

ILTPP AGREEMENT  
ILTPP - No. CTL2103  
Name: Computer Technology Link Corp (DBA CTL)

This Agreement is made and entered into effective the 13 day of May, 2021, by and between the Illinois Learning Technology Purchase Program ("ILTPP"), an Illinois educational partnership, with a principal address of 3358 Big Pine Trail, Champaign, Illinois 61822 and Computer Technology Link Corp (DBA CTL) ("Supplier"), a C-Corporation with a principal address at 9700

SW Harvest Court Building #100, Beaverton, OR 97005; alternatively referred to from time to time as, street, city state zip code

"Party" or "Parties", as the case may be.

WHEREAS, ILTPP provides Illinois' public, private and parochial PK-12 schools, districts, institutions of higher education and local governmental bodies, including without limitation, municipalities, administrative offices, and libraries (hereinafter referred to as, "Members") with the ability, on a voluntary basis, to establish relationships with various technology and information suppliers and other vendors in order to procure products, supplies and services at consistently beneficial prices and proficient levels of service (the "Program"); and

WHEREAS, the Parties wish to enter into an agreement whereby CTL will supply such goods and/or services hereinafter described; and

WHEREAS, the Parties wish to enter into a written agreement which describes and delineates the nature and extent of their relationship.

NOW, THEREFORE, ILTPP and Supplier in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, do hereby agree as follows:

**Supplier Information and Contact Person:**

The Supplier's tax identification number is: 93-1004740.

The contact person is:

Mike Mahanay

Name

CMO

Title

mmahanay@ctl.net

Email

503-504-5211

Telephone

**ILTPP Information and Contact Person:**

Hope Hardin-Borbely, Program Manager  
3358 Big Pine Trail, Champaign, IL 61822  
Phone: (217) 215-0386  
Email: hhardinborbely@iltpp.org

**I. GENERAL OBLIGATIONS OF THE PARTIES**

1.1 This non-exclusive Agreement is not a purchase order and does not guarantee any purchases to be made by the Program or its Members. It sets forth the basis by which the goods and services to be obtained through the Program are procured.

1.2 Term of Agreement. This Agreement shall be effective for a period of one (1) year, commencing May 15th \_\_\_\_\_, 2021, provided, that it may be renewed upon the prior written notice of either Party executed in advance of the expiration of the then-current term for separate one (1) year renewals. Supplier shall accept orders pursuant to this Agreement up to the date prior to the date of termination; provided that, any orders accepted prior to termination shall be performed and completed thereafter.

1.3 Termination of Agreement. The Parties may mutually agree to terminate this Agreement in writing at any time. Either Party (but not any affiliate, Member or any other third party) may terminate this Agreement without cause upon thirty (30) days' prior written notice. Either Party may terminate this Agreement for cause in the event the other Party materially breaches or defaults in the performance of the terms of this Agreement and fails to cure such breach or default. Any material default must be specifically identified in a written notice of termination to the breaching or at fault Party by giving thirty (30) days to cure any such default in performance; provided that, a cure for nonpayment shall be limited to ten (10) days from the date of notice. If such period passes without a cure or payment, the non-defaulting Party shall send a further notice terminating the Agreement. A default related to an affiliate, Member or other third party which is not a party to this Agreement may only result in that affiliate, Member or other third party being excluded from participation in the program under this Agreement. ILTPP may terminate this Agreement for cause in the event Supplier fails to comply with the terms of the Agreement as to pricing guarantees and/or administrative fees. Any price deviation must be specifically identified in a written notice of termination.

1.4. Single Contact Person. Supplier and ILTPP shall each designate a single contact person as set forth herein to carry out orders, shipments, invoices, payments and address other issues related to the performance of this Agreement. The contact person may be changed from time to time with notice thereof to the respective Party; provided that, each Party shall strive to minimize such changes for the continuity of this Agreement. In addition, such contact person may, upon appropriate authority from the respective Party, designate an alternative contact person to address specific issues.

1.5 Progress Meetings. Supplier and ILTPP shall conduct monthly meetings during the contract year to address, without limitation, contract performance and progress, as well as improvements and upcoming opportunities consistent with this Agreement.

