

## VIRTUAL CLASSROOM & WEB ADMINISTRATOR AGREEMENT

This Virtual Classroom & Web Administrator Agreement for services ("**Agreement**") is made and entered into by and between Edgenuity Inc. (hereinafter "**Provider**" or "**Edgenuity**") having principal offices at 8860 East Chaparral Road, Suite 100, Scottsdale, Arizona 85250 and the School Board of Suwannee County (hereinafter "**Suwannee County Schools**") located at 1729 Walker Avenue, SW, Ste. 200, Live Oak, FL 32064.

Provider desires to enter this Agreement as a Virtual Classroom provider for Suwannee County Schools. The parties, by signature of their authorized representatives below, enter into this Agreement as of July 1, 2017 (the "**Effective Date**").

Suwannee County Schools elects to use the Virtual Classroom for meeting its district-specific needs for core and/or elective curriculum, credit recovery, grade and/or concept remediation, career and technical education, special populations, summer school, incarcerated youth, and/or blended learning models.

Edgenuity shall provide the Virtual Classroom products and services detailed in Attachment A, Price Quote for Services, # 12137. Suwannee County Schools will purchase the services at the costs shown on Attachment A pursuant to the Subscription Agreement and Standard Terms and Conditions attached hereto as Attachment B. The attachments are incorporated herein by this reference and made part of this Agreement. This Agreement shall replace any other agreements previously between the parties as to the virtual classroom and web administration.

**EDGENUITY INC., a Nevada Corporation**



Signature David Alderslade

Title Chief Financial Officer

8.15.2017

Date

**THE SCHOOL BOARD OF SUWANNEE COUNTY  
FLORIDA**



Signature Ted L. Roush, Superintendent of Schools

AUG 08 2017

Date



"Approved as to Form and Sufficiency  
BY

Leonard J. Dietzen, III

Rumberger, Kirk & Caldwell, P.A.  
Suwannee School Board Attorney"

**ATTACHMENT A**SCSB 2018-68 (REVISED/RENEWAL)**Price Quote for Services****Suwannee County School District**

Live Oak FL

Edgenuity Inc.  
8860 E. Chaparral Road  
Suite 100  
Scottsdale AZ 85250  
480-423-0118

Date 4/12/2017  
Quote # 12137  
Vendor #

| Payment Schedule        | Pricing Expires | Contract Start | Contract End |
|-------------------------|-----------------|----------------|--------------|
| 3 Years Billed Annually | 5/26/2017       | 7/1/2017       | 6/30/2020    |

| Header                  | Quantity | Description  | Per Unit   | Amount             |
|-------------------------|----------|--|------------|--------------------|
| District Unlimited      | 1        | Virtual Classroom and Web Administrator Site Licenses - All schools and all courses. | 75,000.00  | 75,000.00          |
| Discount                |          | Discount - 3 Year Commitment   | -11,250.00 | -11,250.00         |
| Professional Develop... | 1        | On-Site Professional Development Day   | 2,500.00   | 2,500.00           |
| Total                   |          |  |            | <b>\$66,250.00</b> |

This quote is subject to Edgenuity Inc. Standard Terms and Conditions ("Terms and Conditions"). These Terms and Conditions are available at <http://www.edgenuity.com/edgenuity-standard-terms-and-conditions-of-sale.pdf>, may change without notice and are incorporated by this reference. By signing this quote or by submitting a purchase order or form purchasing document, Customer explicitly agrees to these Terms and Conditions resulting in a legally binding agreement.

If this Quote includes any Sophia® Learning Inc. courses for purchase, the following language applies to any such purchase (and this language is also found in the above linked Terms and Conditions): "Use of any Sophia course is prohibited for all students under the age of 13 years."

**Please sign quote and send accompanying PO back to me. (\$198,750 is 3YR Total, billed annually at \$66,250) Quote does not include training.**

**Customer**

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Print Name  
\_\_\_\_\_  
Title  
\_\_\_\_\_  
Date

Edgenuity Inc. Representative  
D. Greg Guy, Ed.S.  
850 445-5617  
[greg.guy@edgenuity.com](mailto:greg.guy@edgenuity.com)

Not valid unless accompanied by a purchase order.  
Please specify a shipping address if applicable.

