices including, but not necessarily limited to, disk encryption, file encryption, firewalls, and password protection.

Encryption of Protected Data: Vendor (or, if applicable, its subcontractors) will protect Protected Data in its custody from unauthorized disclosure while in motion or at rest, using a technology or methodology specified by the secretary of the U.S. Department of HHS in guidance issued under Section 13402(H)(2) of P.L. 111-5.