



Financial Services
Office of Procurement Services
8115 Gatehouse Road, Suite 4400
Falls Church, VA 22042

Date of Award: 7/25/2025

Gibbs Smith Education
Attention: Jared L. Taylor, President & Publisher
570 N Sportsplex Drive
Kaysville, UT 84037

Reference: RFP# 2000003962 - Social Studies Basal Resource Adoption

Dear Mr. Taylor,

Acceptance Agreement

Contract Number: 4400013807

This Acceptance Agreement signifies a contract award to Gibbs Smith Education for Social Studies Basal Resource Adoption for the following resources:

- *Movement* (for African American Studies)
- *Movement* (for Advanced Placement African American Studies)

The period of the contract shall be from date of award through August 31, 2032, with the option to renew for three (3) additional one-year periods.

The contract award shall be in accordance with:

1. This Acceptance Agreement;
2. The Terms and Conditions of RFP 2000003962, and all addenda;
3. Your proposal signed and dated on July 15, 2024;
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 company. Please provide your Insurance Certificate according to Special Provisions Paragraph 22 within five (5) days after receipt of this letter. Contract award documents may be viewed on the Fairfax County, Department of Purchasing and Supply Management website at: www.fairfaxcounty.gov/cregister.

Sincerely,

DocuSigned by:
Michelle Pratt
C14D4C9B7D1F422
Michelle R. Pratt
Director

MRP/asw

Memorandum of Negotiation
4400013807
Page 2 of 6

MEMORANDUM OF NEGOTIATION

RFP# 2000003962 - Social Studies Basal Resource Adoption

The County of Fairfax, Fairfax County Public Schools (hereinafter called the County or FCPS) and Gibbs-Smith Education (hereinafter called the vendor) hereby agree to the following in the execution of Contract 4400013807. The final contract includes and is comprised of each of the following documents (hereinafter called the Contract or the Agreement). Gibbs-Smith Education (Gibbs-Smith or GSE) will perform the Services in accordance with the terms and conditions set forth in the Contract. In the event of a conflict or ambiguity between or among any one or more of the contract documents listed below, and except as otherwise set forth herein, the order of precedence to be accorded such documents in resolving the conflict or ambiguity is as follows:

- a. All subsequent amendments to the contract;
- b. The Memorandum of Negotiations including the following attachments:
 1. Attachment A - Gibbs-Smith Education Pricing Schedule
 2. Attachment B - Virginia Data Privacy Agreement
 3. Attachment C - Gibbs-Smith Education Terms of Use
- c. The following documents incorporated by reference:
 1. Fairfax County's Request for Proposal RFP# 2000003962 - Social Studies Basal Resource Adoption and all Addenda
 2. Gibbs-Smith Education's Technical Proposal as amended by this Memorandum of Negotiations
 3. Gibbs-Smith Education's Response to clarifications
 4. Gibbs-Smith Education's Best and Final Offer (BAFO)
 5. Gibbs-Smith Education's Response to IT Security Architecture Questionnaire
 6. Gibbs-Smith Education's Response to the Vendor Acceptance Questionnaire

On April 24, 2025, at the recommendation of the negotiation team for RFP# 2000003962 - Social Studies Basal Resource Adoption, the Fairfax County School Board approved the following Gibbs-Smith Education titles:

- *Movement* (for African American Studies)
- *Movement* (for Advanced Placement African American Studies)

The parties agree to the to the following:

1. Accessibility

- a. Vendor agrees to investigate third-party media captions and transcripts to determine whether they can integrate a tool that does live third-party captions and transcripts into the platform or if they can build the technology into the platform directly. GSE understands this is a priority for FCPS and will update the FCPS team with the status of the project on a monthly basis until it is remediated.

Memorandum of Negotiation

4400013807

Page 3 of 6

- b. GSE agrees to meet with their digital provider to look at a built-in tool to adjust the text size/font/color to be WCAG 2.1 compliant. GSE will update the FCPS team with the status of the project on a regular basis.
- c. GSE shall develop speech to text for students to input text for full use by April 2026.
- d. GSEonline is currently being updated from version 5.0 to 6.0. Version 6.0 is WCAG 2.1 A/AA compliant and GSE shall update GSEonline within forty-five (45) business days from Date of Award. All updates made shall be fully functionable for the 2025/2026 school year. GSE shall provide FCPS with regular information and data on the status of these updates.
- e. As per revised Americans with Disabilities Act (ADA) Title II 28 CFR Part 35, all contracted vendors of web and mobile products are required to inform FCPS of their compliance with Web Content Accessibility Guidelines (WCAG) 2.1 by providing a Voluntary Product Accessibility Template (VPAT) annually. GSE covenants and agrees that the Services will comply with WCAG 2.1 as of the effective date of this Contract and that the Services will remain in compliance with WCAG 2.1 throughout the term of this Contract. GSE will promptly notify FCPS in writing if at any time during the term the Services do not comply with WCAG 2.1. FCPS reserves the right to terminate and receive a refund of prepaid amounts relating to the period following termination AND a right to indemnification from GSE for losses, damages, penalties incurred by FCPS that arise from or in connection with the GSE's failure to comply with the WCAG 2.1 standard.

2. Information Technology

- a. GSE shall upload Word Doc files of assessments and activities in "Create", which will work the same as the downloadable PDFs and PPTs. This does not include the Student Edition or Teacher Guide.
- b. GSE shall provide teachers early access to digital materials to use for planning on the Date of Award.
- c. For newly hired teachers, GSE shall provide temporary logins until full credentials are issued.
- d. GSE shall provide any platform updates and roll-out adjustments to FCPS at no additional charge. Should a platform be updated, GSE will provide FCPS a minimum of 6-month advance notice of any platform change.
- e. GSE agrees to provide support licenses for FCPS social studies central office staff. FCPS will communicate to GSE the number of additional licenses needed to support the efforts of the central office social studies team. GSE will establish a unique connection to a teacher license for each staff member. The number of support licenses, along with how they will access the content, will be discussed during the kick-off meeting.

3. Service Level Agreement

- a. Gibbs guarantees a minimum of 99.99% availability, computed based 24 hours day over a 30-day period and outside of regularly scheduled maintenance and/or update windows. Gibbs Smith Education (GSE) support desk shall be staffed for online help between 8:30 a.m. and 5:30 p.m. Central Time, Monday through Friday. The customer service number for support is 1.844.479.2665, available Monday to Friday, 10 a.m.–5 p.m. MST (excluding national/federal holidays referenced below).