**Please e-mail this quote, the purchase order and order documentation to [AR@edgenuity.com](mailto:AR@edgenuity.com) or fax to 480-423-0213.**



## ATTACHMENT B



### STANDARD TERMS AND CONDITIONS

These Terms and Conditions govern the provision of products and services as set forth in the applicable Edgenuity quote, customer-accepted proposal, or purchase order (collectively the "Quote," and with these Terms and Conditions, the "Agreement"). These Standard Terms are updated from time-to-time by Edgenuity and the current version can be found at <http://www.edgenuity.com/edgenuity-standard-terms-and-conditions.pdf>

#### 1. DEFINITIONS.

- a. **Subscription** refers to Edgenuity's internet based learning management software as a service. The Subscription includes access to the **Licensed Material** (defined below) and **Third Party Services** (defined in Attachment A)
- b. **Licensed Material** refers to Edgenuity Courseware which may include audio, video and other content, curriculum, documentation and software including applets and animations.
- c. **Professional Development** refers to all implementation planning, program design, administrative and instructional training, consulting and coaching for education professionals provided by Edgenuity as described in the applicable Quote. Professional Development services are also subject to the additional terms contained in Attachment B.
- d. **Instructional Services** refers to services provided by Edgenuity including student access to teachers and coaches, the development and implementation of policies and procedures for purposes of improving student outcomes, and other services as stated in the applicable Quote. Instructional Services are also subject to the additional terms contained in Attachment B.

#### 2. LICENSE and SERVICES.

- a. **License.** Edgenuity grants Customer a non-exclusive, non-transferable license to access and use Licensed Material for internal educational and training purposes solely for the Subscription as set forth in the Quote. This Agreement provides only Customer and Customer's specifically authorized instructors, administrators, students and parents ("End Users") access to and use of the Subscription solely for internal education- and training-related purposes.
- b. **Services.** If set forth in the Quote, Edgenuity will also provide Professional Development and/or Instructional Services, subject to the additional terms and conditions in Attachment B. Customer's access to any Professional Development or Instructional Services will expire at the end of the Term set forth in the applicable Quote, or if the Subscription is terminated for any reason.
- c. **Edgenuity Technical and Customer Support.** Edgenuity will provide technical and customer support for the Service under the terms of Edgenuity's support policies found at [www.edgenuity.com/support](http://www.edgenuity.com/support) including all updates, bug fixes, and enhancements when generally made available.

#### 3. USE OF SUBSCRIPTION.

- a. **Customer Owned Data.** All data and materials uploaded or entered during use of the Subscription by Customer remains the property of Customer (**Customer Data**). Customer grants Edgenuity the right to use the Customer Data solely for purposes of performing under this Agreement. During the term of this Agreement, Customer may export Customer Data to the extent allowed by functionality within the Subscription. Customer represents and warrants that it has appropriate rights to any Customer Data. For training and demonstration purposes, Edgenuity may use and share Customer Data, including protected student data, but will share only with supervisors, instructors and other Customer employees who have appropriate authorization.
- b. **Customer Responsibilities.** Customer must (i) keep its passwords secure and confidential; (ii) be solely responsible for Customer Data and all activity in its account; (iii) use commercially reasonable efforts to prevent unauthorized access to its account and notify Edgenuity promptly of any such unauthorized access; and (iv) use the Subscription as described in Edgenuity's written technical guides. Customer authorizes its integrators or other third party vendors and Edgenuity to conduct initial setup and allow continued access to the Subscription for the sole benefit of Customer. Customer will provide Edgenuity the name and contact information for all third parties authorized by Customer necessary for Customer to use the Subscription. Customer is solely responsible for compliance with all federal, state and local privacy laws and regulations, and for compliance by its authorized integrators or other third party vendor(s).

#### 4. WARRANTIES and DISCLAIMERS.

- a. **Compliance Warranty.** Edgenuity will comply with, and will cause each of its employees, agents, and contractors to comply with, all state, federal and municipal laws and regulations applicable to its performance under this Agreement ("Applicable Laws"), including without limitation the Family Educational Rights and Privacy Act ("FERPA") and Children's Online Privacy Protection Act ("COPPA"). Edgenuity's Privacy Policy may be found at <http://www.edgenuity.com/Information/Privacy/>. Customer is responsible for providing notice of its privacy policy to parents of its student and for obtaining any necessary parental consents for students to use the Subscription as may be required by Applicable Law.
- b. **Professional Development and Instructional Services Warranty.** Edgenuity warrants that it will provide Professional Development and/or Instructional Services in a professional, workmanlike manner consistent with the terms of this Agreement and under generally accepted industry standards.
- c. **Edgenuity Service Warranty.** Edgenuity warrants that commercially reasonable efforts will be made to maintain the online availability of the Subscription. CUSTOMER'S EXCLUSIVE REMEDY AND EDGENUITY'S ENTIRE LIABILITY UNDER THIS WARRANTY WILL BE FOR EDGENUITY TO REPAIR THE NON-CONFORMING SERVICE, OR IF EDGENUITY CANNOT MAKE SUCH



