



MAC

KEY CONTRACT TERMS

For

Master Agreement HV-209-032321-A

<u>Contract Between:</u>	Huron Valley Schools and Apptegy, Inc.
<u>Contract Purpose:</u>	Master Agreement for Website Redesign and Content Management
<u>Contract Number:</u>	HV-209-032321-A
<u>RFP Number:</u>	HV-209-032321 (the “RFP” or “RFQ”)
<u>Contractor Name:</u>	Apptegy, Inc.
<u>Contractor Address:</u>	2201 Brookwood Dr. STE 115 Littlerock, Arkansas 72202
<u>Contractor Telephone:</u>	501-791-9673
<u>Contract Administrator:</u>	Huron Valley Designee/MAC Cooperative
<u>Contract Period:</u>	July 1, 2021 – June 30, 2026
<u>Base Contract Years:</u>	July 1, 2021 – June 30, 2024
<u>Option Years:</u>	July 1, 2024 – June 30, 2025 (Option Year 1) July 1, 2025 – June 30, 2026 (Option Year 2)
<u>Delivery/Shipment:</u>	Service delivered as needed by district
<u>Pricing:</u>	Refer to Page 70 (the “Cost Schedule”) of Contractor’s submission in response to the RFP (the “Contractor’s
HV-209-032321-A	

1

HV- Website Redesign and Content Management



MAC

Proposal”) and additional provisions herein regarding pricing and/or payment for Huron Valley Schools and other subsequent MAC Cooperative Members/Participating Entities.

Administrative Fee:

2.0%

Terms & Conditions:

Refer to Section 2.0.

Ordering Options:

Phone, Fax, or Email

Payment Options:

Purchase Order or Direct Voucher

Miscellaneous Information:

THIS CONTRACT IS EXTENDED TO AUTHORIZED MAC COOPERATIVE MEMBERS. For clarity, the terms and conditions of this Contract shall also, to the extent provided for herein, apply to and govern any subsequent agreement for the Services between Contractor and MAC Cooperative Members/Participating Entities purchasing pursuant to this Contract.

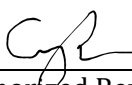


Signature of Contractor’s Duly Authorized Representative

The undersigned acknowledge, attest and certify the following individually and on behalf of the Contractor or Huron Valley Schools as applicable that:

(1) He/she is an Authorized Representative of his/her respective Party, has been authorized by that Party to make all representations, attestations, and certifications contained in this Contract, if any, issued, and to execute this Contract on behalf of such Party; (2) both Parties are bound by and will comply with all requirements, specifications, and terms and conditions contained in this Contract (including all listed attachments and Addenda, if any, issued; (3) Contractor will furnish the designated products and services (the “Services”) in accordance with the Contract specifications and requirements, and both Parties will generally comply in all respects with the terms of the Contract and their resulting obligations; and (4) All affirmations contained in the RFP are true and correct.

Notwithstanding anything else to the contrary in this Contract, the Parties acknowledge and agree that the Services, the means of providing same, or any other obligations and performance as described in the Contractor’s Proposal shall be considered to meet the specifications or requirements of this Contract (including any other specifications and requirements incorporated herein such as the RFP and its Section 1.4 “Work and Deliverables” detailing various Activities and Tasks.). As such, without limiting the generality of the foregoing, Contractor’s performance of the Services in conformance with Contractor’s Proposal shall be considered material compliance with applicable provisions of this Contract.

CONTRACTOR	HURON VALLEY SCHOOLS
Firm Name: Aptegy, Inc.	Authorized Representative Name (printed):
Authorized Representative Signature: 	Authorized Representative Signature:
Authorized Representative Name (printed): Casey Mikula, Chief Sales Officer	Date:
Date: 6/28/21	



SECTION 1.0 – CONTRACT REQUIREMENTS

THIS CONTRACT (the “Contract”) is made and entered into this 16 day of March, 2021 by and between **HURON VALLEY SCHOOLS** (hereinafter the “School District”), a Michigan general powers School District, whose address is 2390 S. Milford Road, Highland, Michigan 48357, and Apptegy, Inc. (hereafter the “Contractor”), an Arkansas company, whose address is 22201 Brookwood Dr. Ste 115, Littlerock, Arkansas 72202 (each a “Party” and collectively the “Parties”).

RECITALS

- A. The School District issued a Request For Qualification dated 5/7/2021 [including any addenda issued and the date(s) issued] (collectively the “RFQ”), the purpose of which was to solicit proposals from qualified contractors to provide services for website redesign and content management as specified in the RFQ (the “Services”) to the School District, on an as needed basis;
- B. The Contractor submitted to the School District a Response to the RFQ dated 6/4/2021 (the “Proposal”) to provide contracted services for website redesign and content management as contemplated by the RFQ; and
- C. The Parties agree that certain terms and provisions of the RFQ and the Proposal must be further modified, supplemented, and clarified and that certain additional terms and conditions need to be expressly set forth by way of this Contract.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth herein, the Parties agree as follows:

1. RESTATEMENT CONSTITUTES THE CONTRACT

- (a) Incorporation By Reference.

The object of this Contract is to formalize in one document the complete agreement between the Parties, and to do so by specifically incorporating by reference into this Contract, the RFQ, the Proposal and other related documents, and by including certain additional necessary or appropriate Contract terms, particularly where the Contract terms agreed to by the Parties during the RFQ negotiation process do not correspond with the RFQ, as is the case with here with HV-209-032321.

(b) Order Of Precedence.

The Contract Documents, which all are incorporated herein by reference, include the following:

- i. This Contract;
- ii. The Contractor's Proposal; and
- iii. The RFQ.

To the extent that the terms and conditions of the Contract Documents are in conflict, the terms and conditions shall be interpreted in the above-referenced order from (i) to (iii). However, the Parties also agree that where there is not a conflict between any of the terms and conditions contained in the above-referenced Contract Documents, all of the Contract Documents shall be binding upon both Parties.

2. TERM AND TERMINATION

(a) Initial Term.

The term of this Contract shall be for a period of three (3) years, commencing 7/1/2021 and ending on 6/30/2024 (the "Initial Term"). Notwithstanding the above, as contemplated by the RFP, satisfaction must be guaranteed for this Contract to continue for the second and third year of the Initial Term. In the event the School District is not completely satisfied with the Services of the Contractor, the School District may elect, in its sole and absolute discretion, not to begin years two (2) and three (3) of the Initial Term by providing written notice to the Contractor at least ninety (90) days prior to the start of year two (2) or year three (3) of its intent not to continue with the Services under this Contract.

(b) Renewal Term.

Following the Initial Term, the School District shall have the option to extend this Contract by up to two (2) additional years on a year-to-year basis, in its sole discretion (each a "Renewal Term"). Nothing in this Contract requires the School District to exercise its option for a Renewal Term and Contractor has no expectation of a contract beyond the Initial Term, or a Renewal Term if any are exercised. Ninety (90) days prior to the end of the Initial Term, or any Renewal Term, the School District shall notify the Contractor in writing as to whether the School District will exercise any option for a Renewal Term.

Notwithstanding the above:

(i) in the event that the School District does not contact Contractor about renewal ninety (90) days prior to the end of the Initial Term or then-current Renewal Term as applicable, the Parties agree that School District's silence shall effectively constitute an exercise of the option to renew and the Contract shall renew for another year if/as provided for in the Contract; and

(ii) this Contract may still be terminated in accordance with any other applicable provisions of the Contract Documents as provided for herein.

(c) Termination.