## **II. OBLIGATIONS OF THE SUPPLIER**

2.1 Supply Products and Services to ILTPP Members. Supplier shall support the Program pursuant to this Agreement by listing and making available all products, supplies, and services determined by ILTPP, including without limitation, such products, supplies, and services described in Exhibit A (generally, Products). The Program shall be available to all Members, which include without limitation, public, private and parochial PK-12 schools, districts, institutions of higher education and local governmental bodies, including further without limitation, municipalities, administrative offices, and libraries in the State of Illinois.

"Digital Products" shall mean those existing solely in digital form or available through utilization of the Internet to provide products to Members. These include without limitation, cloud application services (software as a service), cloud platform services (platform as a service), cloud infrastructure services (infrastructure as a service), and digital service files. In the event that such digital products are provided to a Member which is subject to the Student Online Personal Protection Act or similarly applicable law or regulation, Supplier shall execute and comply with the required National Data Privacy Agreement together with any of its applicable addenda, exhibits, and the like.

"Physical Products" shall mean those which are tangible in nature and deliverable to a Member and involve the transfer of possession and ownership from the Supplier to the Member.

2.2 Pricing and Quality Guarantee. The Supplier shall offer products of good quality, workmanship and value to ILTPP Members consistent with the terms and conditions set forth in the General Terms of Sale to ILTPP Members, which is attached hereto, made a part hereof and incorporated by reference herein.

2.3 Order Acceptance and Processing. Pursuant to the Supplier's ordering methodology, in whatever form that may take, ILTPP Member orders shall consist of a purchase order, requisition form or online order in a manner documented to include the following:

- (a) Member's name, school or office name, NCES ID or other unique identifier, address (including county), contact name and email address, and telephone number;
- (b) description, with reasonable specificity, identifying the items, quantity, and estimated cost therefor.

Supplier shall report all sales regardless of the ordering methodology to ILTPP on a quarterly basis, utilizing the quarterly report template provided by ILTPP which is available on its website.

2.4 Order Rejection. Supplier may reject an order by prompt written notice to ILTPP and the Member of such rejection and the basis for it. Order rejection must take place within 30 days after an order is submitted. Otherwise, Supplier shall be deemed to have accepted an order by receipt of it through the Supplier's online site or by other customary ordering methodology.

2.5. Billing to Member. The Supplier shall bill Members by invoice sent directly to the Member. ILTPP shall not be a party to or a guarantor of the terms of any purchase agreement between Supplier and a Member. Payment terms are net thirty (30) days with all deliveries due within thirty (30) days after Supplier receives an order. Freight terms shall be free on board (FOB), destination with freight prepaid.

2.6 Warranty and Waiver.

EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS AGREEMENT AND/OR ANY ORDER ISSUED HEREUNDER, SUPPLIER HEREBY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND OR CHARACTER WHATSOEVER, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF NONINFRINGEMENT, OR ANY WARRANTY RELATING TO THIRD PARTY SERVICES OR PRODUCTS. THIS DISCLAIMER DOES NOT AFFECT THE TERMS OF ANY WARRANTY PROVIDED BY AN ORIGINAL EQUIPMENT MANUFACTURER (OEM).

THE PARTIES TO THIS AGREEMENT SHALL NOT BE LIABLE FOR ANY SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OR DAMAGE TO DATA, LOSS OF ANTICIPATED REVENUE OR PROFITS, WORK STOPPAGE OR IMPAIRMENT OF OTHER ASSETS REGARDLESS OF WHETHER FORESEEABLE AND REGARDLESS OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT IN THE CASE OF BREACH OR A PARTY'S LIABILITY FOR PERSONAL INJURY OR PROPERTY DAMAGE, EITHER PARTY'S TOTAL CUMULATIVE LIABILITY TO THE OTHER IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHER LEGAL THEORY, SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES ACTUALLY PAID OR PAYABLE TO ILTPP BY SUPPLIER UNDER THIS AGREEMENT FOR THE YEAR PRIOR TO THE INCIDENT WHICH GAVE RISE TO SUCH LIABILITY.

