

Cengage Learning, Inc.
Attn: Beverly M. Jones, Supervisor, Textbook Services and Adoptions
5191 Natorp Blvd
Mason, OH 45040

MAR 27 2018

Reference: RFP2000002073; Mathematics Basal Resources (2017 Adoption)

Dear Ms. Jones:

Acceptance Agreement

Contract Number: 4400008136

This acceptance agreement signifies a contract award to Cengage Learning, Inc. for Mathematics Basal Resources (2017 Adoption). The period of the contract shall be from March 23, 2018 through August 31, 2025.

The contract award shall be in accordance with:

1. This Acceptance Agreement;
2. The Terms and Conditions of RFP2000002073; Mathematics Basal Resources (2017 Adoption), and all addenda;
3. Your Proposal dated 4/14/2017;
4. The signed Memorandum of Negotiations.

Please note that this is not an order to proceed. A purchase order, which constitutes your notice to proceed, will be issued to your firm. Please provide your Insurance Certificate according to Special Provisions Paragraph 19 within five (5) days after receipt of this letter.

Sincerely,



Roger L. Ball
Director

RLB/sm

JO
3-27-18

MEMORANDUM OF NEGOTIATIONRequest for Proposal RFP2000002073
Mathematics Basal Resources (2017 Adoption)

The County of Fairfax, Fairfax County Public Schools (hereinafter called the County or FCPS) and Cengage Learning, Inc. (hereinafter called the Contractor or Cengage Learning) hereby agree to the following in the execution of Contract 4400008136. The final contract contains the following items:

- a. Fairfax County's Request for Proposal RFP2000002073 – Mathematics Basal Resources (2017 Adoption) and all Addenda;
- b. Technical and Business proposal submitted by Cengage Learning dated April 14, 2017 as amended by this Memorandum of Negotiations;
- c. This Memorandum of Negotiations;
- d. Signed Confidentiality Addendum (Student Data Protection Addendum); and
- e. All subsequent amendments to the contract.

The following are to be included in the contract:

1. On December 7, 2017, at the recommendation of the Selection Advisory Committee for the subject RFP, the Fairfax County School Board approved the following Cengage Learning title:
 - a. Calculus for AP
2. Cengage Learning agrees to honor the originally submitted six (6) year subscription pricing and provide the 7th year at no additional cost to FCPS.
 - a. Schools who need additional subscriptions after their initial purchase should contact Cengage to get a quote in line with contract pricing, potentially including prorated subscriptions so that end dates are the same.
3. Advanced access for teachers
 - a. Cengage Learning agrees to provide pre-purchase online access to teachers in Spring 2018 as requested by FCPS. Students will not gain access until student subscriptions are purchased.

4. Gratis Materials

- a. Cengage commits to provide consumable materials each year throughout the life of the contract, at no additional cost to FCPS. Schools will need to reach out to Cengage annually to request new books for the following year.
 - i. Fast Track to a 5
 - ii. student workbooks
 - iii. study guides
- b. Schools who purchase Calculus for AP will receive the teacher edition and teacher resources gratis.
 - i. A general ratio of 1:20 will be used but 1:15 could be allowed if a school has a need.

5. Account Management

- a. Cengage Learning will reach out to schools when orders are placed for the purpose of setting up the necessary teacher accounts. Students can subsequently self-register with information provided by the teacher.
- b. Throughout the life of the contract, if a student drops the course associated with the adopted resource within the first quarter of the school year (as allowed by current FCPS practices), Cengage will provide a replacement code gratis (at no additional cost) to replace the one that is no longer being used. It is the school's responsibility to reach out to Cengage by the end of the first quarter of the school year to request this replacement code.
- c. FCPS schools will be responsible for maintaining the unique codes purchased by their school. Each code may only be used once (with the exception of 5.a above) and is good for one calendar year. Unused codes are able to be transferred between FCPS schools if mutually agreed upon between two schools.

6. Professional Development

- a. Online PD videos are available at <https://www.cengage.com/training/webassign> 24 hours a day, 7 days a week.
- b. FCPS and Cengage Learning will collaboratively determine one or two after-school training sessions for teachers between mid-May 2018 to mid-June 2018 and likely another after-school training session in late-September 2018 to early-October 2018. These trainings will be provided at no cost to FCPS.
- c. Additional PD will be included gratis for every \$40,000 spent by FCPS.