Notwithstanding the foregoing or any other provision of this Contract to the contrary, School District may not terminate this Contract before the expiration of the Initial Term or then-current Renewal Term without cause, unless School District pays Contractor all fees in full which are owed at the time of termination. Moreover, no provision of this Contract shall be construed as providing a refund to School District of any fees already paid in the event of termination or otherwise.

3. INVOICING AND PAYMENT TERMS

(a) Invoicing and Fees.

Except as to the "Optional Add-on" services detailed in the Cost Schedule of Contractor's Proposal which Huron Valley Schools has not yet chosen to purchase, Huron Valley Schools agrees to pay Contractor all fees set out in the Cost Schedule of Contractor's Proposal. Huron Valley acknowledges that (i) all "Thrillshare Publishing Platform" fees are payable in annual portions at the beginning of each year of the Initial Term and any Renewal Term as applicable, and (ii) all one-time upfront fees for "Website & Mobile App Development" are due in full upon execution of this Agreement. Upon execution of this Agreement and at the beginning of each subsequent year of the Initial Term or Renewal Term as applicable, Contractor will submit invoices to Huron Valley Schools consistent with the above. Client agrees to pay all invoices in full within 30 days of the date of the invoice. Invoices shall be submitted to Huron Valley Schools, Attention: Accounts Payable, 2390 S. Milford Road, Highland, Michigan 48357.

(b) Disputed Payments.

Payment of undisputed amounts in each invoice shall be made within thirty (30) days of receipt of the invoice. Disputes regarding amounts contained in any invoice will be communicated to the Contractor by the School District, in writing, within ten (10) business days of the receipt of the disputed invoice. Payments of disputed amounts will be delayed unless the Contractor is able to resolve the matter to the School District's satisfaction within ten (10) business days prior to payment due date. The School District will not be assessed any late payment penalties, fines or charges for disputed amounts not timely paid due to the Contractor's failure to timely resolve the matter as set forth above.

(c) Additional Service Charges.

Any Services outside the contract scope must receive prior written approval from the School District before rendering or invoicing for such additional Services. Additionally, there will be no mileage reimbursement under this Contract.

As to the Optional Add-on services (i.e., the Alert & Notification System and related services) in the Cost Schedule, should Huron Valley Schools request such Services and submit written approval for same, Contractor shall provide such services and submit an invoice in the manner provided for above. If Huron Valley submits approval for the Optional Add-on services part way through a year of the Initial Term or a Renewal Term, then Contractor shall submit an invoice for the Optional Add-on services prorated through the end of then-current year of the Initial Term or Renewal Term as applicable. Otherwise, the Optional Add-on fees if requested shall be payable in annual portions at the beginning of each year of the Initial Term and any Renewal Term and shall be invoiced simultaneous with any other annual fees.

(d) Tax Excluded from Price.

Sales Tax: Huron Valley Schools and local units of government are exempt from sales tax for direct purchases. The contractor's prices must not include sales tax.

Federal Excise Tax: Schools and Governmental entities may be exempt from Federal Excise Tax, or the taxes may be reimbursable, if articles purchased under any resulting Contract are used for the State's exclusive use. Certificates showing exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, the contractor's prices must not include the Federal Excise Tax.



(e) Remittance Fee

All pricing submitted to HURON VALLEY SCHOOLS and its participating entities shall include 2.0% remittance fee to be remitted to the MAC Cooperative by the contractor on a quarterly basis. Administrative fees will be paid against actual sales volume for each quarter. It is the contractor's responsibility to keep all pricing up to date and on file with Huron Valley Schools/MAC Cooperative.

4. INDEPENDENT CONTRACTOR

(a) Services.

To the extent provided for in Contractor's Proposal, Contractor shall provide Services for website redesign and content management, on behalf of the School District at the School District's facilities. All services provided by the Contractor shall be licensed as needed by the State of Michigan and have experience in the area of website redesign and content management services. The persons provided by the Contractor shall be available to provide the Services on a schedule that is mutually agreed upon by Contractor and School District; such Services to include, but not be limited to contracted services for website redesign and content management. School District reserves the right, in its sole and absolute discretion, to request removal or replacement of any of the Contractor's personnel from a School District Facility. School District shall notify the Contractor of its intent in writing and the Contractor shall replace such personnel immediately.

(b) Relationship.

It is expressly agreed upon between the Contractor and the School District that Contractor will act as an independent contractor in the provision of performance of its services under this Contract and under no circumstances shall any of the employees of one Party be deemed the employees of the other for any purpose. This Contract shall not be construed as authority for either Party to act for the other Party in any agency or other capacity or to make commitments of any kind for the account of, or on behalf of, the other Party, except to the extent, and for the purposes, expressly provided for and set forth herein, and no partnership or joint venture is created hereby. Neither Contractor nor its employees or agents shall be entitled to participate in any plans, arrangements, or distributions of the School District pertaining to or in connection with any fringe, pension, bonus, profit sharing, or similar benefits, or any medical, vision, dental, life or disability insurance plans. The School District will identify Contractor, including its employees and agents, as performing services for the School District as an independent contractor

in any reports or filings that are required by law. The School District is not liable for any fees, charges or loss of pension or other retirement benefits under the Michigan Public School Employee Retirement System (“MPERS”) attributable to Contractor, or its employees or agents, and Contractor agrees to reimburse the School District for any fees, expenses or charges related to the same.

(c) Taxes, Workers Compensation Insurance and Other Expenses.

The Contractor shall be wholly responsible for paying all of its own taxes, including Federal and State Income Taxes, FICA, FUTA, Worker’s Compensation, Unemployment and Single Business taxes to the extent that any or all of the foregoing are applicable. The Contractor shall indemnify, defend and hold harmless the School District from and against any claims by any taxing authority, for any taxes, interest or penalties relating to the Contractor or its owners, employees and agents, if any. The Contractor shall acquire, if required by law, workmen’s compensation insurance for its owners, employees and agents, if any, and shall defend, indemnify and hold harmless School District from and against any claim for workmen’s compensation brought by or an account of the Contractor or any of its owners, employees or agents.

(d) Assignment.

Neither Party shall assign this Contract, or any portion thereof, to any third party unless the non-assigning Party expressly consents to such assignment in writing. Notwithstanding the foregoing, Contractor may, without the prior consent of the non-assigning Party, assign or transfer any of its rights under this Agreement to an affiliate and/or a successor third party in connection with a sale of the company, the sale or transfer of its assets, or similar restructuring action.

5. APPLICABLE LAWS

(a) Family Educational Rights and Privacy Act. (Service contracts only)

Contractor shall comply with all laws, rules and regulations promulgated pursuant to the Family Educational Rights and Privacy Act, 20 USC 1232g (“FERPA”). In accordance with FERPA and the regulations promulgated thereunder, the Contractor is performing institutional services and functions for the School District that would otherwise be performed by the School District and accordingly is considered a school official, provided that: (i) the Contractor shall use and maintain education records and personally identifiable information of students (PII) in accordance with FERPA; (ii) to the extent commercially reasonable and at its own

expense, the School District has the right to audit the Contractor's use and maintenance of School District's records (including education records and PII) at any time; and (iii) except as needed to perform under this Contract and provide the Services, the Contractor shall not re-disclose any education records or PII of the School District or its students to any other Party without the prior written consent of the School District and the applicable parent or eligible student.

(b) Applicable Laws and School District Policies and Procedures.