The Supplier is solely responsible for fulfillment of the responsibilities under the terms and conditions of this Agreement. The Supplier shall ship Physical Product orders directly to the ILTPP Member as indicated on any applicable order. Travel costs, if applicable, for on-site Services may be billed at fixed or actual rates, which shall in any event be in specific amounts and/or metrics to determine the amounts that must be included in a proposal. For personal property, the Supplier shall replace any items damaged or lost during shipping within thirty (30) days after notification by ILTPP or the applicable Member of such damage or loss. The Supplier shall be responsible for addressing all damage claims with applicable shippers. The Parties agree

that payment shall be withheld until damaged goods are replaced. Any personal property that is not defective and remains in its original packaging may be returned to the Supplier pursuant to its return policy. In the event of a defective Physical Product, applicable warranties shall apply.

2.7 Fulfillment Partners. Subject to the approval of ILTPP, the Supplier may list its Fulfillment Partners associated with this Agreement on the ILTPP website. Fulfillment Partners are those entities that may provide Physical Products or Services in conjunction with the Agreement entered into by a Supplier. Although the Supplier may rely upon a Fulfillment Partner to undertake a Supplier's obligations, the Supplier shall remain liable to ILTPP and its Members for the conduct of such Fulfillment Partners. In this context, ILTPP shall have the option of making or arranging for payments for Physical Products shipped by such Fulfillment Partners to the Supplier; provided that, the Supplier shall be responsible for reimbursing or otherwise compensating such Fulfillment Partner and assuring the payment of any claims for payment asserted by those Fulfillment Partners.

2.8 Ongoing Service. The Supplier shall provide Members with reliable service, before, during and after all purchases. In addition, the Supplier shall provide appropriate and thorough training and/or Product information to such Member, as well as access to a Supplier representative in order to assist with applicable questions.

2.9 Rollout and Marketing. The Supplier may, but is not obligated to, conduct a marketing effort in order to introduce the availability of its Products and Services through ILTPP. In the event of such marketing effort, materials produced shall include the ILTPP logo. Use of such logo shall be consistent with the marketing guidelines of ILTPP as reflected in any documents or materials provided for that purpose.

2.10 Scope of Products and Services. The Supplier shall only fill orders from Members with Products and Services specifically identified to this Agreement or otherwise upon the Supplier's website or electronic-commerce store. Any sale made by the Supplier to a Member of Products or Services not explicitly covered by this Agreement may result in termination of this Agreement. The Products and Services made available shall be described and specified in Exhibit A which is attached hereto, made a part hereof and incorporated by reference herein and which may be amended from time to time to identify additional Products or Services as the Parties may agree.

2.11 Pricing and Product Changes. (a) The Supplier may from time to time, identify changes to Product prices or Services available through ILTPP. The Parties shall use their reasonable best efforts to maintain the Product, Services, and pricing information in a current and accurate manner. (b) The Supplier shall remove from its list of available Products and Services any obsolete or discontinued Products or Services on a timely basis. Any substantial Product model or Service changes shall be properly identified by the Parties and listed in order to notify ILTPP Members as soon as reasonably practicable to inform such Members and not later than when such new Product model or Service becomes commercially available to the general public. (c) The Supplier shall provide at least thirty (30) days' notice to ILTPP of any price increases and any Product or Service discontinuation prior to their effective date. The Supplier shall honor and fulfill any orders placed but unfulfilled up to and including the date of any price increase, Product change or Service discontinuation.

2.12 Purchase Reporting. At the end of each calendar quarter, the Supplier and ILTPP shall examine and analyze a report of all ILTPP Member purchases made pursuant to this Agreement. The Supplier shall provide ILTPP with the report, including all purchases made by ILTPP Members in whatever manner whatsoever. The report shall identify with regard to each such purchase, the name of the ILTPP Member, order date, Product or Service description, quantity, retail price and ILTPP price, together with entity name, school NCES ID or other unique identifier, contact person name, email address, physical address and purchase order number. The Supplier shall provide ILTPP with such

report no later than thirty (30) days after the end of each calendar quarter. For the purposes of this Agreement, such calendar quarters shall end on September 30, December 31, March 31, and June 30 of each calendar year.

2.13 Administration Fee. In consideration for participating in the Program and the promotional services provided to the Supplier, it shall pay to ILTPP on a quarterly basis a two percent (2%) administration fee. The administration fee shall be based upon the Supplier's collected amounts during the preceding calendar quarter (net of returns and credits). Payment shall be made by checks payable to: "Illinois Learning Technology Purchase Program" and should be mailed to 3358 Big Pine Trail, Champaign, Illinois 61822. The Supplier shall pay ILTPP the administration fee within thirty (30) days after the end of each calendar quarter as described in section 2.12. In the event of a dispute relating to the amount of the administration fee, ILTPP shall notify the Supplier in writing within fifteen (15) days after receipt of payment. Thereafter, the Parties shall seek to resolve such payment dispute expeditiously and in good faith; provided that, doing so shall not preclude or limit a Party's legal or equitable remedies or time to assert or file claims.