7. Maintenance, Upgrades and Planned Outages

- a. A minimum of 7 days notification of any planned service outage shall be provided by Cengage Learning to Shane Wheeler, FCPS IT Project Manager.

8. Technical Support

- a. Cengage Learning agrees to provide additional on-site or technical support, as needed, to assist at the beginning of the school year.
- b. There is 24/7 chat for all accounts (teacher and student) at <http://support.cengage.com/victoriaweb/primarypage>
- c. The phone number 800-354-9706 is also available during business hours
 - i. Monday-Thursday, 8:30am-9:00pm Eastern
 - ii. Friday 8:30am-6:00pm Eastern
 - iii. Instructors can online chat with technical support during the hours above
- d. In addition to phone support, users can get technical support by email by sending a message at any time to <http://poweron.cengage.com/magellan/TechSupport/login.aspx>
- e. The dedicated support person for FCPS accounts is Andrew Binienda, Digital Solutions Coordinator, (o) 800-877-4253 x18593, (f) 248-699-5893

9. Shipping

- a. Cengage commits to provide free shipping for the life of the contract.

10. Technology Updates

- a. FCPS welcomes the incorporation of new information and technology into Contract 4400008136 throughout the life of the awarded contract. However, any significant changes in technology will need to go through a technology assessment by the FCPS Department of Information Technology prior to being used by FCPS students, teachers and staff. The result of that technology assessment will determine if FCPS is able to implement those technology changes.

11. Student Data Protection Addendum (Confidentiality Addendum)

- a. The attached signed Student Data Protection Addendum is incorporated into Contract 4400008136.

12. Performance Expectations

- a. Cengage Learning agrees that the system will be available to a level of 99.9%, calculated over a 30 day period, 24/7, outside of regularly-scheduled maintenance and/or update window.
- b. Cengage Learning will provide technical support for the contracted resources for FCPS faculty and staff throughout the life of the contract.

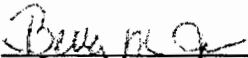
All other prices, terms, and conditions remain the same.

Acceptance Agreement
4400008136
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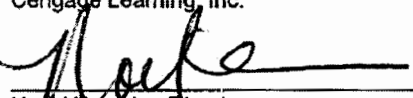
Attachments:

Signed Student Data Protection Addendum

ACCEPTED BY:


Beverly M. Jones, Supervisor, Textbook Services and Adoptions
Cengage Learning, Inc.

1/31/18
Date


Noel Klimenko, Director
Office of PreK-12 Curriculum and Instruction

2/13/18
Date


for Roger L. Ball, Director
Office of Procurement Services

3/26/18
Date

Confidentiality Addendum

THIS ADDENDUM, executed and effective as of the 31st day of January, 2018, by and between the CENGAGE LEARNING, INC, a corporation organized and existing under the laws of Delaware (the "Company"), and the FAIRFAX COUNTY SCHOOL BOARD, a public body corporate and politic organized and existing under the laws of the Commonwealth of Virginia (the "School Board"), recites and provides as follows.

Recitals

The Company and the School Board are parties to a certain agreement entitled "Contract 4400008136" of even date herewith (the "Agreement"). In connection with the execution and delivery of the Agreement, the parties wish to enter into this Addendum in order to clarify and make certain modifications to the terms and conditions set forth therein.

The Company and the School Board agree that the purpose of such terms and conditions is to ensure compliance with the Family Educational Rights and Privacy Act (FERPA), including but not limited to (i) the identification of Company as an entity acting for the School Board in its performance of functions that a School Board employee otherwise would perform; and (ii) the establishment of procedures for the protection of confidential student records, including procedures regarding security and security breaches.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged hereby, the parties agree as follows.

Agreement

The Agreement is amended hereby as follows:

1. The following provisions shall be deemed to be included in the Agreement:

Confidentiality Obligations Applicable to Certain FCPS Student Records. The Company hereby covenants and agrees that it shall maintain, in strict confidence and trust, all FCPS student records containing either (1) non-directory information of any kind, whether provided by or created for FCPS pursuant to this contract, or (2) directory information as to which the eligible student or his family has opted out of disclosure (collectively, "FCPS Confidential Student Records").