The Contractor shall comply with any and all laws, rules, ordinances and regulations, including any licensing and permitting requirements, applicable to providing the Services anticipated under this Contract. The Contractor, including its employees and agents, shall be responsible for knowing the School District's policies and procedures concerning appropriate behavior of persons in School District facilities and, on School District properties, including for example, the prohibitions of sexual harassment and smoking, and shall comply with all such policies. The School District shall use its best efforts, as reasonably requested by the Contractor, to assist the Contractor to comply with any and all applicable federal, state or local laws, rules and regulations. The Contractor represents and warrants to the School District that it shall at all times be in compliance with any and all applicable federal and state laws, rules, ordinances, and regulations and licensing and permitting requirement applicable to providing the Services.

(c) Governing Law.

This Contract shall be governed by and construed in accordance with the laws of the State of Michigan. The Parties hereby agree to the exclusive jurisdiction and venue of federal courts sitting in Oakland County, Michigan.

6. INDEMNIFICATION

(a) General Indemnification.

To the extent required by any applicable federal and/or state law, rules, or regulations, the Contractor agrees to indemnify, defend and hold harmless the School District, its Board of Education, in their official and individual capacities, administrators, employees, agents, contractors, successors and assignees, from and against any and all claims, counter-claims, suits, debts, demands, actions, judgments, liens, costs, expenses, damages, and liabilities, including actual attorney's fees and actual expert witness fees arising out of or in connection with the Contractor's performance of this Contract and/or from the Contractor's violation of any of the

terms of the Contract, including, but not limited to: (i) negligent acts or willful misconduct of the Contractor, its officers, directors, employees, successors, assignees, contractors and agents; (ii) any breach of the terms of this Contract by Contractor, its officers, directors, employees, successors, assignees, contractors and agents; (iii) any violation or breach of any applicable Federal, State or local law, rule, regulation or ordinance policy and/or licensing and permitting requirements applicable to providing the Services; or (iv) any breach of any representation or warranty by the Contractor, its officers, directors, employees, successors, assignees, contractors and agents under this Contract. The Contractor agrees to notify the School District by certified mail, return receipt requested, immediately upon actual knowledge of any claim, suit, action, or proceeding for which the School District may be entitled to indemnification under this Contract. This Paragraph shall survive the expiration or earlier termination of this Contract.

7. TERMINATION.

(a) Termination for Cause

Huron Valley Schools may fully or partially terminate this Contract for cause by notifying the Contractor if the Contractor: (i) breaches any of its material duties or obligations (including a Chronic Failure to meet any SLA); or (ii) fails to cure a breach within a reasonable time period specified in a notice of breach provided by Huron Valley Schools.

If Huron Valley Schools partially terminates this Contract for cause, any charges payable to the Contractor will be equitably adjusted to reflect those deliverable(s) that are terminated. Huron Valley Schools must pay for all deliverable(s) for which final acceptance has been granted before the termination date. Any services or related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.

If Huron Valley Schools terminates this Contract for cause and it is determined, for any reason, that the Contractor was not in breach of the Contract, the termination will be deemed to have been a termination under Section 7(b), Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in that Section.

(b) Termination for Convenience

Huron Valley Schools may fully or partially terminate this Contract for its convenience if Huron Valley Schools determines that a termination is in Huron

Valley Schools best interest. Reasons for the termination are within the sole discretion of Huron Valley Schools and may include: (a) Huron Valley Schools no longer needs the deliverable(s) specified in this Contract; (b) a relocation of office, program changes, or changes in laws, rules, or regulations make the Deliverable(s) no longer practical or feasible for Huron Valley Schools; (c) unacceptable prices for Contract changes; or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any RFP issued by Huron Valley Schools. Huron Valley Schools may terminate this Contract for its convenience by giving Contractor notice at least 30 days before the date of termination.

(c) Termination for Criminal Conviction

Huron Valley Schools may terminate this Contract immediately and without further liability or penalty if the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor is convicted of a criminal offense related to a Huron Valley Schools, public, or private Contract or subcontract.

(d) Rights and Obligations upon Termination

If Huron Valley Schools terminates this Contract for any reason, the Contractor must to the extent applicable to the Services and upon receipt of written request from School District:

- (i) stop all work as specified in the notice of termination;
- (ii) take any action that may be necessary, or that Huron Valley Schools may direct, to preserve and protect deliverable(s) or other Huron Valley Schools property in the Contractor's possession;
- (iii) return all materials and property provided directly or indirectly to the Contractor by any entity, agent, or employee of Huron Valley Schools;
- (iv) transfer title in and deliver to Huron Valley Schools, unless otherwise directed, all deliverable(s) intended to be transferred to Huron Valley Schools at the termination of the Contract (which will be provided to Huron Valley Schools on an "As-Is" basis except to the extent Huron Valley Schools compensated the Contractor for warranty services related to the materials);
- (v) to the maximum practical extent, take any action to mitigate and limit potential damages, including terminating or limiting subcontracts and outstanding orders for materials and supplies; and
- (vi) take all appropriate action to secure and maintain Huron Valley Schools information confidentially.



MAC

If Huron Valley Schools terminates this Contract under Section 7(b), Termination for Convenience, Huron Valley Schools must pay the Contractor all charges that have become due before the date of termination.. Regardless of the basis for the termination, Huron Valley Schools is not obligated to pay or otherwise compensate the Contractor for any lost expected future profits, costs, or expenses incurred with respect to deliverable(s) not actually completed.

SECTION 2.0 – GENERAL TERMS AND CONDITIONS

1. Laws

(a) General Authority

This Contract is governed by, and construed according to, the substantive laws of the State of Michigan without regard to any Michigan choice of law rules that would apply the substantive law of another jurisdiction to the extent not inconsistent with or preempted by federal law.

(b) Compliance with Laws

The Contractor must comply with all applicable federal, state, and local laws and ordinances in providing the products and services.

(c) Jurisdiction

Any dispute arising from the Contract must be resolved in the State of Michigan. With respect to any claim between the parties, the Contractor consents to venue in the federal courts of Oakland County, Michigan, and irrevocably waives any objections to this venue that it may have, such as lack of personal jurisdiction or forum non-conveniens.

(d) Nondiscrimination

In the performance of the Contract, the Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, or physical or mental disability. To the extent applicable and required under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., Contractor shall comply with this covenant and any breach of this provision may be regarded as a material breach of the Contract.

(e) Unfair Labor Practices

Under 1980 PA 278, MCL 423.321, et seq., Huron Valley Schools must not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under MCL 423.322. This information is compiled by the United States National Labor

Relations Board. A Contractor of Huron Valley Schools, in relation to the Contract, must not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Under MCL 423.324, Huron Valley Schools may void any Contract if, after award of the Contract, the name of the Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of the Contractor appears in the register.

(f) Freedom of Information

This Contract and all information submitted to Huron Valley Schools by the Contractor is subject to the Michigan Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231, et seq.

(g) Abusive Labor Practices

The Contractor may not furnish any deliverable(s) that were produced fully or partially by forced labor, convict labor, forced or indentured child labor, or indentured servitude. "Forced or indentured child labor" means all work or service (1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or (2) performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.

2. General Provisions

(a) Bankruptcy and Insolvency

Huron Valley Schools may, without prejudice to any other right or remedy, fully or partially terminate this contract and, at its option, take possession of the work-in-progress and finish the work-in-progress by whatever method Huron Valley Schools deems appropriate if:

- (i) the Contractor files for bankruptcy protection;
- (ii) an involuntary petition is filed against the Contractor and not dismissed within 30 days;
- (iii) the Contractor becomes insolvent or a receiver is appointed due to the Contractor's insolvency;
- (iv) the Contractor makes a general assignment for the benefit of creditors; or
- (v) the Contractor or its affiliates are unable to provide reasonable assurances that the Contractor or its affiliates can provide the deliverable(s) under this contract.