2.14. Order Extending Performance After Termination. If, prior to the expiration or termination of this Agreement, an ILTPP Member places and the Supplier accepts an order, which by its terms would extend beyond the expiration or termination of the Agreement, then the order(s); (a) shall remain in effect and be governed by the terms and conditions of this Agreement, and (b) shall survive and continue beyond the expiration of this Agreement in accordance with the terms hereof, but shall not otherwise be considered an extension of the term of the Agreement, nor a renewal hereof. Orders placed by an ILTPP Member after expiration or termination of this Agreement shall not be valid.

### **III. OBLIGATIONS OF ILTPP**

3.1 Online Commerce. In accordance with the terms and conditions of this Agreement, ILTPP shall use its reasonable best efforts to maintain the program website, as well as list, advertise and promote the Supplier's Products and Services which are available to ILTPP Members. Such commerce shall include linkage to the websites of Suppliers and provide information about the Supplier's Products, as well as an opportunity for ILTPP Members to purchase or request quotes for Products and Services. The Parties shall develop techniques and methodologies to enable ILTPP Members suitable access for the purposes of implementing the Program.

3.2 Marketing and Promotion. ILTPP will use its reasonable best efforts to actively advertise, promote and market the Program and the Supplier's Products and Services to ILTPP Members and potential Members by various means, including without limitation, digital media, print, trade shows, conferences, and seminars.

- Marketing and promotions shall include, without limitation, the following:
  - Supplier name, logo, copyright, trade or servicemark, and a description of the Products and Services available;
  - Enablement and opportunity for Product specific e-blasts; provided that, content must be provided by the Supplier and approved by ILTPP, as well as scheduled pursuant to the ILTPP Supplier Marketing Plan;
  - Monthly e-newsletter promotions depending upon the availability of space; provided that, content must be provided by the Supplier and approved by ILTPP by the 10<sup>th</sup> of each month prior to such newsletter distribution;
  - Product placement and/or promotion on ILTPP's website homepage as reasonably available, with the understanding that such space is made available on a first-come, first-served basis,

which shall be available for no longer than one (1) month with possible additional weeks available throughout the applicable contract year;

- o Maintenance of branded social media profiles which feature the Supplier Products and Services, special offerings and announcements; provided that, such information is made available to ILTPP at least fourteen (14) days in advance of such announcements; and
- o Supplier provided collateral print materials which shall be made available at conferences attended by ILTPP as an exhibitor.

3.3 Review by Supplier. Prior to public release, ILTPP shall submit to the Supplier for its approval any materials that ILTPP proposes to be displayed, published, reproduced, distributed, or otherwise made available. Within five (5) days after receiving such materials and a request for approval, the Supplier shall provide written notice approving or disapproving thereof. In the event the Supplier does not provide a decision within such timeframe, the request for approval will be deemed to be approved. Thereafter, the Parties shall undertake further reasonable communications in order to reach agreement regarding the public dissemination of materials identifying the Products and Services available.

3.4 Confidentiality. ILTPP and its employees, subcontractors, agents, or representatives shall be bound by the confidentiality and intellectual property provisions of this Agreement.

#### **IV. INTELLECTUAL PROPERTY RIGHTS, OWNERSHIP AND CONFIDENTIALITY**

4.1 License to Certain Supplier Intellectual Property. Subject to the terms and conditions of this Agreement, Supplier grants ILTPP a limited, non-exclusive, royalty free, non-transferable, and non-sublicenseable license during the term to use the Supplier's copyright, trademarks, tradenames, logos, domain names, website addresses, websites, and URLs, solely in connection with the promotion and marketing services provided by ILTPP herein. Supplier grants no other right or license to any Supplier intellectual property to ILTPP by implication, estoppel, or otherwise. ILTPP acknowledges that Supplier owns all right, title, and interest in, to and under the Supplier's copyrights and trademarks and that ILTPP shall not acquire any proprietary rights therein. Any use by ILTPP or any representative of ILTPP of any of Supplier's trademarks and all goodwill associated therewith shall inure to the benefit of Supplier.