The Company shall cause each officer, director, employee and other representative who shall have access to FCPS Confidential Student Records during the term of the Agreement (collectively, the "Authorized Representatives") to maintain in strict confidence and trust all FCPS Confidential Student Records. The Company shall take all reasonable steps to insure that no FCPS Confidential Student Records are disclosed to any person or entity except those who (i) are Authorized Representatives of the Company performing functions for FCPS under the Agreement and have agreed to be bound by the terms of this Agreement or a Confidentiality Agreement (as defined below) executed pursuant hereto; (ii) are authorized representatives of FCPS, or (iii) are entitled to such FCPS Confidential Student Records from the Company pursuant to federal and/or Virginia law. The Company shall use FCPS Confidential Student Records, and shall take all reasonable steps necessary to ensure that its Authorized Representatives shall use such records, solely for purposes related to and in fulfillment of the performance by the Company of its obligations pursuant to the Agreement.

The Company shall: (i) designate one of its Authorized Representatives to be responsible for ensuring that the Company and its Authorized Representatives maintain the FCPS Confidential Student Records as confidential; (ii) train the other Authorized Representatives with regard to their confidentiality responsibilities hereunder and pursuant to federal and Virginia law; (iii) maintain at all times a list of Authorized Representatives with access to FCPS Confidential Student Records; (iv) cause each Authorized Representative to execute a written covenant of confidentiality in substantially

the form set forth on Exhibit A hereto (the "Confidentiality Agreement") prior to his or her performance of any services contemplated by the Agreement and shall deliver any and all such Confidentiality Agreements to the School Board upon request.

Other Security Requirements. The Company shall maintain all technologies, policies, procedures and practices necessary to secure and protect the confidentiality and integrity of FCPS Confidential Student Records, including procedures to (i) restrict access to such records as described in the "Confidentiality" provision of this Addendum; (ii) establish user IDs and passwords as necessary to protect such records; (iii) protect all such user passwords from detection and unauthorized use; (iv) prevent hostile or unauthorized intrusion that could compromise confidentiality, result in data corruption, or deny service; (v) prevent and detect computer viruses from spreading to disks, attachments to e-mail, downloaded files, and documents generated by word processing and spreadsheet programs; (vi) minimize system downtime; (vii) notify FCPS of planned system changes that may impact the security of FCPS Confidential Student Records; (viii) return or destroy FCPS Confidential Student Records that exceed specified retention schedules; (ix) permit periodic security audits by FCPS or designated third party using applicable regulations and industry best practice standards as benchmarks, and make commercially reasonable efforts to remediate the vulnerabilities discovered; (x) in the event of system failure, enable immediate recovery of FCPS records to the previous business day.

In the event of a security breach, the Company shall (i) immediately take action to close the breach; (ii) notify FCPS within 24 hours of Company's first knowledge of the breach, the reasons for or cause of the breach, actions taken to close the breach, and identify the FCPS Confidential Student Records compromised by the breach; (iii) return compromised FCPS Confidential Student Records for review; (iv) provide communications on the breach to be shared with affected parties and cooperate with FCPS efforts to communicate to affected parties by providing FCPS with prior review of press releases and any communications to be sent to affected parties; (v) take all legally required, reasonable, and customary measures in working with FCPS to remediate the breach which may include toll free telephone support with informed customer services staff to address questions by affected parties and/or provide monitoring services if necessary given the nature and scope of the disclosure; (vi) cooperate with FCPS by providing information, records and witnesses needed to respond to any government investigation into the disclosure of such records or litigation concerning the breach; and (vii) provide FCPS with notice within 24 hours of notice or service on Company, whichever occurs first, of any lawsuits resulting from, or government investigations of, the Company's handling of FCPS records of any kind, failure to follow security requirements and/or failure to safeguard confidential information. The Company shall provide satisfactory documentation of its compliance with the security requirements of this provision prior to performing services under the Agreement. The Company's compliance with the standards of this provision is subject to verification by FCPS personnel or its agent at any time during the term of the Agreement.

Applicability of Confidentiality and Security Provisions to Non-Confidential Records

To the extent that FCPS provides non-confidential information to Company under this Agreement, such as student records containing only directory information as to which no opt-out has been filed, de-identified student information, and FCPS records not pertaining to students, the Confidentiality and Security paragraphs shall not apply, *provided that* the notice obligation under subsection (viii) shall apply to lawsuits and investigations involving FCPS records of any kind.