(b) Media Releases

News releases (including promotional literature and commercial advertisements) pertaining to the RFQ and this Contract or the project to which it relates will not be made without prior approval by Huron Valley Schools, and only in accordance with the instructions from Huron Valley Schools.

(c) Antitrust Assignment

The Contractor assigns to Huron Valley Schools any claim for overcharges resulting from county or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the contract.

(d) Entire Agreement

This Contract constitutes the entire agreement between the parties and supersedes all prior agreements, whether written or oral, with respect to the subject matter. All attachments referenced in this Contract (e.g., the Contract Documents) are incorporated in their entirety and form part of this contract. This Contract may not be amended or modified without the prior written consent of both parties.

(e) Headings

The captions and section headings used in this contract are for convenience only and may not be used to interpret the scope and intent of this contract.

(f) Reformation and Severability

Each provision of the contract is severable from all other provisions of the contract. If any provision of this contract is held unenforceable, then the contract will be modified to reflect the parties' original intent. All remaining provisions of the contract remain in full force and effect.

(g) Approval

Unless otherwise provided in this contract, approval(s) must be in writing and must not be unreasonably withheld or delayed.

(h) No Waiver of Default

Failure by a party to insist upon strict adherence to any term of the contract does not waive that party's right to later insist upon strict adherence to that term, or any other term, of the contract.

(i) Survival

The provisions of this contract that impose continuing obligations, including warranties, indemnification, and confidentiality, will survive the expiration or termination of this contract.

(j) Electronic Payment Requirement

The Contractor must be able to receive electronic fund transfer (EFT) payments.

(k) Cooperation with Third Parties

The Contractor and its Subcontractors must cooperate with Huron Valley Schools and its agents and other contractors, including Huron Valley Schools quality assurance personnel. To the extent commercially reasonable, the Contractor must provide access to its personnel, systems, and facilities related to the contract to the extent that access will not interfere with or jeopardize the safety or operation of the systems or facilities.

(l) Relationship of the Parties

The relationship between Huron Valley Schools and Contractor is that of client and independent contractor. No agent, employee, or servant of the Contractor, or any of its subcontractors, is an employee, agent or servant of Huron Valley Schools. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, and subcontractors during the performance of the Contract.

(m) Time of Performance

(i) The Contractor must immediately notify Huron Valley Schools upon becoming aware of any circumstances that may reasonably be expected to jeopardize the completion of any Deliverable(s) by the scheduled due dates in the latest Huron Valley Schools-approved delivery schedule and must inform Huron Valley Schools of the projected actual delivery date.

(ii) If the Contractor believes that a delay in performance by Huron Valley Schools has caused or will cause the Contractor to be unable to perform its obligations according to specified contract time periods, the Contractor must immediately notify Huron Valley Schools and, to the extent practicable, continue to perform its obligations according to the contract time periods. The Contractor will not be in default for a delay in performance to the extent the delay is caused by Huron Valley Schools.

(n) Excusable Failure

Neither party will be liable for any default, damage or delay in the performance of its obligations that is caused by government regulations or requirements, power failure, electrical surges or current fluctuations, war, forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, acts or omissions of common carriers, fire, riots, civil disorders, labor disputes, embargoes, injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused), or any other cause beyond the reasonable control of a party; provided the non-performing party and any Subcontractors are without fault in causing the default or delay, and the default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of contractor sources, workaroud plans, or other means, including disaster recovery plans.

If a party does not perform its contractual obligations for any of the reasons listed, the non- performing party will be excused from any further performance of its affected obligation(s) for as long as the circumstances prevail. The non-performing party must promptly notify the other party immediately after the excusable failure occurs, and when it abates or ends. Both parties must use commercially reasonable efforts to resume performance.

If any of the reasons listed substantially prevent, hinder, or delay the Contractor's performance of the deliverable(s) for more than 10 days, and Huron Valley Schools reasonably determines that performance is not likely to be resumed within a period of time that is satisfactory to Huron Valley Schools, Huron Valley Schools may terminate any portion of the Contract so affected in accordance with the other applicable termination provisions contained herein.

The Contractor will not have the right to any additional payments from Huron Valley Schools as a result of any Excusable Failure or to payments for deliverable(s) not provided as a result of the Excusable Failure. The Contractor will not be relieved of a default or delay caused by acts or omissions of its Subcontractors except to the extent that a Subcontractor experiences an Excusable Failure and the Contractor cannot reasonably circumvent the effect of the Subcontractor's default or delay in performance through the use of the contractor's sources, workaroud plans, or other means, including disaster recovery plans.

(o) Retention of Records

- (i) The Contractor must retain all financial and accounting records related to this Contract for a period of seven years after the Contractor performs any work under this contract (Audit Period).
- (ii) If an audit, litigation, or other action involving the Contractor's records is initiated before the end of the Audit Period, the Contractor must retain the records until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

(p) Examination of Records

Huron Valley Schools at its own expense and upon 10 days notice to the Contractor, may examine and copy any of the Contractor's records that relate to this contract. Huron Valley Schools does not have the right to review any information deemed confidential by the Contractor if access would require the information to become publicly available. This requirement also applies to the records of any parent, affiliate, or subsidiary organization of the Contractor.

(q) Audit Resolution

If necessary, the Contractor and Huron Valley Schools will meet to review any audit report promptly after its issuance. The Contractor must respond to each report in writing within 30 days after receiving the report, unless the report specifies a shorter response time. The Contractor and Huron Valley Schools must develop, agree upon, and monitor an action plan to promptly address and resolve any deficiencies, concerns, or recommendations in the report.

(r) Errors

If an audit reveals any financial errors in the records provided to Huron Valley Schools, the amount in error must be reflected as a credit or debit on the next invoice and subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried forward for more than four invoices or beyond the termination of the contract. If a balance remains after four invoices, the remaining amount will be due as a payment or refund within 45 days of the last invoice on which the balance appeared or upon termination of the contract, whichever is earlier.

(s) Disclosure of Litigation

- (i) To the extent required under any applicable federal or state law, rule, or regulation, within 30 days after receiving notice of any litigation, investigation,

arbitration, or other proceeding (collectively, "Proceeding") that arises during the term of this Contract, the Contractor must disclose the following to the Contract Administrator:

(1) A criminal Proceeding involving the Contractor (or any Subcontractor) or any of its officers or directors;

(2) A parole or probation proceeding;

(3) A proceeding involving the Contractor (or any Subcontractor) or any of its officers or

directors under the Sarbanes-Oxley Act; and

(4) A civil proceeding to which the Contractor (or, if the Contractor is aware, any Subcontractor) is a party, and which involves (A) a claim that might reasonably be expected to adversely affect the viability or financial stability of the Contractor or any Subcontractor; or (B) a claim or written allegation of fraud against the Contractor (or, if the Contractor is aware, any Subcontractor) by a governmental or public entity arising out of the Contractor's business dealings with governmental or public entities.

(ii) Information provided to Huron Valley Schools from the Contractor's publicly filed documents will satisfy the requirements of this Section.

(iii) If any proceeding that is disclosed to Huron Valley Schools or of which Huron Valley Schools otherwise becomes aware, during the term of this Contract, would cause a reasonable party to be concerned about:

(1) the ability of the Contractor (or a Subcontractor) to continue to perform this Contract; or

(2) whether the Contractor (or a Subcontractor) is engaged in conduct that is similar in nature to the conduct alleged in the Proceeding and would constitute a breach of this contract or a violation of federal or state law, regulations, or public policy, then the Contractor must provide Huron Valley Schools all requested reasonable assurances that the Contractor and its Subcontractors will be able to continue to perform this contract.