REPAIR WITHIN A REASONABLE PERIOD OF TIME, THEN EDGENUITY MAY TERMINATE ACCESS TO THE SUBSCRIPTION AND REFUND A PORTION OF THE FEE.

- d. **DISCLAIMERS.** THE SUBSCRIPTION IS PROVIDED "AS IS" AND WITH ALL FAULTS. EXCEPT FOR THE ABOVE WARRANTIES, THE SUBSCRIPTION AND ANY PROFESSIONAL DEVELOPMENT AND INSTRUCTIONAL SERVICES ARE PROVIDED ON AN "AS-IS" AND "WHEN AVAILABLE" BASIS. ALL OTHER REPRESENTATIONS AND WARRANTIES CONCERNING THE SUBSCRIPTION AND SERVICES ARE HEREBY EXPRESSLY DISCLAIMED TO THE EXTENT ALLOWED BY LAW, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE IS NO WARRANTY THAT THE OPERATION OR CONNECTIVITY OF THE SUBSCRIPTION WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE SUBSCRIPTION WILL BE FREE OF ALL POSSIBLE METHODS OF UNAUTHORIZED ACCESS, ATTACK, OR INTRUSION.

5. **PAYMENT, INVOICING AND TAXES.** Unless otherwise provided in the Quote, Customer will pay the amount of each invoice net 30 days after the invoice date. Except to the extent that Customer provides Edgenuity with a valid tax exemption certificate authorized by the appropriate taxing authority, Customer must pay any taxes, impositions, or other charges imposed or levied by any governmental authority, including any sales, use, value-added, or withholding taxes, in connection with the Quote, excluding Edgenuity income and payroll taxes.

6. **MUTUAL CONFIDENTIALITY.**

- a. **Definition of Confidential Information.** Confidential Information means all non-public information including Personally Identifiable Information ("PII") as defined by Applicable Law, disclosed by a party ("Discloser") to the other party ("Recipient"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure ("Confidential Information"). Edgenuity's Confidential Information includes without limitation the Service, its user interface design and layout, pricing information, and the Licensed Material.
- b. **Protection of Confidential Information.** The Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Discloser for any purpose outside the scope of this Agreement. The Recipient must make commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and contractors who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of this Agreement.
- c. **Exclusions.** Confidential Information excludes information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser; (ii) was known to the Recipient before its disclosure by the Discloser without breach of any obligation owed to the Discloser; (iii) is received from a third party without breach of any obligation owed to Discloser; or (iv) was independently developed by the Recipient without use or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order, but will provide Discloser with advance written notice to seek a protective order.

7. **EDGENUITY PROPERTY.**

- a. **Reservation of Rights.** The content, documentation, software, workflow processes, user interface, designs, know-how and other items provided by Edgenuity as part of the Subscription and/or any Instructional Services or Professional Development are the proprietary property of Edgenuity and its licensors, and all right, title and interest in and to such items, including all associated intellectual property rights, remain only with Edgenuity and its licensors. Customer may not remove or modify any proprietary marking or restrictive legends in the Edgenuity Courseware. Edgenuity reserves all rights unless expressly granted in this Agreement.
- b. **Restrictions.** Customer may not (i) sell, resell, rent or lease the access to the Subscription or use it in a service provider capacity; (ii) use the Subscription to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise objectionable, unlawful or tortious material, or to store or transmit material in violation of third-party rights; (iii) interfere with or disrupt the integrity or performance of the Subscription or attempt to gain unauthorized access to the Subscription or its related systems or networks; (iv) use the Subscription for other than internal Customer educational purposes; (v) reproduce, frame, mirror, modify, translate, enhance, decompile, disassemble, copy, download or reverse engineer the Subscription or modify, create derivative works based on the Subscription; or (vi) access the Subscription to build a competitive service or product, or copy any feature, function or graphic for competitive purposes.