January 20th - Martin Luther King, Jr. Day Observed

February 17th - Presidents' Day Observed

May 26th - Memorial Day Observed

Memorandum of Negotiation
4400013807
Page 4 of 6

June 19th - Juneteenth Observed

July 4th - Independence Day Observed

September 1st - Labor Day Observed

November 11th - Veterans Day Observed Early close Wednesday

November 26th - November 27th - November 28th - Thanksgiving Observed

December 24th - January 1st - Winter Break Observed

- b. Response and resolution will depend on the severity of the issue, rated from Low (immediate resolution is not needed) to Urgent (immediate resolution is required). Urgent requests shall be responded to within two (2) hours of reporting, with a mean resolution time of four (4) hours. Technical point of contact: Michelle DeVries, Publishing Operations Director at 801.927.2158
- c. Support tickets can be submitted by all digital users through the GSE Knowledge Base website: <https://help.gibbssmitheducation.com/knowledge>. The website also provides Onboarding, Administrator, Term Change, Bookshelf, GSEonline, and Reader links filled with information for users.
- d. Scheduled maintenance by GSE will occur every month. Scheduled maintenance or downtime within operational hours (8 a.m. – 5 p.m. ET) must be communicated to Rick Mayfield at rmayfield@fcps.edu or any FCPS appointed designee 5 days prior to the event. Downtime, if required, will be for a maximum of 12 hours outside of business hours.

4. Cultural Responsiveness

- a. GSE agrees that GSE online shall be available in multiple languages; this will occur as an additional platform upgrade that will be enabled by April 2026.
- b. GSE agrees to revise terminology from “slaveholders” to “enslavers” in both print and digital editions.

5. Curriculum

- a. GSE agrees to work with FCPS to deliver professional development with pricing as detailed in the BAFO submitted April 8, 2025: synchronous in-service; July - August 2025: synchronous webinars, August 13, 2025: synchronous pre-service; October 13, 2025: synchronous in-service; November 3, 2025: synchronous in-service; January 30, 2026: synchronous in-service; February 20, 2026: synchronous in-service. GSE shall deploy trainers familiar with multilingual learners and special education students to support teacher training. Training in Years 2-7 of the implementation will be mutually agreed upon with FCPS and GSE.

6. Pricing/Shipping

- a. Should FCPS require additional student licenses during the contract term, GSE agrees to provide them at the 7-year rate of \$12.99 per license per year.
- b. GSE's digital pricing model is on a per-student per license level.
- c. Any printed student edition textbooks and teacher guides of the updated editions will be replaced at the initially agreed-on contract price.

Memorandum of Negotiation

4400013807

Page 5 of 6

- d. Should FCPS require one-year renewals for digital or consumable materials, GSE agrees to up to three (3) one-year contract renewals. Should FCPS require a one, two, or three year extension, GSE may request increase based on the Consumer Price Index (CPI-U), Table 10, U.S. City Averages, or other relevant indices.
- e. GSE agrees to deliver print materials directly to individual schools at a shipping cost of 3% on all physical materials. FCPS will provide a list of points of contact, addresses, and phone numbers. GSE agrees that the delivery trucks will have lift gates to ensure inside delivery for schools without loading docks. Deliveries shall be palletized by school with ISBN Numbers as well as titles to allow for ease of product verification.
- f. GSE agrees that Student Editions and Student Activities that are printed in languages other than English will be made available to FCPS at the same pricing as the English versions.
- g. Delivery Dates can be negotiated with individual schools based on PO acceptance. If not received at the negotiated date, GSE will provide a rebate of 1% of the purchase value of resources not delivered on time. If the delivery of print resources/digital access is delayed past August 14, 2025, GSE shall provide a rebate of 5% of the purchase value of resources not delivered on time.

7. Performance Metrics

Performance Metric & Description	Target	Data Source	Data Collection Frequency
100% compliance with the WCAG 2.1 AA initially by April 1, 2026 and ongoing from that point on	Compliance with Title II ADA	VPAT on each product ACR for each product	Annually in July and upon any changes to features Within 45 days of contract signing
100% of files will be uploaded into NIMAC within 45 days from Date of Award	Student accessibility	NIMAC files	Verified 45 days from Date of Award and annually
Usage reports by student, teacher, school, and course provided to FCPS POC via the learning platform	Product availability and accessibility	Reports	Within 10 business days of the end of each FCPS quarter
High quality professional development to support implementation and ongoing usage of GSE selected products	80% or more of attendees reporting high or moderately high levels of satisfaction at all in-person training provided by GSE	Summary of post-training surveys	Within five days of each in-person training event.
Monthly and responsive (within 2 days of outreach) communication between vendor and assigned FCPS point of contact	FCPS assigned POC is fully aware of product issues and updates and inquiries from FCPS staff	Quarterly feedback	Within 10 business days of the end of each FCPS quarter

Memorandum of Negotiation
4400013807
Page 6 of 6

GSE agrees that it will (a) comply with all laws, rules, and regulations applicable to the Services provided hereunder; and (b) will maintain throughout the term of this Agreement the same or functionally-equivalent or substantially similar (or more stringent) practices, procedures, methodologies, and certifications as are described in its completed Security Architecture Questionnaire and Vendor Acceptance Questionnaire (the "Security Practices") which is incorporated herein by reference, except if required by law or reasonable business need. All other prices, terms, and conditions remain the same.

ACCEPTED BY:

Elizabeth Wallace

Elizabeth Wallace, Publisher and President
Gibbs Smith Education

06/20/25

Date

Noel Klimenko

Noel Klimenko, Assistant Superintendent
Instructional Services FCPS

6/24/25

Date

DocuSigned by:

Michelle Pratt

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Michelle R. Pratt, Director
Office of Procurement Services