4.2 Reservation of Rights. All rights not expressly granted herein shall be reserved by the Parties.

4.3 Confidentiality. From time to time during the Term, either Party (as the "Disclosing Party") may disclose or make available to the other Party (as the "Receiving Party") information about its business affairs, products, services, customer lists, marketing and sales strategies, technology, product roadmap, confidential information and materials comprising or related to intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in a written or electronic format, and whether or not marked, designated, or otherwise identified as "confidential" or "proprietary" (collectively the "Confidential Information").

4.4 Confidentiality Exclusions. Confidential Information does not include information that, at the time of the disclosure (and as established by documentary evidence): (a) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this Article IV by the Receiving Party or any of its representatives; (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source; provided, that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was known by or in the possession of the Receiving Party or its representatives prior to being disclosed by or on behalf of the Disclosing Party; or (d) was or is independently developed by the Receiving Party without reference to or use of, in whole or in part, any of

the Disclosing Party's Confidential Information. A Receiving Party may disclose Confidential Information of the Disclosing Party if it is required to be disclosed pursuant to applicable law; provided that, prior notice of the proposed disclosure is provided to the Disclosing Party in order for the Disclosing Party to object to the disclosure. In the event that it is determined that the Confidential Information must be disclosed then the Receiving Party will use best efforts to obtain a protective order to limit the scope of the disclosure to only what is required by law.

4.5 Confidentiality Obligations. The Receiving Party shall, for two (2) years from the disclosure of such Confidential Information: (a) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (b) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any other purpose other than to exercise its rights or perform its obligations under this Agreement; and (c) not disclose any such Confidential Information to any person, except to the Receiving Party's employees, agents, subcontractors, or representatives who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under this Agreement and who have agreed to confidentiality terms no less protective than the terms herein. The Parties shall require each employee, agent or representative to be bound by the confidentiality of intellectual property provisions of this Agreement.

## **V. INDEMNIFICATION**

5.1 ILTPP Indemnification. ILTPP shall defend and hold harmless the Supplier and its officers, directors, employees, agents, affiliates, successors, and permitted assigns, from and against any and all losses, claims, suits, liabilities, demands, damages, penalties, fines, costs (including attorneys' fees and court costs) and expenses arising from or related to: (a) gross negligence, willful misconduct, or more culpable act or omission of ILTPP or its personnel in connection with the performance of its obligations under this Agreement; (b) any violation of law by ILTPP or its employees, agents or subcontractors; or (c) that any ILTPP materials or intellectual property, or Supplier's use thereof in accordance with the terms of this Agreement infringes any intellectual property right of a third party.

5.2 Supplier Indemnification. Supplier shall defend and hold harmless ILTPP and its officers, directors, employees, agents, affiliates, successors, and permitted assigns from and against any and all losses, claims, suits, liabilities, demands, damages, penalties, fines, costs (including attorneys' fees and court costs) arising from or related to any third party claim alleging: (a) gross negligence, willful misconduct, or more culpable act or omission of Supplier and its personnel in connection with the performance of its obligations under this Agreement; and (b) that any of Supplier's manufactured and provided Products, Services, or deliverables, or ILTPP or an ILTPP member's use thereof infringes upon any intellectual property right of a third party.

5.3 Exceptions to Indemnification. Notwithstanding anything to the contrary in this Agreement, Supplier shall have no obligation to indemnify or defend ILTPP or its representatives against any third-party claims, suits, losses, liabilities, demands, damages, penalties, fines or costs arising out of or resulting from an infringement claim relating to any materials, instructions, information, designs, specifications, or other materials provided by ILTPP to Supplier or an ILTPP Member. Notwithstanding anything to the contrary in this Agreement, ILTPP or its representatives shall have no obligation to indemnify or defend Supplier against any third-party claims, suits, losses, liabilities, demands, damages, penalties, fines or costs arising out of or resulting from an infringement claim relating to any materials, instructions, information, designs, specifications, or other materials provided by Supplier to ILTPP or its members.