(t) MAC Cooperative Requirements

(i) The Contractor will work with the MAC Cooperative to ensure that all purchasers/Participating Entities are members before extending the Contract pricing.

(ii) To the extent that MAC Cooperative Members wish to purchase the Services under this contract:

(1) Requests for Quotes and Pricing

Participating Entities shall submit to Contractor requests for quotes for the Services, including the details of any additional specific needs or deliverables requested. Pricing shall be based on the current rates found at apptegy.com/pricing. Contractor, however, shall have exclusive discretion to alter pricing based on any additional or different deliverables or conditions requested by School District which may alter or be outside the scope of the Services as described in Contractor's Proposal. Contractor shall also have the sole discretion to agree or decline to provide such additional or different deliverables or conditions to a Participating Entity.

(2) Payment and Invoicing

If Contractor and a Participating Entity agree on pricing and any other additional deliverables or special conditions following a request for a quote, the Contractor shall submit to the Participating Entity for signing a copy of its standard Software and Services Agreement (the "Software Agreement" attached hereto as Exhibit A), which shall also reflect the agreed-to details. Upon signing, the Software Agreement shall be binding and enforceable against the Participating Entity and Contractor. For clarity, notwithstanding any provision of this Contract to the contrary, the Software Agreement and its Terms & Conditions shall control and have top precedence with respect to what Services are to be provided, the pricing schedule, the payment schedule, and the term length of the contract and any potential renewals. Otherwise, in the event of a conflict between the terms and provisions of the Software Agreement and this Contract, the terms and provisions of this Contract shall control.

(3) Purchase Orders

Participating Entities may also submit to Contractor a Purchase Order (PO) to confirm such details as pricing and payment. Notwithstanding any provision of this Contract to the contrary, any additional set of terms and conditions included in or referenced by a PO shall not become a part of the Software Agreement or this Contract and shall not be binding or enforceable. Contractor further agrees to submit invoices to and receive

payment from MAC Cooperative Members/Participating Entities on a direct and individual basis.

3. Insurance

(a) Liability Insurance

For the purpose of this Section, "Huron Valley Schools" includes its departments, divisions, agencies, offices, commissions, officers, employees, and agents.

(i) The following apply to all insurance requirements:

(1) Huron Valley Schools, in its sole discretion, may approve the use of a fully-funded self-insurance program in place of any specified insurance identified in this Section.

(2) Where specific coverage limits are listed in this Section, they represent the minimum acceptable limits. If the Contractor's policy contains higher limits, Huron Valley Schools is entitled to coverage to the extent of the higher limits. The minimum limits of coverage specified are not intended, and may not be construed to limit any liability or indemnity of the Contractor to any indemnified party or other persons.

(ii) The Contractor must:

(1) provide proof that it has obtained the minimum levels of insurance coverage indicated or required by law, whichever is greater. The insurance must protect Huron Valley Schools from claims that are alleged or may arise or result from the Contractor's or a Subcontractor's performance, including any person directly or indirectly employed by the Contractor or a Subcontractor, or any person for whose acts the Contractor or a Subcontractor may be liable.

(2) waive all rights against Huron Valley Schools for the recovery of damages that are covered by the insurance policies the Contractor is required to maintain under this Section. The Contractor's failure to obtain and maintain the required insurance will not limit this waiver.

(3) ensure that all insurance coverage provided relative to this Contract is primary and non-contributing to any comparable liability insurance (including self-insurance) carried by Huron Valley Schools.

(4) obtain insurance, unless Huron Valley Schools approves otherwise, from any insurer that has an A.M. Best rating of "A" or better and a financial size of VII or better, or if those ratings are not available, a comparable rating from an

insurance rating agency approved by Huron Valley Schools. All policies of insurance must be issued by companies that have been approved to do business in Huron Valley Schools.

(5) maintain all required insurance coverage throughout the term of this Contract and any extensions. However, in the case of claims-made Commercial General Liability policies, the Contractor must secure tail coverage for at least three years following the termination of this Contract.

(6) pay all deductibles.

(b) Certificates of Insurance and Other Requirements

Huron Valley Schools and its agents, officers, and employees shall be additional insureds by means of blanket additional insured endorsement under Contractor's commercial general liability policy. Upon receipt of written request, the Contractor must provide Huron Valley Schools Administrator with all applicable certificates of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in Section 3.a, Liability Insurance. Each certificate must be on the standard "accord" form or equivalent. Each certificate must be prepared and submitted by the insurer and must contain a provision indicating that the coverage afforded will not be cancelled, materially changed, or not renewed without 30 days prior notice, except for 10 days for nonpayment of premium, to Huron Valley Schools Administrator.

4. Indemnification

(a) General Indemnification

To the extent required by any applicable federal or state law, the Contractor must indemnify, defend, and hold Huron Valley Schools harmless from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Contractor in the performance of this Contract and that are attributable to the negligence or tortious acts of the Contractor, any of its subcontractors, or by anyone else for whose acts any of them may be liable.

(b) Employee Indemnification

In any claims against Huron Valley Schools, its departments, agencies, commissions, officers, employees, and agents, by any employee of the Contractor or any of its subcontractors, the indemnification obligation will not be limited in any way by the amount or type of damages, compensation, or benefits payable by or for

the Contractor or any of its subcontractors under worker's disability compensation acts, disability benefit acts, or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

(c) Patent/Copyright Infringement Indemnification

(i) To the extent permitted by law, the Contractor must indemnify and hold Huron Valley Schools harmless from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest, and penalties) resulting from any action threatened or brought against Huron Valley Schools to the extent that the action is based on a claim that any piece of equipment, software, commodity, or service supplied by the Contractor or its subcontractors, or its operation, use, or reproduction, infringes any United States patent, copyright, trademark or trade secret of any person or entity.

(ii) If, in Huron Valley Schools or the Contractor's opinion, any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or its operation, use, or reproduction, is likely to become the subject of an infringement claim, the Contractor must, at its expense: (A) procure for the State the right to continue using the equipment, software, commodity or service or, if this option is not reasonably available to the Contractor; (B) replace or modify to Huron Valley Schools satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if this option is not reasonably available to Contractor; (C) accept its return by Huron Valley Schools with appropriate credits to Huron Valley Schools against the Contractor's charges and reimburse Huron Valley Schools for any losses or costs incurred as a consequence of Huron Valley Schools ceasing its use and returning it.

(iii) Notwithstanding any provision herein to the contrary, the Contractor has no obligation to indemnify or defend Huron Valley Schools for, or to pay any costs, damages or attorneys' fees related to, any infringement claim based upon: (A) equipment, software, commodity or service developed based on written specifications of Huron Valley Schools; (B) use of the equipment, software, or commodity in a configuration other than intended, implemented, or approved by the Contractor, including any modification of the same by Huron Valley Schools; or (C) the combination, operation, or use of the equipment, software, or commodity with equipment, software, or commodities not supplied by the Contractor under this Contract.

5. Continuing Obligation

The Contractor's duty to indemnify continues in full force and effect, notwithstanding the expiration or early cancellation of the contract, with respect to any claims based on facts or conditions that occurred before expiration or cancellation.

6. Limitation of Liability

Neither the Contractor nor Huron Valley Schools is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. To the extent permitted by law and notwithstanding any provision to the contrary in this Contract (including without limitation any other liability or indemnity term herein), IN NO EVENT WILL APPTGY'S TOTAL LIABILITY RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CLIENT FOR THE SERVICES IN THE TERM YEAR DURING WHICH THE ACTIONS AT ISSUE OCCURRED.