7/25/2025 | 12:04 PM EDT

Date



RFP 2000003962
Pricing Schedule – 1-year Pricing



Line Item #	FCPS Course Name (Course List Line Number, Ref: Attachment A Social Studies Course List)	ISBN	Textbook Title	Author(s)/ Editor(s)	Edition	Copyright Year	UOM	Mark all that apply		Subscription Length (Years)	Contract Price	Gratis (Y/N), provide details
								Print	Digital			
1	African American History	978-1-4236-6432-1 978-1-4236-6432-1-S1	<i>Movement_</i> Student Edition Textbook + 1-year Student License	Jenna Tait and Bart King (see Appendix J for comprehensive authorship)	1st	2024	Book + Student License	✓	✓	1 year (\$84.95 + \$14.99)	\$99.94	N
2	African American History	978-1-4236-6432-1	<i>Movement_</i> Student Edition Textbook	Jenna Tait and Bart King (see Appendix J for comprehensive authorship)	1st	2024	Per Book	✓		n/a	\$84.95	N
3	African American History	978-1-4236-6432-1-S1	<i>Movement_ Textbook</i> 1-year Student License	Jenna Tait and Bart King (see Appendix J for comprehensive authorship)	1st	2024	Per License		✓	1 year	\$19.99	N
4	African American History	978-1-4236-6327-0	<i>Movement_</i> Teacher Guide	Elizabeth Wallace and Jessie Gillooly	1st	2024	Per Book	✓		n/a	\$149.95	Y - Gibbs Smith is offering complimentary teachig materials for this adoption
5	African American History	978-1-4236-6432-1-T1	<i>Movement_</i> Teacher License	Elizabeth Wallace and Jessie Gillooly	1st	2024	Per License		✓	1 year	\$149.99	Y - Bundled free with every print Teacher Guide. Included are: Unit Assessments, additional supplemental activities and resources added to GSEonline, and Teacher Tools
6	AP African American Studies	978-1-4236-6432-1 978-1-4236-6432-1-S1	<i>Movement_</i> Student Edition Textbook + 1-year Student License	Jenna Tait and Bart King (see Appendix J for comprehensive authorship)	1st	2024	Book + Student License	✓	✓	1 year (\$84.95 + \$14.99)	\$99.94	N
7	AP African American Studies	978-1-4236-6432-1	<i>Movement_</i> Student Edition Textbook	Jenna Tait and Bart King (see Appendix J for comprehensive authorship)	1st	2024	Per Book	✓		n/a	\$84.95	N
8	AP African American Studies	978-1-4236-6432-1-S1	<i>Movement_ Textbook</i> 1-year Student License	Jenna Tait and Bart King (see Appendix J for comprehensive authorship)	1st	2024	Per License		✓	1 year	\$19.99	N
9	AP African American Studies	978-1-4236-6327-0	<i>Movement_</i> Teacher Guide	Elizabeth Wallace and Jessie Gillooly	1st	2024	Per Book	✓		n/a	\$149.95	Y - Gibbs Smith is offering complimentary teachig materials for this adoption
10	AP African American Studies	978-1-4236-6432-1-T1	<i>Movement_</i> Teacher License	Elizabeth Wallace and Jessie Gillooly	1st	2024	Per License		✓	1 year	\$149.99	Y - Bundled free with every print Teacher Guide. Included are: Unit Assessments, additional supplemental activities and resources added to GSEonline, and Teacher Tools
11	Asynchronous Modules and Ongoing Support	n/a	GSE OnDemandEd and Knowledge Base	n/a	n/a	n/a	n/a	n/a	✓	n/a	\$0.00	Y - The GSEonline Knowledge Base is a database of articles and resources that includes videos and tutorials for a wide range of topics to support administrators and teachers.
12	Professional Learning	PD8804	On-Site Professional Learning – Per Trainer	n/a	n/a	n/a	Full Day	n/a	n/a	n/a	\$2,995.00	N
13	Professional Learning	PD8803	On-Site Professional Learning – Per Trainer	n/a	n/a	n/a	Half Day	n/a	n/a	n/a	\$2,795.00	N

14	Professional Learning	PD8799	Virtual Professional Learning - Per Trainer	n/a	n/a	n/a	Half Day	n/a	n/a	n/a	\$1,495.00	N
15	Professional Learning	PD8798	Virtual Professional Learning - Per Trainer	n/a	n/a	n/a	90 Minutes	n/a	n/a	n/a	\$895.00	N

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

This Virginia School Data Privacy Agreement (“DPA”) is entered into by and between the
Fairfax County Public Schools (hereinafter referred to as “Division”) and
Gibbs Smith Education (hereinafter referred to as “Provider”) on
July 15, 2024. The Parties agree to the terms as stated herein.

RECITALS

WHEREAS, the Provider has agreed to provide the Division with certain digital educational services (“Services”) as described in Article I and Exhibit “A.”

WHEREAS, in order to provide the Services described in Article 1 and Appendix A, the Provider may receive or create and the Division may provide documents or data that are covered by several federal statutes, among them, the Federal Educational Rights and Privacy Act (“FERPA”) at 20 U.S.C. 1232g and 34 CFR Part 99, Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. 6501-6502; Protection of Pupil Rights Amendment (“PPRA”) 20 U.S.C. 1232h; the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §§ 1400 *et. seq.*

WHEREAS, the documents and data transferred from Virginia Divisions and created by the Provider’s Services are also subject to several Virginia student privacy laws, including Code of Virginia § 22.1-289.01. *School service providers; school-affiliated entities; student personal information*; and § 22.1-287.02. *Students' personally identifiable information*;

WHEREAS, the Parties wish to enter into this DPA to ensure that the Services provided conform to the requirements of the privacy laws referred to above and to establish implementing procedures and duties; and

WHEREAS, the Provider may, by signing the “General Offer of Privacy Terms” (Exhibit “E”), agree to allow other Local Educational Agencies (LEAs) in Virginia the opportunity to accept and enjoy the benefits of this DPA for the Services described herein, without the need to negotiate terms in a separate DPA.

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

ARTICLE I: PURPOSE AND SCOPE

1. Purpose of DPA. The purpose of this DPA is to describe the duties and responsibilities to protect Division Data (as defined in Exhibit “C”) transmitted to Provider from the Division pursuant to Exhibit “A”, including compliance with all applicable state privacy statutes, including the FERPA, PPRA, COPPA, IDEA, 603 C.M.R. 23.00, 603 CMR 28.00, and Code of Virginia § 22.1-289.01. *School service providers; school-affiliated entities; student personal information*; and § 22.1-287.02. *Students' personally identifiable information*. In performing these services, to the extent Personally Identifiable Information (as defined in Exhibit “C”) from Pupil Records (as defined in Exhibit “C”) are transmitted to Provider from Division, the Provider shall be considered a School Official with a legitimate educational interest, and performing services otherwise provided by the Division. Providers shall be under the direct control and supervision of the Division.

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

2. **Nature of Services Provided.** The Provider has agreed to provide the following digital educational services described below and as may be further outlined in Exhibit “A” hereto:

GSE provides a digital platform (gseonline.us) with which students and teachers can access a digital copy of our print textbooks, with additional digital features.

3. **Division Data to Be Provided.** In order to perform the Services described in this Article and Exhibit “A”, Provider shall list the categories of data collected, managed or shared as described below or as indicated in the Schedule of Data, attached hereto as Exhibit “B”:

Customer Data - Personal data that forms parts of the data that is provided by our customers and their end-users for processing.

Other Data - Personal data about our customers. Website visitors, and other individuals that are collected and processed directly by us.

4. **DPA Definitions.** The definition of terms used in this DPA is found in Exhibit “C”. In the event of a conflict, definitions used this DPA shall prevail over terms used in all the other writings, including, but not limited to, a service agreement, privacy policies or any terms of service.

ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

1. **Division Data Property of Division.** All Division Data, user generated content or any other Pupil Records transmitted to the Provider pursuant to this Agreement is and will continue to be the property of and under the control of the Division, or to the party who provided such data (such as the student, in the case of user generated content.). The Provider further acknowledges and agrees that all copies of such Division Data or any other Pupil Records transmitted to the Provider, including any modifications or additions or any portion thereof from any source, are also subject to the provisions of this Agreement in the same manner as the original Division Data or Pupil Records. The Parties agree that as between them, all rights, including all intellectual property rights in and to Division Data or any other Pupil Records contemplated per this Agreement shall remain the exclusive property of the Division. For the purposes of FERPA and state law, the Provider shall be considered a School Official, under the control and direction of the Divisions as it pertains to the use of Division Data notwithstanding the above. The Provider will cooperate and provide Division Data within ten (10) days at the Division’s request. Provider may transfer pupil-generated content to a separate account, according to the procedures set forth below.
2. **Parent Access.** Provider shall cooperate and respond within ten (10) days to the Division’s request for personally identifiable information in a pupil’s records held by the Provider to view or correct as necessary. In the event that a parent of a pupil or other individual contacts the Provider to review any of the Pupil Records of Division Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the Division, who will follow the necessary and proper procedures regarding the requested information.

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

3. **Separate Account.** Provider shall, at the request of the Division, transfer Student Generated Content to a separate student account when required by the Code of Virginia § 22.1-289.01. School service providers; school-affiliated entities.
4. **Third Party Request.** Provider shall notify the Division in advance of a compelled disclosure to a Third Party, unless legally prohibited.
5. **Subprocessors.** Provider shall enter into written agreements with all Subprocessors performing functions pursuant to this DPA, whereby the Subprocessors agree to protect Division Data in a manner consistent with the terms of this DPA.

ARTICLE III: DUTIES OF DIVISION

1. **Privacy Compliance.** Division shall provide data for the purposes of the DPA and any related contract in compliance with the FERPA, PPRA, IDEA, Code of Virginia § 22.1-289.01. School service providers; school-affiliated entities; student personal information; and § 22.1-287.02. Students' personally identifiable information, and all other applicable Virginia statutes.
2. **Parent Notification of Rights.** Division shall ensure that its annual notice under FERPA defines vendors, such as the Provider, as “School Officials” and what constitutes a legitimate educational interest. The Division will provide parents with a notice of the websites and online services under this agreement for which it has consented to student data collection to on behalf of the parent, as permitted under COPPA.
3. **Unauthorized Access Notification.** Division shall notify Provider promptly of any known or suspected unauthorized access. Division will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.

ARTICLE IV: DUTIES OF PROVIDER

1. **Privacy Compliance.** The Provider shall comply with all Virginia and Federal laws and regulations pertaining to data privacy and security, including FERPA, COPPA, PPRA, Code of Virginia § 22.1-289.01. and § 22.1-287.02.
2. **Authorized Use.** Division Data shared pursuant to this DPA, including persistent unique identifiers, shall be used for no purpose other than the Services stated in this DPA and as authorized under the statutes referred to in subsection (1), above. Provider also acknowledges and agrees that it shall not make any re-disclosure of any Division Data or any portion thereof, including without limitation, any Division Data, metadata, user content or other non-public information and/or personally identifiable information contained in the Division Data, without the express written consent of the Division, unless it fits into the de-identified information exception in Article IV, Section 4, or there is a court order or lawfully issued subpoena for the information.
3. **Employee Obligations.** Provider shall require all employees and agents who have access to Division data to comply with all applicable provisions of this DPA with respect to the data shared under the Service Agreement.
4. **Use of De-identified Information.** De-identified information, as defined in Exhibit “C”,

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

may be used by the Provider for the purposes of development, research, and improvement of educational sites, services, or applications, as any other member of the public or party would be able to use de-identified data pursuant to 34 CFR 99.31(b). The Provider and Division agree that the Provider cannot successfully de-identify information if there are fewer than twenty (20) students in the samples of a particular field or category of information collected, i.e., twenty students in a particular grade, twenty students of a particular race, or twenty students with a particular disability. Provider agrees not to attempt to re-identify de-identified Division Data and not to transfer de-identified Division Data to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to the Division who has provided prior written consent for such transfer.

5. **Disposition of Data.** Upon written request and in accordance with the applicable terms in subsections below, Provider shall dispose or delete all Division data obtained under this agreement when it is no longer needed for the purposes for which it was obtained. Disposition will include (1) the shredding of any hard copies of any Division data, (2) erasing, or (3) otherwise modifying the personal information in those records to make it unreadable or indecipherable by human or digital means. Nothing in the service agreement authorizes provider to maintain Division data obtained under the service agreement beyond the time reasonably needed to complete the disposition. Provider shall provide written notification when the division data has been disposed. The duty to dispose of Division data shall not extend to data that has been de-identified or placed in a separate student account, pursuant to the terms of the agreement. The division may employ a request for return or deletion of Division data form, a copy of which is attached hereto as exhibit D. Upon receipt of a request from the division, the provider will immediately provide the division with any specified portion of the division data within ten (10) calendar days of the receipt of said request.
 - a) **Partial Disposal During the Term of Service Agreement.** Throughout the term of the service agreement, Division may request partial disposal of Division data obtained under the service agreement that is no longer needed. Partial disposal of data shall be subject to Division's request to transfer data to a separate account, pursuant to Article II Section 3, above.
 - b) **Complete Disposal upon Termination of Service Agreement.** Upon termination of the service agreement Provider shall dispose or securely destroy all Division data obtained under the service agreement. Prior to the disposal of the data, Provider shall notify Division in writing of its option to transfer data to a separate account, pursuant to Article 2, Section 3, above. In new event shelters Provider dispose of data pursuant to this provision unless and until provider has received affirmative written confirmation from Division that data will not be transferred to a separate account.
6. **Advertising Prohibition.** Provider is prohibited from using or selling Division Data to (a) market or advertise to students or families/guardians; (b) inform, influence, or enable marketing or advertising efforts by a Provider; (c) develop a profile of a student, family member/guardian or group, for any commercial purpose other than providing the Service to Client; or (d) use the Division Data for the development of commercial products or services, other than as necessary to provide the Service to the Client. This section does not prohibit Provider from generating legitimate personalized learning recommendations or other

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

activities permitted under Code of Virginia § 22.1-289.01.

7. **Penalties.** The failure to comply with the requirements of this agreement could subject Provider and any third party to all allowable penalties assessable against Provider under state and federal law. In the event the Family Policy Compliance Office of the U.S. Department of Education determines that Provider improperly disclosed personally identifiable information obtained from the Division's education records, the Division may not allow Provider access to the Division's education records for at least five years.