8. **TERM AND TERMINATION.**

- a. **Term.** The Term of this Agreement and Customer's access to the Subscription, Services, and any instructional Services or Professional Development services will continue for the period indicated on the applicable Quote, unless terminated by Edgenuity for material breach.
- b. **Funding-Out Clause.** Customer's payment obligation is conditioned upon the availability of funds that are appropriated or allocated by the applicable government agency. If funds are not allocated, Customer may terminate this Agreement at the end of the period for which funds are available. Customer must notify Edgenuity in writing within thirty (30) calendar days before termination. Upon termination, Edgenuity will be entitled to a pro-rata portion of the fees for Service performed up to the date of termination.
- c. **Non-payment of Fees.** Edgenuity may terminate the Agreement and access to the Subscription in a Quote within ten (10) days after Customer receipt of a notice of non-payment of amounts owed under that Quote.
- d. **Mutual Termination for Material Breach.** Except for 7(c), if either party is in material breach of this Agreement, the non-breaching party may terminate this Agreement at the end of a written thirty (30) calendar day notice and cure period, if the breach has not been cured.
- e. **Return of Customer Data.** For a period of up to sixty (60) days after termination, upon request, Edgenuity will make the Subscription available for Customer to export Customer Data.



- f. **Suspension for Violations of Law.** Edgenuity may temporarily suspend the Subscription or remove the applicable Customer Data, or both, if it in good faith believes that, as part of using the Subscription, Customer has violated a law. Edgenuity will attempt to contact Customer in advance.
- g. **Return or Destroy Edgenuity Property Upon Termination.** Upon expiration or termination of this Agreement for any reason, Customer must pay Edgenuity for any amounts owed, and destroy or return all property of Edgenuity. Customer will confirm its compliance with this destruction or return requirement in writing upon request of Edgenuity.

## 9. LIABILITY LIMIT.

- a. **EXCLUSION OF INDIRECT DAMAGES.** EDGENUITY IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, COSTS OF DELAY; LOSS OF DATA, RECORDS OR INFORMATION; AND LOST PROFITS), EVEN IF IT KNOWS OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.
- b. **TOTAL LIMIT ON LIABILITY.** EDGENUITY'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT OR OTHERWISE) DOES NOT EXCEED THE AMOUNT PAID BY CUSTOMER WITHIN THE 12-MONTH PERIOD BEFORE THE EVENT THAT GAVE RISE TO THE LIABILITY.

## 10. INDEMNITY.

- a. Edgenuity will defend or settle any third party claim against Customer to the extent that such claim alleges that Edgenuity technology used to provide the Subscription violates a copyright, patent, trademark or other intellectual property right. Customer must promptly notify Edgenuity of any such claim in writing, cooperate with Edgenuity in the defense, and allow Edgenuity to solely control the defense or settlement of the claim. If such a claim appears likely, then Edgenuity may modify the Subscription, procure the necessary rights, or replace the infringing part of the Subscription with a functional equivalent. If Edgenuity determines that none of these are reasonably available, then Edgenuity may terminate the Subscription and refund any prepaid and unused fees. Edgenuity has no obligation for any claim, in whole or in part, arising from information, items or technology not provided by Edgenuity or for any third party services not owned by Edgenuity. THIS SECTION CONTAINS CUSTOMER'S EXCLUSIVE REMEDIES AND EDGENUITY'S SOLE LIABILITY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.
- b. To the extent permitted under Applicable Law, each party will defend, indemnify and hold harmless the other party from and against any third party claims, injuries, losses, damages, settlements, penalties, fines, costs, or expenses (including reasonable attorneys' fees) that arise from or relate to (i) the indemnifying party's negligence, misconduct or breach of this Agreement; and (ii) an indemnifying party's violation of Applicable Law.