7. Warranties

(a) Warranties and Representations

The Contractor represents and warrants:

(i) It is capable of fulfilling and will fulfill all of its obligations under this contract. The performance of all obligations under this contract must be provided in a timely, professional, and workmanlike manner and must meet the performance and operational standards required under this contract.

(ii) The contract appendices, attachments, and exhibits identify the equipment, software, and services necessary for the Deliverable(s) to comply with the contract's requirements.

(iii) It is the lawful owner or licensee of any Deliverable licensed or sold to Huron Valley Schools by Contractor or developed by the Contractor for this contract, and Contractor has all of the rights necessary to convey to Huron Valley Schools the rights of access or licensed use, as applicable, of any Deliverable(s). None of the Deliverable(s) provided by Contractor to Huron Valley Schools, nor their use by Huron Valley Schools, will infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party.

(iv) The contract signatory has the authority to enter into this contract on behalf of the Contractor.

(v) It is qualified and registered to transact business in all locations where required.

(vi) Neither the Contractor nor any affiliates, nor any employee of either, has, will have, or will acquire, any interest that would conflict in any manner with the Contractor's performance of its duties and responsibilities to Huron Valley Schools or otherwise create an appearance of impropriety with respect to the award or performance of this contract. The Contractor must notify Huron Valley Schools about the nature of any conflict or appearance of impropriety within two days of learning about it.

(vii) Neither the Contractor nor any affiliates, nor any employee of either, has accepted or will accept anything of value based on an understanding that the actions of the Contractor, its affiliates, or its employees on behalf of Huron Valley Schools would be influenced. The Contractor must not attempt to influence any Huron Valley Schools employee by the direct or indirect offer of anything of value.

(viii) Neither the Contractor nor any affiliates, nor any employee of either, has paid or agreed to pay any person, other than bona fide employees and consultants working solely for the Contractor or the affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

(ix) The Contractor arrived at its proposed prices independently, without communication or agreement with any other bidder for the purpose of restricting competition. The Contractor did not knowingly disclose its quoted prices for this contract to any other bidder before the award of the contract. The Contractor made no attempt to induce any other person or entity to submit or not submit a proposal for the purpose of restricting competition.

(x) All financial statements, reports, and other information furnished by the Contractor to Huron Valley Schools in connection with the award of this contract fairly and accurately represent the Contractor's business, properties, financial condition, and results of operations as of the respective dates covered by the financial statements, reports, or other information. There has been no material adverse change in the Contractor's business, properties, financial condition, or results of operation.

(xi) All written information furnished to Huron Valley Schools by or for the Contractor in connection with the award of this contract is true, accurate, and complete, and contains no false statement of material fact nor omits any material fact that would make the submitted information misleading.

(xii) It will immediately notify Huron Valley Schools Administrator if any of the material and/or applicable certifications, representations, or disclosures made in the Contractor's original bid response change after the contract is awarded.

8. Contract Administration

(a) Issuing Office

This Contract is issued by Huron Valley Schools on behalf of all counties and local units of government. Huron Valley Schools Administrator or designee is the only entity authorized to modify the terms and conditions of this contract, including the prices and specifications. The Contract Administrator will be designated at the time of the contract award.

(b) Contract Administrator

The Contract Administrator will monitor and coordinate contract activities on a day-to-day basis.

(c) Contract Changes

(i) If Huron Valley Schools requests or directs the Contractor to provide any Deliverable(s) that the Contractor believes are outside the scope of the Contractor's responsibilities under the contract, the Contractor must notify Huron Valley Schools before performing the requested activities. If the Contractor fails to notify Huron Valley Schools, any activities performed will be considered in-scope and not entitled to additional compensation or time. If the Contractor begins work outside the scope of the contract and then ceases performing that work, the Contractor must, at the request of Huron Valley Schools, retract any out-of-scope work that would adversely affect the contract.

(ii) As provided for in the RFP or Contractor's Proposal as applicable, Huron Valley Schools or the Contractor may propose changes to the contract. If the Contractor or Huron Valley Schools requests a change to the Deliverable(s) or if Huron Valley Schools requests additional Deliverable(s), the Contractor must provide a detailed outline of all work to be done, including tasks, timeframes, listing of key personnel assigned, estimated hours for each individual per Deliverable, and a complete and detailed cost justification. If the parties agree on the proposed change, Huron Valley Schools Administrator will prepare and issue a notice that describes the change, its effects on the Deliverable(s), and any affected components of the contract (Contract Change Notice).

(iii) No proposed change may be performed until Huron Valley Schools issues a duly executed Contract Change Notice for the proposed change.

(d) Price Changes

Prices quoted for all Services are the maximum for the Term of the Contract as established herein. Requested changes, including increases or decreases in price, may only occur upon the mutual, written, and signed agreement of the Parties.

(e) Covenant of Good Faith

Each party must act reasonably and in good faith. Unless otherwise provided in this contract, the parties will not unreasonably delay, condition or withhold their consent, decision, or approval any time it is requested or reasonably required in order for the other party to perform its responsibilities under the contract.

9. Acceptance of Deliverables

(a) Delivery Responsibilities

Unless otherwise specified by Huron Valley Schools, the Contractor is responsible for delivering the deliverable(s) by the applicable delivery date provided for herein.

(b) Process for Acceptance of Deliverable(s)

Huron Valley Schools review period for acceptance of the deliverable(s) is governed by the applicable Statement of Work, and if the Statement of Work does not specify Huron Valley Schools review period, it is by default 30 days for a deliverable (Huron Valley Schools Review Period). Huron Valley Schools will notify the Contractor by the end of Huron Valley Schools Review Period that either:

(i) the deliverable is accepted in the form delivered by the Contractor;

(ii) the deliverable is accepted, but noted deficiencies must be corrected; or

(iii) the deliverable is rejected along with notation of any deficiencies that must be corrected before acceptance of the deliverable. If Huron Valley Schools delivers to the Contractor a notice of deficiencies, the Contractor will correct the described deficiencies and within 30 Days resubmit the deliverable(s) with an explanation that demonstrates all corrections have been made to the original deliverable(s). The Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected deliverable from the Contractor, Huron Valley Schools will have a reasonable additional period of time, not to exceed 30 Days, to accept the corrected deliverable.

(c) Acceptance of Deliverable(s)

(i) Huron Valley Schools obligation to comply with any Huron Valley Schools Review Period is conditioned on the timely delivery of the deliverable(s). Huron Valley Schools Review Period will begin on the first business day following Huron Valley Schools receipt of the deliverable(s).

(ii) Huron Valley Schools may inspect the deliverable to confirm that all components have been delivered without material deficiencies. If Huron Valley Schools determines that the deliverable or one of its components has material deficiencies, Huron Valley Schools may reject the deliverable without performing any further inspection or testing.

(iii) Huron Valley Schools will only approve a deliverable after confirming that it conforms to and performs according to its specifications without material deficiency. Huron Valley Schools may, in its discretion, conditionally approve a deliverable that contains material deficiencies if Huron Valley Schools elects to permit the Contractor to correct those deficiencies post-approval. The Contractor remains responsible for working diligently to correct within a reasonable time at the Contractor's expense, all material deficiencies in the deliverable that remain outstanding at the time of Huron Valley Schools approval. If, after three opportunities the Contractor is unable to correct all material deficiencies, Huron Valley Schools may: (A) demand that the Contractor cure the failure and give the Contractor additional time to do so at the sole expense of the Contractor; or (B) fully or partially terminate the Contract for default by giving notice to the Contractor. Notwithstanding the foregoing, Huron Valley Schools cannot use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat Huron Valley Schools Review Period that could reasonably have been discovered during a prior Huron Valley Schools Review Period.