5.4 Indemnification Procedures. A Party seeking indemnification hereunder (the "Indemnified Party")

shall give the Party from whom indemnification is sought (the "Indemnifying Party"): (a) prompt notice of the relevant claim; and (b) reasonable cooperation and assistance in the defense of such claim. The Indemnifying Party shall have the right to control the defense and settlement of any such claim; provided, however, that the Indemnifying Party shall not, without the prior written approval of the Indemnified Party, settle or dispose of any claims in a manner that affects the Indemnified Party's rights or interest. The Indemnified Party shall have the right to participate in the defense at its own expense.

## **VI. MISCELLANEOUS**

6.1 Advertising. By execution of this Agreement, Supplier agrees that ILTPP may use the Supplier's name and logo, service or trademark and copyright in a usual and customary format in publicity releases or for advertising purposes only. ILTPP agrees and acknowledges that Supplier may use ILTPP's name and logo in a usual and customary format for publicity releases and advertising purposes. Neither Party shall use the name, logo, service or trademark(s) or copyright(s) of the other in any other manner without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed.

6.2 Customer Lists. Supplier shall not use, sell, or otherwise disclose ILTPP Member information or customer lists to any third party, except as required by law or as otherwise permitted in this Agreement.

6.3 Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the Parties at the addresses set forth on the first page of this Agreement (or to the then current single point of contact at such other address that may be designated by the receiving Party from time to time in accordance with this section). All Notices shall be transmitted by personal delivery, nationally recognized overnight courier (with all fees prepaid), facsimile, or e-mail (with written confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt by the receiving Party, or (b) if the Party giving the Notice has complied with the requirements of this Section, such Notice shall be deemed effective upon the earlier of receipt or three (3) days after transmission.

6.4 Third Party Beneficiaries. Supplier and ILTPP intend for ILTPP's Members to be third party beneficiaries to this Agreement insofar as and limited to the provision of Products and Services contemplated by this Agreement. Supplier and ILTPP do not intend any other person or entity to be a third-party beneficiary to this Agreement.

6.5 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible; provided that, if no such modification is achieved, this Agreement shall remain in full force and effect with regard to its remaining provisions.

6.6 Compliance with Laws and Regulations. The respective Party's performance pursuant to this Agreement shall comply fully with all applicable federal and state laws and regulations, including without limitation, any privacy, civil rights, harassment prevention, and hazardous chemical laws and regulations.

6.7 Survival of Terms. Applicable designated terms of this Agreement shall survive the expiration or earlier termination hereof.

6.8 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of the Agreement.



6.9 Waiver. No waiver of any term or condition is valid unless made in writing and signed by authorized representatives of both Parties, and shall be limited to the specific situation for which it is given.

6.10 Assignment. A Party shall not assign, transfer, or delegate any or all of its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided that, either Party may assign this Agreement to a successor-in-interest by consolidation, merger, or operation of law or to a purchaser of all or substantially all of the Party's assets. An assignment shall not relieve the assigning Party of any of its obligations hereunder. Any attempted assignment, transfer, or other conveyance in violation of the foregoing shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

6.11 Force Majeure. A Party to this Agreement shall not be liable to the other to the extent any failure or delay in performing its obligations hereunder, or for any loss or damage resulting therefrom that is to the result of: (1) acts of God or public enemy, acts of government, wars, riots, terrorism, fires, floods, strikes, lockouts, pandemics, epidemics, act or failure to act by the other Party, or unusually inclement weather affecting ILTPP, its Member, or SUPPLIER; or (2) other causes beyond their reasonable control which are not foreseeable, all of which be deemed "Force Majeure Events". In the event of any such Force Majeure Event, the date of delivery or performance shall be extended for a reasonable period of time not less than a period equal to the time elapsed by reason of such delay. In the event any Force Majeure Event continues for more than sixty (60) consecutive days, the Party whose performance is not affected thereby may terminate this Agreement upon written notice to the other Party.

6.12 Equitable Remedies. Each Party acknowledges and agrees that: (a) a breach or threatened breach by such Party of any of its confidentiality obligations would give rise to irreparable harm to the other Party for which monetary damages would not be an adequate remedy; and (b) in the event of a breach or a threatened breach by such Party of any such obligations, the other Party shall, in addition to any and all other rights and remedies that may be available to such Party at law, at equity or otherwise with respect to such breach, be entitled to equitable relief, including a temporary restraining order, injunction, specific performance and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages.