## 11. OTHER TERMS.

- a. **Governing Law.** Any action related to this Agreement shall be governed by and construed in accordance with the laws of the state of Florida, without reference to conflicts of laws principles that would result in the application of the laws of another jurisdiction. The State courts of the Third Judicial District of Suwannee County, Florida shall have exclusive jurisdiction and venue over any dispute arising hereunder or related hereto, and the parties hereby consent to the personal jurisdiction and venue of these courts. Notwithstanding the foregoing, Edgenuity shall have the right to seek injunctive or pre-judgment relief in any court of competent jurisdiction to prevent or enjoin the misappropriation, misuse, infringement or unauthorized disclosure of Edgenuity's Confidential Information or intellectual property rights. No Federal Acquisition Regulations shall be construed to apply to Edgenuity without Edgenuity's written agreement thereto. The United Nations Convention for the International Sale of Goods shall not apply to this Agreement.
- b. **Entire Agreement and Changes.** These Terms and Conditions (and any Attachments) and the Quote constitute the entire agreement between the parties and supersede any prior or contemporaneous negotiations or agreements, whether oral or written, related to this subject matter. Customer is not relying on any representation concerning this subject matter, oral or written, not included in this Agreement. This Agreement may only be modified in writing signed by both parties.
- c. **No Assignment.** Neither party may assign or transfer this Agreement or a Quote to a third party, except that this Agreement with all Quotes may be assigned, without the consent of the other party as part of a merger or sale of all or substantially all the assets of a party.
- d. **Independent Contractors.** The parties to this Agreement are independent contractors, and this Agreement does not create any partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.
- e. **Feedback.** By submitting ideas, suggestions or feedback to Edgenuity regarding the Subscription, Customer agrees that items submitted do not contain confidential or proprietary information; and Customer grants Edgenuity an irrevocable, unlimited, royalty-free and fully-paid perpetual license to use such items for any business purpose.
- f. **Enforceability and Force Majeure.** If any term of this Agreement is invalid or unenforceable, the other terms remain in effect. Except for the payment of fees, neither party is liable for events beyond its reasonable control, including, without limitation force majeure events, failure of Internet services, any third party service and telecommunications services.
- g. **Money Damages Insufficient.** Any breach by a party of this Agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.
- h. **No Additional Terms and Order of Precedence.** This Agreement supersedes any additional or conflicting terms of any Customer form-purchasing document. If there is an inconsistency between these Terms and Conditions and any Quote, the Quote will prevail only with respect to pricing, duration and service specific terms.
- i. **Survival of Terms.** Sections 5 through 10, 11(a) (e) (g) (h) and (i) shall survive termination of this Agreement.



**Attachment A**  
**Third Party Terms**

1. **Third Party Services** refer to web based software, content or services licensed by Edgenuity from a third party for use by Edgenuity for the Subscription or Hardware. Customer's use of Third Party Services may be subject to additional terms from the third parties, some of which are listed below or can be found at the web links indicated:

- a. **ExploreLearning.** Access to and use of any ExploreLearning *Gizmos* (Gizmos) provided by Edgenuity are governed by the following additional terms: (i) Neither Customer nor any of its users are authorized to access or use any Gizmos, except: (a) users who are students and who are authorized by Customer to access and use the Service that includes or incorporates the Gizmos; and (b) users who are teachers of those same students, provided that such teachers may use the Gizmos only for the purposes of assigning and managing assignments for those students; (ii) A Gizmo may only be used in connection with the Service with which that particular Gizmo has been provided, and may not be used in connection with any other class, program, application, or software; and (iii) Customer understands and agrees that any access to or use of any Gizmo provided by Edgenuity by Customer or any of its users in contravention of the foregoing terms constitutes a material breach of the Agreement, and that if Customer desires to use a Gizmo in a manner that is not authorized by the Agreement, it is solely the responsibility of Customer (and not of Edgenuity) to obtain authorization for such use from the appropriate third party.
- b. **Education Testing Services (ETS) e-rater® Scoring Service.** If the Agreement includes any ETS services, Customer agrees as follows: (i) the score and/or feedback received from the e-rater® technology should be considered as one piece of evidence about a student's writing ability. When a score from the e-rater® engine is being used for an important decision about a student's performance, instructors should review and evaluate the score and/or feedback to ensure that the appropriate decision about placement or performance has been made; (ii) the user understands and agrees that the Scoring Service may not be used for any other purpose, or provided to any other party, than as described herein. As permitted under state or federal law, user shall indemnify and hold Edgenuity and/or Educational Testing Service (ETS) harmless from any and all claims arising out of the use of the Scoring Service or use of the scores and/or feedback to determine placement of, or grades for students, or any other purpose; (iii) THE E-RATER® SCORING SERVICE (SCORE AND GRAMMAR CHECKING FEATURE) PROVIDED BY ETS IS PROVIDED "AS-IS", WITHOUT WARRANTIES OF ANY KIND AND ETS DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE E-RATER® SCORING SERVICE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL ETS BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE THIRD PARTY PRODUCTS, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES; and (iv) with regard to essays submitted to the site, you (Customer) hereby grant to ETS a non-exclusive, royalty-free, world-wide, irrevocable license to reproduce, transmit, display, disclose, archive and otherwise use any such files you submit to the site for the purposes of scoring and providing feedback. ETS will not retain any personally-identifiable information that may be associated with the essays. This license shall survive the termination of any license granted herein to ETS but in no event longer than 18 months. Any cessation of use of the site shall not result in the termination of any license you grant herein to ETS. Nothing herein shall preclude ETS from using information independently created by ETS.
- c. **Sophia® Learning Inc.** If this Agreement includes any Sophia Learning Inc. courses for use, the following term applies to any such purchase or use: "Customer agrees that the use of any Sophia course is prohibited for all students under the age of 13 years."
- d. **CompassLearning Third Party Information.** (i) CKEditor (© 2003-2013 CKSource – Frederico Knabben, all rights reserved), is a third party software text editor, licensed pursuant to the CKEditor Enterprise OEM License 2.3.2 and the GNU Lesser General Public License Version 3 ("LGPL"), available at <http://www.gnu.org/licenses/gpl.html>; (ii) SSHNET (© 2010 RENCI, all rights reserved), is a third party secure connectivity software tool, licensed pursuant to the terms found at <https://sshnet.codeplex.com/license>; (iii) Agilix Labs, Inc.'s xLi platform, (© Agilix Labs, Inc., all rights reserved), is distributed with other licensed third party components under the MIT License and/or the Apache License found at <https://jquery.org/license/> and <http://cdn.mathjax.org/mathjax/2.0-latest/LICENSE>.