(iv) Huron Valley Schools, at any time and in its reasonable discretion, may reject the deliverable without notation of all deficiencies if the acceptance process reveals deficiencies in a sufficient quantity or of a sufficient severity that renders continuing the process unproductive or unworkable.

10. Notice and Right to Cure

(a) Termination by Huron Valley Schools

If the Contractor breaches the Contract, and Huron Valley Schools, in its sole discretion, determines that the breach is curable, Huron Valley Schools will provide the Contractor notice of the breach and a period of at least 30 days to cure the breach. Huron Valley Schools does not need to provide notice or an opportunity to cure for successive or repeated material breaches or if Huron Valley Schools determines, in its sole discretion, that a breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage, or destruction of any real or tangible personal property.

(b) Reservation of Rights

In the event of any full or partial termination of this contract, each party reserves all rights or remedies otherwise available to the party.

(c) Contractor Transition Responsibilities

If this Contract terminates under, Termination by Huron Valley Schools, the Contractor must make reasonable efforts to transition the performance of the work to Huron Valley Schools or a third party designated by Huron Valley Schools within a reasonable period of time that does not exceed 30 days from the date of termination. For clarity, such efforts shall not include the transition or conveyance of any software, source code, or any other proprietary or confidential information of the Contractor including trade secrets or other intellectual property, of which Contractor shall retain exclusive ownership.

(d) Termination by Contractor

If Huron Valley Schools breaches the contract and the Contractor, in its sole discretion, determines that the breach is curable, the Contractor will then provide Huron Valley Schools with notice of the breach and a time period (not less than 30 days) to cure the breach.

The Contractor may terminate this Contract if Huron Valley Schools:

- (i) materially breaches its obligation to pay the Contractor undisputed amounts due;

(ii) breaches its other obligations to an extent that makes it impossible or commercially impractical for the Contractor to complete the deliverable(s); or

(iii) does not cure the breach within the time period specified in a notice of breach.

11. School District Content and Right of Use to Services

School District hereby grants Contractor a limited, nonexclusive, revocable, worldwide, fully-paid, royalty-free license to use, copy, and modify School District's information, photographs, videos, intellectual property (including without limitation all copyrights, trademarks, service marks, and similar rights), and other content (collectively, "School District Content" for providing and improving the Services. Upon termination or expiration of this Agreement, School District's right and license to use the Services, and Contractor's right and license to School District Content, will automatically terminate.

12. School District Restrictions and Responsibilities

School District's Thrillshare account is solely for School District's use. School District is exclusively responsible for all activities under its Thrillshare account and for maintaining the confidentiality of its username and password. School District agrees to notify Contractor immediately of any known unauthorized use or any other breach of security involving its account, or of any such event that it reasonably should have known of. Contractor will not be liable for any loss incurred as a result of an unauthorized use of School District's account resulting from the fault of the School District or its employees, agents, or other representatives as applicable. School District will not, directly or indirectly, use the Services in a manner that violates any laws; infringes on anyone's rights; is offensive; interferes with the Services; or reverse engineers, decompiles, disassembles, or otherwise attempts to discover the source code, object code, or underlying structure, know-how, or algorithms of the Services. School District will only post School District Content for which it owns all rights or has express permission to post from the rights holder.

13. Third Party Functions

The Services include features that operate in conjunction with third party tools and resources (ex: Facebook, and Twitter). In addition to this Contract, access and use of third party tools and resources through the Services is also subject to the terms of service and other agreements of those third parties. School District is solely responsible for ensuring that its use of those tools and resources complies with the applicable terms of service or other agreements.

14. Confidentiality

Each party (the “Disclosing Party”) may disclose to the other party (the “Receiving Party”) proprietary or non-public business, technical, financial, or personal information (collectively, “Confidential Information”). The Receiving Party will protect and keep confidential all Confidential Information, and will not use Confidential Information for any reason except for performing this Contract. Without limiting the generality of the foregoing, School District acknowledges that non-public information about the features, functionality, and performance of the Services is Confidential Information.

Without limiting the generality of the foregoing, School District acknowledges that pursuant to the RFP or other provisions of the Contract, it may receive certain information that is confidential and/or proprietary to Contractor (See, e.g., Task 7.4 on page 27 of the RFP). Notwithstanding any other provision of the Contract, and subject to the Michigan Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231, et seq and any of its applicable exceptions or exemptions, such information shall remain the exclusive property of Contractor, shall not be disclosed to other third parties, and shall be returned to Contractor upon termination of the Contract.

The Parties also acknowledge and agree that, as indicated above, Contractor must share, post, disclose, and/or otherwise distribute certain data including School District Content in order to provide and perform the Services. Nonetheless, Contractor also acknowledges that other data collected during the course of performing its duties shall be protected by federal and/or state data privacy law (e.g., FERPA, 20 U.S.C. 123g). Contractor agrees that any such data shall be maintained as confidential and protected in compliance with any applicable laws, and shall not be disclosed except as necessary to provide and perform the Services.

15. Miscellaneous

While this Contract shall incorporate the RFP as provided for herein, the Parties acknowledge and agree that the Contract shall not include the “Solicitation Terms and Conditions” referenced on page 43 of the RFP as they are inapplicable to the Services to be provided.

Additionally, the Parties agree that this Contract will inure to the benefit of the permitted successors and assigns of the parties. Finally, this Contract may be executed in multiple counterparts and executed by original, facsimile, or electronic signature (including PDF, HelloSign, and similar methods), each of which when delivered will be deemed an original, and all of which together will constitute one agreement.

EXHIBIT A

SOFTWARE AND SERVICES AGREEMENT OF APPTEGY, INC.

Software & Services Agreement

I. Estimated Transition Timeline

Kick-off

Week 1

We get our partnership started with a meeting to introduce stakeholders on your side and ours. In this meeting, we will cover our detailed roadmap, initial designs, and the overall structure of the planned implementation.

Design

Weeks 2-3

We create a mockup as a first draft and iterate from there. Since we've already established a good understanding of what you're looking for in the kick-off call, this process is typically quite fast.

Development & Content Migration

Weeks 4-6

Once we're done with the development, we migrate your static content for you. After our team has gone through your entire website and app and confirmed that everything is working, we will ask you to approve the content and functionality as well.

Training Sessions

Weeks 7-8

An ideal training schedule will include a setup call with your project lead, in-depth sessions for all of your power users, and introduction sessions for casual users.

Launch Campaign

Weeks 9-10

Flipping the switch is all it takes: we just point your domain to our servers and the change to the new website will be instant.

Of course we don't want the switch to go unnoticed by your community. That's why we design an entire launch campaign around the app and website with you. You'll get a custom marketing playbook, including graphics, videos, and a launch plan.

Support

Ongoing

Now that you are live, we work together to drive adoption of your new website and mobile app. You will be working closely with your Client Success Manager on marketing strategies and our Support Team on any questions your users have after the switch.

II. Schedule of Pricing

Name	Price	QTY	Subtotal
Mobile App Development (one-time) One-time app development for iOS and Android apps *Billed one-time	\$0.00	0	\$0.00
Thrillshare (annual) Thrillshare Publishing Platform (desktop and mobile) for ~[INSERT NUMBER OF STUDENTS] students *Billed and payable in full annually	\$0.00	0	\$0.00
Website design and hosting Up to 1 re-design per contract year Included in Thrillshare cost	\$0.00	0	\$0.00
Alerts Unlimited text, voice, and email alert Included in Thrillshare cost	\$0.00	0	\$0.00
Support, service, and training Included in Thrillshare cost	\$0.00	0	\$0.00
Static content migration Included in development cost	\$0.00	0	\$0.00

Subtotal **\$0.00**

Total \$0.00

III. Payment Schedule

Bill Date	Amount
	\$_._
[Document.RenewalMonth]	\$_._ annual (if renewed)

***Agreed to and accepted by:** _____

BY THE SIGNATURE ABOVE, the institution (“Client”) agrees that this Software and Services Agreement of Apptegy, Inc. (consisting of the foregoing Estimated Transition Timeline and Schedule of Pricing, the “Agreement”) includes and is subject to the additional Terms and Conditions of Service (the “Terms”) attached to and incorporated in this Agreement.