ARTICLE V: DATA PROVISIONS

1. **Data Security.** The Provider agrees to maintain a comprehensive information security program that is reasonably designed to protect the security, privacy, confidentiality, and integrity of student personal information and makes use of appropriate administrative, technological, and physical safeguards. The general security duties of Provider are set forth below. These duties shall include, but are not limited to:
 - a. **Passwords and Employee Access.** Provider shall secure and manage usernames, passwords, and any other means of gaining access to the Services or to Division Data, at levels suggested by NIST SP800-171 (Password complexity, encryption, and re-use), NIST SP800-53 (IA control Family), and NIST 800-63-3 (Digital Identity), and NIST SP800-63B (Authenticator and Verifier Requirements) or equivalent industry best practices.
 - b. **Security Protocols.** Both parties agree to maintain security protocols that meet industry best practices in the collection, storage or transmission of any data, including ensuring that data may only be viewed or accessed by parties legally allowed to do so. Provider shall maintain all data obtained or generated pursuant to the DPA in a secure computer environment.
 - c. **Provider Employee Training.** The Provider shall provide annual security training to those of its employees who operate or have access to the system.
 - d. **Security Technology.** When the service is accessed using a supported web browser, FIPS 140-2 validated transmission encryption protocols, or equivalent technology shall be employed to protect data from unauthorized access. The service security measures shall follow National Institute of Standards and Technology (NIST) 800-171, or equivalent industry best practices.
 - e. **Periodic Risk Assessment.** Provider further acknowledges and agrees to conduct periodic risk assessments and remediate any identified security and privacy vulnerabilities in a timely manner. Upon Division's written request, Service Provider shall make the results of findings available to the Division. The Division shall treat such audit reports as Provider's Confidential Information under this Agreement.
 - f. **Backups and Audit Trails, Data Authenticity and Integrity.** Provider will take reasonable measures, including all backups and audit trails, to protect Division Data against deterioration or degradation of data quality and authenticity. Provider shall be responsible for ensuring that Division Data is retrievable in a reasonable format.

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

- g. Subprocessors Bound.** Provider shall enter into written agreements whereby Subprocessors agree to secure and protect Division Data in a manner consistent with the terms of this Article V. Provider shall periodically conduct or review compliance monitoring and assessments of Subprocessors to determine their compliance with this Article.
- 2. Unauthorized Access or Data Breach.** In the event that Division Data are reasonably believed by the Provider or school division to have been disclosed (lost, accessed or obtained) in violation of the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) or other federal or state law applicable to such information accessed or obtained by an unauthorized individual, Provider shall follow the following process:
- a. provide immediate notification to Division upon verification of the incident and allow the Division or its authorized representatives to fully participate in the investigation of the incident.
 - b. notification will be provided to the contact(s) identified in ARTICLE VII, N: Notice, and sent via email and postal mail. Such notification shall include:
 - i. date, estimated date, or date range of the loss or disclosure;
 - ii. Division data that was or is reasonably believed to have been lost or disclosed;
 - iii. remedial measures taken or planned in response to the loss or disclosure.
 - c. immediately take action to prevent further access;
 - d. take all legally required, reasonable, and customary measures in working with Division 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 loss or disclosure;
 - e. cooperate with Division efforts to communicate to affected parties;
 - f. provider is prohibited from directly contacting parent, legal guardian or eligible pupil unless expressly requested by Division. If Division requests Provider's assistance providing notice of unauthorized access, and such assistance is not unduly burdensome to Provider, Provider shall notify the affected parent, legal guardian or eligible pupil of the unauthorized access, which shall include the information listed in subsections (b) and (c), above. If requested by Division, Provider shall reimburse Division for costs incurred to notify parents/families of a breach not originating from Division's use of the Service;
 - g. the Provider shall indemnify and hold harmless the Division 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 Provider or any of its officers, directors, employees, agents or representatives of the obligations of the Provider's or its Authorized Representatives under this provision or under a Confidentiality Agreement, as the case may be.

ARTICLE VI: GENERAL OFFER OF PRIVACY TERMS

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

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

ARTICLE VII: MISCELLANEOUS

- A. **Term**. The Provider shall be bound by this DPA for so long as the Provider maintains or possesses any Division data.
- B. **Termination**. In the event that either party seeks to terminate this DPA, they may do so by mutual written consent and as long as any service agreement or terms of service, to the extent one exists, has lapsed or has been terminated. The Division may terminate the DPA and any service agreement or contract in the event of a material breach of the terms of this DPA.
- C. **Data Transfer Upon Termination or Expiration**. Provider will notify the Division of impending cessation of its business and any contingency plans. Provider shall implement its exit plan and take all necessary actions to ensure a smooth transition of service with minimal disruption to the Division. As mutually agreed upon and as applicable, Provider will work closely with its successor to ensure a successful transition to the new equipment, with minimal downtime and effect on the Division, all such work to be coordinated and performed in advance of the formal, transition date.
- D. **Effect of Termination Survival**. If the DPA is terminated, the Provider shall destroy all of Division's data pursuant to Article V, section 5(b). The Provider's obligations under this agreement shall survive termination of this Agreement until all Division Data has been returned or Securely Destroyed.
- E. **Priority of Agreements**. This DPA supersedes all end user and "click-thru" agreements. In the event there is conflict between the terms of the DPA and any other writing, such as service agreement or with any other bid/RFP, terms of service, privacy policy, license agreement, or writing, the terms of this DPA shall apply and take precedence. Except as described in this paragraph herein, all other provisions of any other agreement shall remain in effect.
- F. **Amendments**. This DPA may be amended and the observance of any provision of this DPA may be waived (either generally or in any particular instance and either retroactively or prospectively) only with the signed written consent of both parties.
- G. **Severability**. Any provision of this DPA that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DPA, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the parties, it shall, as to such jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this DPA or affecting the validity or enforceability of such provision in any other jurisdiction.
- H. **Governing Law: Venue and Jurisdiction**. This agreement will be governed by and

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

construed in accordance with the laws of the state of Virginia, without regard to conflicts of law principles. Each party consents and submits to the sole and exclusive jurisdiction to the state and federal courts for the county of the initial subscribing division or the division specified in Exhibit “E” as applicable, for any dispute arising out of or relating to this agreement or the transactions contemplated hereby.