2. **Hardware** refers to any equipment with any pre-installed software marketed or supplied by Edgenuity and identified on a Quote. Edgenuity is not the manufacturer of Hardware and it is provided subject to the separate sale terms provided by the manufacturer (including without limitation, return and exchange terms). Customer grants Edgenuity permission to provide remote technical support for setup and diagnostic purposes for any Hardware if required. Customer owns the Hardware and has a license to any pre-installed software, subject to the applicable license agreement. During the term of this Agreement, if Customer modifies Hardware in any way, it may void the manufacturer's warranty. Upon expiration or termination of the Agreement, Edgenuity will remotely remove any and all Edgenuity content and software from the Hardware.

3. **DISCLAIMERS.** ALL THIRD PARTY SERVICES AND HARDWARE ARE PROVIDED BY EDGENUITY "AS IS." EDGENUITY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. Edgenuity transfers to Customer, to the extent transferable, warranties and indemnities Edgenuity receives from the manufacturer of the Hardware or Third Party Service. Edgenuity's sole obligation with respect to Hardware and Third Party Service will be to use reasonable commercial efforts to facilitate warranty and indemnification claims that Customer makes against the manufacturer of the Hardware or Third Party Service. Customer, recognizing that Edgenuity is not the manufacturer of Hardware or Third Party Service, expressly waives any claim that Customer may have against Edgenuity for product liability or infringement of any intellectual property right with respect to any Hardware or Third Party Service, as well as any right to indemnification from Edgenuity on account of any such claim made against Customer by a third party.