Client acknowledges receipt of this Agreement and the Terms, and hereby accepts and agrees to be bound by this Agreement and the Terms. By signing above, the person warrants that she or he has the authority to act on behalf of and bind Client to this Agreement and the Terms.

Client also acknowledges that it is purchasing Apptegy's products and services pursuant to the Master Agreement for Huron Valley Schools/Michigan Association of Counties (MAC) Cooperative's RFP No. HV-209-032321 (also referred to as "Master Agreement HV-209-032321-A"), which is incorporated in full into this Agreement by reference. Client agrees that it's purchase of the products and services shall also be subject to the Master Agreement HV-209-032321-A as provided for therein.

IV. Terms & Conditions

The following Terms and Conditions of Service (the “Terms”) are a binding part of the Software and Services Agreement of Apptegy, Inc. (together with its affiliates, agents, and assigns, “Apptegy”), to which they are attached. References to the “Agreement” below collectively include the Software and Services Agreement and these Terms. Capitalized terms used but not otherwise defined in these Terms will have the meanings given to them in the Software and Services Agreement.

1. Services; License

Apptegy will provide the products and services at the prices and for the Term (collectively, the “Services”) as set out in this Agreement. During the Term, Client hereby grants Apptegy a limited, nonexclusive, revocable, worldwide, fully-paid, royalty-free license to use, copy, and modify Client’s information, photographs, videos, intellectual property (including without limitation all copyrights, trademarks, service marks, and similar rights), and other content (collectively, “Client Content”) for providing and improving the Services. Upon termination or expiration of this Agreement, Client’s right and license to use the Services, and Apptegy’s right and license to Client Content, will automatically terminate.

2. Fees

Client will pay to Apptegy all fees set out in the Schedule of Pricing of this Agreement. Client acknowledges that (i) Thrillshare fees are payable in annual portions for each year of the Term as set out in the Schedule of Pricing, and (ii) all service and implementation fees are due in full upon execution of this Agreement. Upon execution of this Agreement, Apptegy will submit invoices to Client as indicated in the Payment Schedule above. Client agrees to pay all invoices in full within 30 days of the date of the invoice.

Client acknowledges that the fees for the Services do not include sales and use taxes, as applicable, and Client is solely responsible for any such taxes.

3. Term; Termination

The term of this Agreement (the “Term”) will start on the date Apptegy receives an executed Agreement from Client and will terminate on the anniversary date of the Thrillshare start date that is after the number of term years purchased by client, as set out in the Schedule of Pricing. The first 60 days will consist of the implementation period, and the official Thrillshare start date will be 61 days from contract execution.

The parties agree this agreement will auto-renew for additional periods of the same duration as the initial service term, unless either party requests termination in writing at least thirty days prior to the end of the initial service term [Document.RenewalMonth] or the then-current renewal term, as applicable. Client agrees that it may not terminate this Agreement before the

expiration of the Term without cause, unless Client pays Apptegy all fees in full for the Term, as set out in the Schedule of Pricing, plus payment of any previously discounted amounts for the Services during the Term.

4. Client Restrictions and Responsibilities

Client's Thrillshare account is solely for Client's use. Client is exclusively responsible for all activities under its Thrillshare account and for maintaining the confidentiality of its username and password. Client agrees to notify Apptegy immediately of any unauthorized use or any other breach of security involving its account. Apptegy will not be liable for any loss incurred as a result of unauthorized use of Client's account. Client will not, directly or indirectly, use the Services in a manner that violates any laws; infringes on anyone's rights; is offensive; interferes with the Services; or reverse engineers, decompiles, disassembles, or otherwise attempts to discover the source code, object code, or underlying structure, know-how, or algorithms of the Services. Client will only post Client Content for which it owns all rights or has express permission to post from the rights holder.

5. Third Party Functions

The Services include features that operate in conjunction with third party tools and resources (ex: Facebook, and Twitter). In addition to this Agreement, access and use of third party tools and resources through the Services is also subject to the terms of service and other agreements of those third parties. Client is solely responsible for ensuring that your use of those tools and resources complies with the applicable terms of service or other agreements.

6. Warranties; Disclaimers; Limited Liability

Apptegy will provide the Services according to prevailing industry standards and will use reasonable efforts to minimize errors and interruptions in the Services; however, Apptegy does not warrant that the Services will be error-free or uninterrupted. Services may temporarily be unavailable for scheduled and unscheduled maintenance, either by Apptegy or third parties, or because of other causes beyond Apptegy's reasonable control. EXCEPT AS EXPRESSLY SET OUT IN THIS AGREEMENT, APPTEGY EXPRESSLY DISCLAIMS ALL WARRANTIES CONCERNING THE SERVICES, INCLUDING WITHOUT LIMITATION, WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ALL IMPLIED WARRANTIES. THE SERVICES ARE PROVIDED "AS IS." EXCEPT WHERE PROHIBITED, APPTEGY WILL NOT BE LIABLE FOR INDIRECT, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES ARISING FROM THE SERVICES. IN NO EVENT WILL APPTEGY'S TOTAL LIABILITY RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CLIENT FOR THE SERVICES IN THE TERM YEAR DURING WHICH THE ACTIONS AT ISSUE OCCURRED.

7. Confidentiality

Each party (the "Disclosing Party") may disclose to the other party (the "Receiving Party") proprietary or non-public business, technical, financial, or personal information (collectively, "Confidential Information"). The Receiving Party will protect and keep confidential all Confidential Information, and will not use Confidential Information for any reason except for performing this Agreement. Without limiting the generality of the foregoing, Client acknowledges

that non-public information about the features, functionality, and performance of the Services is Confidential Information.

8. Miscellaneous

The Software and Services Agreement, together with these Terms, is the entire agreement between the parties with respect to the subject matter, and supersedes all prior agreements and understandings, whether written or oral. This Agreement may not be amended or modified without the prior written consent of both parties. If any provision(s) of this Agreement are held invalid or unenforceable, such invalidity or unenforceability will not invalidate or render the Agreement unenforceable, but rather the Agreement will be construed as if not containing the unenforceable provision(s), and the rights and obligations of the parties will be construed and enforced to honor the parties' original intent to the maximum extent permitted under applicable law. This Agreement will inure to the benefit of the successors and assigns of the parties. The Agreement may be executed in multiple counterparts and executed by original, facsimile, or electronic signature (including PDF, HelloSign, and similar methods), each of which when delivered will be deemed an original, and all of which together will constitute one agreement.



Signature Certificate

Document Ref.: ZOQUC-5349N-IZPFU-DZNSV

Document signed by:

	<p>Casey Mikula E-mail: casey.mikula@apptegy.com Signed in person In person signing host: Casey Mikula e-mail: casey@apptegy.com</p>	
<p>IP: 38.65.177.246</p>	<p>Date: 28 Jun 2021 22:40:36 UTC</p>	

Document completed by all parties on:

28 Jun 2021 22:40:36 UTC

Page 1 of 1



Signed with PandaDoc.com

PandaDoc is a document workflow and certified eSignature solution trusted by 25,000+ companies worldwide.