- I. Authority.** Provider represents that it is authorized to bind to the terms of this Agreement, including confidentiality and destruction of Division Data and any portion thereof contained therein, all related or associated institutions, individuals, employees or contractors who may have access to the Division Data and/or any portion thereof, or may own, lease or control equipment or facilities of any kind where the Division Data and portion thereof stored, maintained or used in any way.
- J. Waiver.** No delay or omission of the Division to exercise any right hereunder shall be construed as a waiver of any such right and the Division reserves the right to exercise any such right from time to time, as often as may be deemed expedient.
- K. Successors Bound:** This DPA is and shall be binding upon the respective successors in interest to provider in the event of a merger, acquisition, consolidation or other business reorganization or sale of all or substantially all of the assets of such business.
- L. Electronic Signature:** The parties understand and agree that they have the right to execute this Agreement through paper or through electronic signature technology, which is in compliance with Virginia and Federal law governing electronic signatures. The parties agree that to the extent they sign electronically, their electronic signature is the legally binding equivalent to their hand written signature. Whenever they execute an electronic signature, it has the same validity and meaning as their handwritten signature.
- M. Notice.** All notices or other communication required or permitted to be given hereunder must be in writing and given by personal delivery, facsimile or e-mail transmission (if contact information is provided for the specific mode of delivery), or first class mail, postage prepaid, sent to the designated representatives before:

a. Designated Representatives

The designated representative for the Provider for this Agreement is:

Name:	<u>Jeff Whorley</u>
Title:	<u>Souteast Regional Sales Manager</u>
Address:	<u>570 N. Sportsplex Dr., Kaysville, UT 84037</u>
eMail:	<u>jeff.whorley@gibbs-smith.com</u>
Phone:	<u>801-927-2172</u>

The designated representative for the Division for this Agreement is:

Name:	<u>Michelle Pratt</u>
Title:	<u>Director, Office of Procurement Services</u>
Address:	<u>8115 Gatehouse Rd., Falls Church, VA 22042</u>

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

eMail: mrpratt@fcps.edu
Phone: (571) 423-3555

- b. Notification of Acceptance of General Offer of Terms.** Upon execution of Exhibit “E” General Offer of Terms, subscribing Division shall provide notice of such acceptance in writing and given by personal delivery or email transmission (if contact information is provided for the specific mode of delivery), or first-class mail, postage prepaid, to the designated representative below the designated representative for the notice of acceptance of the general offer of privacy terms is named title contact information.

Name: Jared L Taylor
Title: Publisher & President
Address: 570 N. Sportsplex Dr., Kaysville, UT 84037
eMail: jared.taylor@gibbs-smith.com
Phone: 801-927-2143

[Signature Page Follows]

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Virginia Student Data Privacy Agreement as of the last day noted below.

Provider Signature

Date: 7/15/2024 Printed Name: Jared L Taylor Title: Publisher & President

Division Signature

Date: C14D4C9B7D1F422... Printed Name: Michelle Pratt Title: Director, Office of Procurement Services

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

EXHIBIT “A”

DESCRIPTION OF SERVICES

[INSERT DETAILED DESCRIPTION OF PRODUCTS AND SERVICES HERE. IF MORE THAN ONE PRODUCT OR SERVICE IS INCLUDED, LIST EACH PRODUCT HERE]

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

EXHIBIT “B”

SCHEDULE OF DATA

Category of Data	Elements	Check if used by your system
Application Technology Meta Data	IP Addresses of users, Use of cookies etc.	X
	Other application technology meta data-Please specify:	x Kitaboo stores below mentioned PII
Application Use Statistics	Meta data on user interaction with application	x The end u
Assessment	Standardized test scores	
	Observation data	x We collect information related to your U
	Other assessment data-Please specify:	
Attendance	Student school (daily) attendance data	
	Student class attendance data	
Communications	Online communications that are captured (emails, blog entries)	

Conduct	Conduct or behavioral data	
Demographics	Date of Birth	
	Place of Birth	
	Gender	
	Ethnicity or race	
	Language information (native, preferred or primary language spoken by student)	
Enrollment	Other demographic information-Please specify:	
	Student school enrollment	X
	Student grade level	X
	Homeroom	
	Guidance counselor	
	Specific curriculum programs	X
	Year of graduation	
	Other enrollment information-Please specify:	
Parent/Guardian Contact Information	Address	
	Email	
	Phone	

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

Parent/ Guardian ID	Parent ID number (created to link parents to students)	
Parent/ Guardian Name	First and/or Last	
Schedule	Student scheduled courses	
	Teacher names	X
Special Indicator	English language learner information	
	Low income status	
	Medical alerts /health data	
	Student disability information	
	Specialized education services (IEP or 504)	
	Living situations (homeless/ foster care)	
	Other indicator information- Please specify:	
Student Contact Information	Address	
	Email	
	Phone	
Student Identifiers	Local (School district) ID	

	number	
	State ID number	
	Provider/App assigned student ID number	
	Student app username	X
	Student app passwords	x (uses encryption)
Student Name	First and/or Last	X
Student In App Performance	Program/appli- cation performance (typing program-student types 60 wpm, reading program-student reads below grade level)	
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	
Student Survey Responses	Student responses to surveys or questionnaires	
Student work	Student generated content; writing, pictures etc.	x Notes only
	Other student	

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

	work data - Please specify:	
Transcript	Student course grades	
	Student course data	
	Student course grades/perfor- mance scores	
	Other transcript data -Please specify:	
Transportation	Student bus assignment	
	Student pick up and/or drop off location	
	Student bus card ID number	

	Other transportation data -Please specify:	
Other	Please list each additional data element used, stored or collected by your application	

No Student Data Collected at this time _____.
*Provider shall immediately notify LEA if this
designation is no longer applicable.

OTHER: Use this box, if more space needed.

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

EXHIBIT “C”

DEFINITIONS

Data Breach means an event in which Division Data is exposed to unauthorized disclosure, access, alteration or use.

Division Data includes all business, employment, operational and Personally Identifiable Information that Division provides to Provider and that is not intentionally made generally available by the Division on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and student, employees, and personnel data, user generated content and metadata but specifically excludes Provider Data (as defined in the Contract).

De-Identifiable Information (DII): De-Identification refers to the process by which the Provider removes or obscures any Personally Identifiable Information (“PII”) from student records in a way that removes or minimizes the risk of disclosure of the identity of the individual and information about them. Anonymization or de-identification should follow guidance equivalent to that provided by U.S Department of Education publication “Data De-identification: An Overview of Basic Terms” or NISTIR Special Publication (SP) 8053 De-Identification of Personally Identifiable Information. The Provider’s specific steps to de-identify the data will depend on the circumstances, but should be appropriate to protect students. Some potential disclosure limitation methods are blurring, masking, and perturbation. De-identification should ensure that any information when put together cannot indirectly identify the student, not only from the viewpoint of the public, but also from the vantage of those who are familiar with the individual. Information cannot be de-identified if there are fewer than twenty (20) students in the samples of a particular field or category, i.e., twenty students in a particular grade or less than twenty students with a particular disability.

Indirect Identifiers: Any information that, either alone or in aggregate, would allow a reasonable person to be able to identify a student to a reasonable certainty.