Disposition of FCPS Confidential Student Records Upon Termination of Agreement

Upon expiration of the term of the Agreement, or upon the earlier termination of the Agreement for any reason, the Company covenants and agrees that it promptly shall deliver to the School Board, and shall take all reasonable steps necessary to cause each of its Authorized Representatives promptly to deliver to the School Board, all FCPS Confidential Student Records. The Company hereby acknowledges and agrees that, solely for purposes of receiving access to FCPS Confidential Student Records and of fulfilling its obligations pursuant to this provision and for no other purpose

(including without limitation, entitlement to compensation and other employee benefits), the Company and its Authorized Representatives shall be deemed to be school officials of the School Board, and shall maintain FCPS Confidential Student Records in accordance with all federal state and local laws, rules and regulations regarding the confidentiality of such records. The non-disclosure obligations of the Company and its Authorized Representatives regarding the information contained in FCPS Confidential Student Records shall survive termination of the Agreement. The Company shall indemnify and hold harmless the School Board from and against any loss, claim, cost (including attorneys' fees) or damage of any nature arising from or in connection with the breach by the Company or any of its officers, directors, employees, agents or representatives of the obligations of the Company or its Authorized Representatives under this provision or under a Confidentiality Agreement, as the case may be.

Certain Representations and Warranties. The Company hereby represents and warrants as follows: (i) the Company has full power and authority to execute the Agreement and this Addendum and to perform its obligations hereunder and thereunder; (ii) the Agreement and this Addendum constitute the valid and binding obligations of the Company, enforceable in accordance with their respective terms, except as such enforceability may be limited by bankruptcy or similar laws affecting the rights of creditors and general principles of equity; and (iii) the Company's execution and delivery of the Agreement and this Addendum and compliance with their respective terms will not violate or constitute a default under, or require the consent of any third party to, any agreement or court order to which the Company is a party or by which it may be bound.

Governing Law; Venue. Notwithstanding any provision contained in the Agreement to the contrary, (i) the Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without reference to conflict of laws principles; and (ii) any dispute hereunder which is not otherwise resolved by the parties hereto shall be decided by a court of competent jurisdiction located in the Commonwealth of Virginia.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed by their duly authorized officers effective as of the date first written above.

CENGAGE LEARNING, INC

By: Beverly M. Jones

Beverly M. Jones

Supervisor, Textbook Services and Adoptions

FAIRFAX COUNTY SCHOOL BOARD

By: Michelle Pratt

Roger L. Ball

for Director of Office of Procurement Services

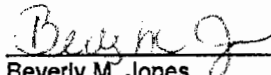
Exhibit A

Covenant of Confidentiality

In connection with the performance by Cengage Learning, Inc (the "Company") of its obligations under that certain agreement with the Fairfax County School Board titled "4400008136", as the same shall have been amended by that certain Addendum of even date therewith (the "Agreement"), the undersigned authorized representative of the Company (the "Authorized Representative"), for good and valuable consideration, the receipt and sufficiency of which is acknowledged, hereby covenants and agrees as follows, with knowledge that the Fairfax County School Board is relying upon the statements set forth herein.

The Authorized Representative hereby covenants and agrees that he or she: (i) shall maintain in strict confidence and trust all records, reports and other documents or materials of any nature relating to the operations, students, families and employees of Fairfax County Public Schools (collectively, the "FCPS Confidential Student Records"); (ii) shall not disclose any FCPS Confidential Student Records to any person or entity who has not agreed to be bound by the terms of the Agreement, or a sworn statement executed pursuant thereto, unless the person or entity is an Authorized Representative of FCPS or is otherwise entitled to access to such FCPS Confidential Student Records pursuant to federal and/or Virginia law; (iii) shall use the FCPS Confidential Student Records solely for purposes related to and in furtherance of the performance by the Company of its obligations pursuant to the Agreement; (iv), upon expiration of the term of the Agreement, or upon the earlier termination of the Agreement for any reason, promptly shall deliver all FCPS Confidential Student Records to Fairfax County Public Schools; (v) shall continue to maintain as confidential all information obtained from FCPS Confidential Student Records after the expiration or termination of the Agreement.

IN WITNESS WHEREOF, the Authorized Representative has executed this Covenant of Confidentiality as of the 31st day of January, 2018.



Beverly M. Jones
Supervisor, Textbook Services and Adoptions
5191 Natorp Blvd
Mason, OH 45040