**Attachment B**  
**Additional Terms for Instructional Services & Professional Development**

1. **APPLICABILITY.** These additional terms and conditions apply if the Quote includes the purchase of Instructional or Professional Development Services from Edgenuity. In the event of a conflict between these additional terms and the Edgenuity Standard Terms and Conditions, these additional terms shall control, but solely with respect to the provision of Instructional and/or Professional Development Services.
2. **CUSTOMER LIAISON.** Customer will designate an individual to serve as its primary liaison to Edgenuity for all communications related to the provision of Instructional and Professional Development Services, setting up access for End Users, and use of the Subscription.
3. **HOURS OF AVAILABILITY.** Edgenuity Instructional and Professional Development Services will be available during the business hours specified by Edgenuity, or if Customer requires Instructional Services for certain times or additional hours, such requirements must be specified in the Quote prior to the beginning of the Subscription. Requests for access to Instructional or Professional Development Services not already provided for in the Quote must be made or approved by the Customer Liaison, and may result in additional charges.
4. **NO GUARANTY OF OUTCOMES.** Edgenuity cannot make any guarantees, representations or warranties as to any student, teacher, or other End User outcomes or results from the Instructional or Professional Development Services.
5. **INSTRUCTIONAL SERVICES.** If specified in the Quote, Edgenuity will provide virtual access to teachers or coaches (or both) ("Edgenuity Instructors") who are hired, trained, supervised, and paid by Edgenuity, and who will assist in the virtual delivery of the Licensed Material to students and their use of the Subscription (the "Virtual Programs"). Customer shall be responsible for (a) providing secure internet access for End Users to use the Virtual Programs, (b) all day-to-day management of the Virtual Programs, subject in all cases to compliance with Applicable Law and Customer policies; (c) obtaining all necessary consents for the provision of Instructional Services where they will involve direct contact between Edgenuity Instructors and students and parents; (d) determining appropriate student courses and verifying student schedules; (e) monitoring student attendance and insuring compliance with applicable state requirements; and (f) assisting students not making adequate progress.
  - a. **Instructor Requirements.** Customer shall be responsible for advising Edgenuity of any special certification, training, background checks, insurance, fingerprinting or similar requirements for the Edgenuity Instructors as may be imposed by Applicable Law ("Instructor Requirements"). Edgenuity shall be solely responsible for all decisions regarding hiring, supervision, discipline, and dismissal of Edgenuity Instructors, and for insuring that all Edgenuity Instructors meet and comply with Instructor Requirements.
  - b. **Exceptional Student Services.** If Customer is a public entity receiving federal funds, Customer is considered the "Local Educational Agency," or LEA, as that term is defined by Applicable Law, and Customer is solely responsible for the provision of any special education services. Edgenuity's services do not include (i) providing special education services; (ii) creating, implementing or providing Individualized Education Programs (IEP); (iii) providing reasonable accommodations or any services to insure compliance with the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act (ADA), section 504 of the Rehabilitation Act, or any other Applicable Law. Notwithstanding the foregoing, Edgenuity will discuss, formulate and make reasonable adjustments and accommodations in furtherance of student IEPs or reasonable accommodations established by Customer, provided that Customer provides necessary IEPs and section 504 documentation to Edgenuity. Customer shall be solely responsible for the costs of any required adjustments or accommodations.
  - c. **State Testing.** Customer is responsible for providing appropriate accommodations for the administration of any state-mandated standardized testing by End Users. Customer is also responsible for receiving, distributing, administering, proctoring and returning any and all state-mandated standardized tests under applicable state law, policies and procedures.
  - d. **Reporting and Withdrawal of Students/End Users.** Where reporting of student results is required by Applicable Law, Customer shall be responsible for insuring the accuracy and completeness of student information used, relied upon, or reported by Edgenuity in providing the Instructional Services, and shall promptly notify Edgenuity if any student information needs to be corrected or updated. Upon notice to Customer, Edgenuity reserves the right to withdraw End User access for students who fail to take required tests or maintain adequate progress.
6. **PROFESSIONAL DEVELOPMENT SERVICES.** If included in the Quote, Edgenuity may also provide Professional Development Services, ("PD Services") which may include training and instruction to Customer's instructors and administrators on the implementation and use of the Subscription, curriculum workshops, use of student information to monitor progress, and other related topics as may be specified in the Quote. Customer shall be solely responsible for providing necessary equipment and secure internet access to facilitate the PD Services, and for scheduling the PD Services at least two (2) weeks in advance.
  - a. **Charges for PD Services.** Before delivering Professional Development Services, Edgenuity must receive a signed Quote specifying the number of hours included and the cost of the services provided, and all necessary setup and implementation services required to demonstrate and use the Subscription must be completed. PD Services will be available for use by Customer only during the Term of the Subscription. PD Services purchased but not scheduled and delivered within the first year of the Term may be forfeited without notice. If there are any changes or cancellations of PD services less than 72 hours prior to the scheduled delivery date, Customer agrees to reimburse Edgenuity for travel and other out-of-pocket expenses incurred. Any grace periods or extension of time for delivery of PD Services must be agreed to in writing signed by both parties.
  - b. **Use of Customer's Facilities.** If Professional Development services are to be provided by Edgenuity at Customer's premises, Customer shall advise Edgenuity in advance of any Instructor Requirements for Edgenuity personnel, and Edgenuity will be responsible for insuring that all Professional Development personnel meet and comply with all such requirements.