Personally Identifiable Information (PII): The terms “Personally Identifiable Information” or “PII” shall include, but are not limited to, student data, staff data, parent data, metadata, and user or pupil-generated content obtained by reason of the use of Provider’s software, website, service, or app, including mobile apps, whether gathered by Provider or provided by Division or its users, students, or students’ parents/guardians, including “directory information” as defined by §22.1-287.1 of the Code of Virginia“.

PII includes, without limitation, at least the following:

- Staff, Student or Parent First, Middle and Last Name
- Staff, Student or Parent Telephone Number(s)
- Discipline Records
- Special Education Data
- Grades
- Criminal Records

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

- Health Records
- Biometric Information
- Socioeconomic Information
- Political Affiliations
- Text Messages
- Student Identifiers Photos
- Videos
- Grade
- Home Address Subject
- Email Address
- Test Results
- Juvenile Dependency Records Evaluations
- Medical Records
- Social Security Number
- Disabilities
- Food Purchases
- Religious Information Documents
- Search Activity
- Voice Recordings
- Date of Birth
- Classes
- Information in the Student's Educational Record
- Information in the Student's Email

Provider: For purposes of the DPA, the term “Provider” means provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records.

Pupil Generated Content: The term “pupil-generated content” means materials or content created by a pupil during and for the purpose of education including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, videos, and account information that enables ongoing ownership of pupil content.

Pupil Records: Means both of the following: (1) Any information that directly relates to a pupil that is maintained by Division and (2) any information acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other local educational Division employee.

Securely Destroy: Securely Destroy means taking actions that render data written on physical (e.g., hardcopy, microfiche, etc.) or electronic media unrecoverable by both ordinary and extraordinary means. These actions must meet or exceed those sections of the National Institute of Standards of Technology (NIST) SP 800-88 Appendix A guidelines relevant to sanitization of data categorized as high security. All attempts to overwrite magnetic data for this purpose must utilize DOD approved methodologies.

School Official: For the purposes of this Agreement and pursuant to 34 CFR 99.31 (B), a School Official is a contractor that: (1) Performs an institutional service or function for which the agency or institution would otherwise use employees; (2) Is under the direct control of the agency or institution with respect to the use and maintenance of education

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

records; and (3) Is subject to 34 CFR 99.33(a) governing the use and re-disclosure of personally identifiable information from student records.

Student Data: Student Data includes any data, whether gathered by Provider or provided by Division or its users, students, or students' parents/guardians, that is descriptive of the student including, but not limited to, information in the student's educational record or email, first and last name, home address, telephone number, email address, or other information allowing online contact, discipline records, videos, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security numbers, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information text messages, documents, student identifies, search activity, photos, voice recordings or geolocation information.

Student Data shall constitute Pupil Records for the purposes of this Agreement, and for the purposes of Virginia and Federal laws and regulations. Student Data as specified in Exhibit B is confirmed to be collected or processed by the Provider pursuant to the Services. ~~Student Data~~ shall not constitute that information that has been anonymized or de-identified, or anonymous usage data regarding a student's use of Provider's services. Anonymization or de-identification should guidance equivalent to that provided by U.S Department of Education publication "Data De-identification: An Overview of Basic Terms" or NISTIR Special Publication (SP) 8053 De-Identification of Personally Identifiable Information.

Student Generated Content: Alternatively known as user-created content (UCC), is any form of content, such as images, videos, text and audio, that have been created and posted by student users on online platforms.

Subscribing Division: A Division that was not party to the original Services Agreement and who accepts the Provider's General Offer of Privacy Terms.

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

Third Party: The term "Third Party" means an entity that is not the Provider or Division.

VIRGINIA SCHOOL DATA PRIVACY AGREEMENT

EXHIBIT “D”

DIRECTIVE FOR DISPOSITION OF DATA

[Name or Division or Division] directs [Name of Company] to dispose of data obtained by Provider pursuant to the terms of the DPA between Division and Provider. The terms of the Disposition are set forth below:

1. Extent of Disposition

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

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

[Insert categories of data]

2. Nature of Disposition

☐ Disposition shall be by destruction or secure deletion of data.

☐ Disposition shall be by a transfer of data. The data shall be transferred to the following site as follows:

[Insert or attach special instructions.]

3. Timing of Disposition

Data shall be disposed of by the following date: As soon as commercially practicable

By Insert Date

4. Signature of Authorized Representative of Division

BY: _____

Date: _____

Printed Name: _____

Title/Position: _____

5. Verification of Disposition of Data

BY: _____

Date: _____

Printed Name: _____

Title/Position: _____



Social Studies Basal Resource Adoption Negotiation, RFP# 2000003962

By Gibbs Smith Education (GSE) for Fairfax County Public Schools

Terms of Use

Gibbs M. Smith, Inc.

d.b.a. Gibbs Smith Education

These terms and conditions (the "Terms of Use") apply to all applications, websites, and other digital access points owned and operated by Gibbs Smith Education (GSE) or any of our affiliated companies and are considered property of GSE, and are protected, without limitations, pursuant to U.S. and foreign copyright and trademark laws. We reserve the right, at our discretion, to change these Terms of Use in the future provided that, unless a change is required by law, we will not make any changes that, individually or in the aggregate, materially and adversely impact your rights or the rights of any of your users.

1. SERVICES FOR USERS

2. GSE operates electronic platforms/systems including web and mobile applications that enable students, instructors, and administrators of educational institutions to access and use online products and services offered by GSE through our Sites. The material on our Sites includes general, non-proprietary information available to all users of our Sites

USER INFORMATION, COPPA

In accordance with the Federal Children's Online Privacy Protection Act of 1998 (COPPA), we will never knowingly solicit, nor will we accept, personally identifiable information (PII) from users under thirteen (13) years of age without the consent of their educational institution or the child's parent or guardian. We do not knowingly ask for or solicit any personally identifiable information (PII) from any educational institution unless it is necessary to integrate or grant access to our online products or services.

3. INTELLECTUAL PROPERTY

During the term of your subscription/contact with GSE, subject to the payment of any fees in any applicable subscription agreement and subject to compliance with these Terms of Use and any other agreement governing your use of the Services, GSE grants you limited, non-exclusive, and non-transferable license to access and use the Services over the Internet via the Site provided



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Your use of our Sites does not grant you a license to any content or materials that you may access on our Sites, including any reproduction in any form, digital or print, unless otherwise expressly provided in these Terms of Use, Terms of Service, or by written permission from an authorized representative of GSE. You may not use any Trademark displayed on our Sites without prior written consent or prior written consent of the third-party that owns any other trademarks in any way or form.

4. ACCESS TO GSE CONTENT

Your use of GSE content, materials, or any intellectual property is subject to these Terms of Use as well as any additional terms you agree to in connection with such GSE content and/or posted on the Site for GSE including, without limitation, any prohibitions on distribution of GSE content to parties external to Fairfax County Public Schools in any way or form. You are responsible for maintaining the confidentiality of passwords, account information, and are fully responsible for any and all activities authorized by you that occur under your password, account, username, or other access means (integration, etc.). You may not share or distribute to any third party (other than students), any screen name or password for accessing services or content owned by GSE or its authorized licensees. You agree to take reasonable precautions to avoid unauthorized access to your accounts, including installing updated antivirus software, using strong password policies, and training users on proper internet security practices.

5. RESTRICTIONS OF/ON USE

Only licensed users are to access the Services and/or the GSE Content using an individual username and password or appropriate SSO technology. Users cannot share credentials to access our materials. If your license includes access to eBooks, worksheets, interactive content, or other proprietary content or tools from GSE during the time you have a valid license, you may access your assigned content on only one (1) web session or mobile device application, or other approved access method. If we have reason to believe you have shared your password information or other access method with an unlicensed user or have used the Services or Content in violation of the provisions herein, we



may suspend or terminate your account and refuse any and all current use or future use of the Services without refund or compensation provided that we will first provide you with written notice describing the issue in reasonable detail and an opportunity to cure such issue. You agree that you will not otherwise copy, transmit, rent, forward, lend, sell, post (digitally or physically), or modify any materials from the Services and/or the GSE Content or modify or remove any proprietary notices contained therein, or create or enable the creation of derivative works based thereon. You may not use any robot, spider, other automatic device or program or manual process to access, monitor, copy or reproduce the Services or the GSE Content. You may not engage in systematic retrieval of content from the Services or the GSE Content to create or compile, directly or indirectly, a collection, compilation, database, or directory. You may not disseminate any portion of the Services or the GSE Content through electronic means, including mail lists or electronic bulletin boards. You may not reverse engineer the Services, nor circumvent, disable, or otherwise interfere with any technical and/or other limitations, including without limitation security-related features. You acquire no right, title, or interest in any GSE content except for the limited access license granted to you, and GSE reserves all rights in the GSE Content.

6. COMMUNICATION TO GSE

Although we encourage you to email us, you should not email us anything that contains confidential information or PII. Please refer to the Privacy Notice with regard to how we handle your PII. By emailing us or otherwise providing content to us, or posting content to the Sites or the Services including but not limited to feedback, questions, comments, suggestions, and the like (collectively "User Content"), you agree by our User Content Submission Agreement that we may use any non-PII ideas, concepts, know-how, or techniques contained in your communications for any purpose whatsoever, including but not limited to the development, production, and marketing of products and services that incorporate such information. You own the rights to anything you post to the Sites or the Services, including text and photographs. Additional terms and options for Service Uploads may be presented through the applicable upload interface available on the Site offering the Service, which shall be in addition to, and not instead of, these Terms of Service.

7. EXTERNAL WEBSITES

Our Sites may contain links to third-party applications or websites ("External Websites"). These links are provided only as a convenience to you and not as an



endorsement by us of the content on such External Websites. When you access an External Website, GSE has no control over its content, applications, or services. We do not make any representations regarding the accuracy, quality, or accessibility of any External Website or its content or materials. GSE disclaims all liability for any errors, omissions, content, violations of third-party rights or illegal conduct arising from such External Websites.

8. INDEMNIFICATION

Removed in its entirety.

9. LIABILITY -

IN NO EVENT WILL GSE OR ITS LICENSORS OR SERVICE PROVIDERS BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO, LOST TIME, LOST MONEY, LOST DATA, LOST PROFITS OR GOOD WILL, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, AND WHETHER OR NOT SUCH DAMAGES ARE FORSEEN OR UNFORESEEN WITH RESPECT TO ANY USE OF THE GSE CONTENT, SITES, THE SERVICES, OR OTHERWISE ARISING FROM OR RELATING TO THESE TERMS OF USE AND IN NO EVENT SHALL THE LIABILITY OF GSE OR ITS LICENSORS FOR WHATEVER CAUSE EXCEED TWO TIMES THE FEES PAID BY YOU IN CONNECTION WITH YOUR USE OF THE GSE CONTENT, THE SITES, OR THE SERVICES, EVEN IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT THE FOREGOING EXCLUSION OF LIABILITY IS NOT PERMITTED UNDER APPLICABLE LAW, GSE LIABILITY IN SUCH CASE WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. Notwithstanding the foregoing, our liability will in no event be limited for claims for (a) bodily injury, including death, and damage to real property or tangible personal property resulting from our negligence or that of any of our employees; or b) the intentional or willful misconduct, fraud, or recklessness on our part or that of any of our employees.

10. INFRINGEMENT NOTIFICATION

We greatly respect the intellectual property rights of others and require that the people who use our Sites do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, please send written notification of the claimed infringement to: Legal Department, Gibbs Smith Education, P.O. Box 667, Layton, UT, 84041. Notices of the claimed infringement should include, at a minimum, the following information for investigation: (a) your address, telephone number, and email address; (b) a detailed description of your



copyrighted work that you claim has been infringed; (c) a description of where the alleged infringing material is located, with a link where applicable; (d) a statement by you that you have a good faith belief that the disputed use is not authorized by you (the copyright owner), its agent, or the law; (e) a physical signature by you, or any other persons authorized to act on behalf of the owner of the copyright interest; (f) a statement by you, notarized under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

11. COMPLIANCE WITH APPLICABLE LAWS

We control and operate our Sites and Services from our offices in the United States of America. We do not represent that materials on our Sites are appropriate or available for use in other locations. Persons who choose to access our Sites from other locations do so on their own initiative, and are responsible for compliance with local laws, if and to the extent local laws are applicable. All parties to these terms and conditions waive their respective rights to a trial by jury.

12. TERMINATION OF AGREEMENT

Termination of this agreement shall be in accordance with the terms of the RFP 2000003962 Social Studies Basal Resources Adoption.

13. MISCELLANEOUS

If any provision of this Agreement is found to be invalid by any court having competent jurisdiction or terminated in accordance with the "Termination of Agreement" provision above, the invalidity or termination of such provisions shall not affect the validity of the following provisions of this Agreement, which shall remain in full force and effect: "Intellectual Property," "Communications to GSE," "No Warranties," "Indemnification," "Liability," "Compliance with Applicable Laws," "Termination of this Agreement," and "Miscellaneous." Our failure to act or enforce any provision of this Agreement shall not be construed as a waiver of that provision or any other provision in this Agreement. No waiver shall be effective against us unless made in writing, and no such waiver shall be construed as a waiver in any other or subsequent instance. The section headings are provided merely for convenience and shall not be given any legal import. This Agreement will inure to the benefit of our successors, assigns, licensees, and sublicensees.