6.13 Governing Law and Venue. The Parties agree that the laws of the State of Illinois shall govern the terms of this Agreement, without application of its conflict of laws principles. In the event of any claim(s) or suit regarding this Agreement, the applicable federal or state court in Champaign County, Illinois shall be the venue for any such claim(s) or suit.

6.14 Relationship of Parties. Nothing in this Agreement creates any agency, joint venture, partnership, or other form of joint enterprise, employment, or fiduciary relationship between the Parties. Supplier is an independent contractor pursuant to this Agreement. A Party has no express or implied right or authority to assume or create any obligations on behalf of or in the name of the other Party or to bind the other Party to any contract, agreement, or undertaking with any third party.

6.15 Counterparts and Signatures. This Agreement may be executed in any number of counterparts as may be convenient or required. It shall not be necessary that a signature of, or on behalf of, each Party, or that the signature of all persons required to bind any Party, appear on each counterpart so long as at least one (1) counterpart is executed by each Party. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this document to produce or account for more than a single counterpart containing the respective signatures of, or on the behalf of, each of the Parties hereto. Any signature page or any counterpart may be detached from such counterpart without impairing the legal affect of the signatures thereon and thereafter attached to another counterpart identical thereto, except having attached to it additional signature pages. A photocopied signature, portable document format (PDF), copy or electronic form of signature as otherwise allowed by law shall have the same force and effect as an

original.

6.16 Association of Educational Purchasing Agents Terms and Conditions. To the extent any transaction relates to performance involving or related to the Association of Educational Purchasing Agents (AEPA), then the terms and conditions regarding ILTPP as set forth on the AEPA website are and shall be deemed attached hereto, made a part hereof, and incorporated by reference herein.

6.17 Time of the Essence. The Parties acknowledge that time is of the essence with regard to the execution and performance of this Agreement and all of the obligations, covenants and promises agreed upon herein.

6.18 Entire Agreement. This Agreement and any addenda or exhibits (including ILTPP General Terms of Sale to ILTPP Members) attached hereto, made a part hereof, or incorporated by reference herein, constitute the entire understanding of the Parties with respect to the subject matters herein and supersede and replace in their entirety any and all other prior and contemporaneous agreements and understandings, whether oral, written, electronic or implied, if any, between the Parties hereto with respect to the subject matter hereof. This Agreement may be modified only by a written addendum or exhibit including applicable specifications duly authorized and executed by both ILTPP and the Supplier.

***IN WITNESS WHEREOF***, each of the Parties has caused this Agreement to be signed and delivered by its respective authorized representative.

Illinois Learning Technology Purchase Program      CTL (Supplier)

By: Hope Hardin-Borbely

By: Mike Mahanay

Title: Program Manager

Title: CMO

Signature: *Hope R Hardin Borbely*

Signature: *Mike Mahanay*

Date: May 13, 2021

Date: May 13, 2021

## GENERAL TERMS OF SALE TO ILTPP MEMBERS

ILTPP or its Member may change or cancel an order or any part of it, at no cost to ILTPP or its Member, at any time until Supplier has shipped the products.

If an error in the products is discovered or a change is requested after products have been shipped, ILTPP's Member shall be responsible for the cost of return shipping in the event it is the cause of the error or change. The Supplier shall be responsible for the cost of return shipping in the event it is the cause of the error. All products to be returned shall have Supplier's return authorization and documentation prior to shipment.

**Prices.** Prices may vary during the course of the contract year, but shall remain within the agreed upon price guidelines. New products made available shall be priced at or lower than the discount originally set and be readily identified as meeting the description of the replaced product(s). Pricing for new products offered at less favorable discounts or higher markups than originally agreed upon in these terms shall not occur. These terms shall similarly apply to new products added that are of equal or lesser configuration or construction.

The ILTPP process is structured to enable Members and Suppliers to negotiate discounts based on quantity. Posted prices are for a quantity of one. Discounts can be negotiated for any volume purchases and remain valid ILTPP purchases as long as the quote is identified as an ILTPP quote, pursuant to contract terms and conditions.

If the product is personal property, a separate charge for shipping shall be included on all Supplier invoices for orders less than \$500. All orders \$500 and more shall receive free shipping from the Supplier.

All ILTPP Members are tax exempt and Supplier shall not charge or assess Members for sales tax. Proof of tax-exempt status shall be supplied by ILTPP or Member upon request from Supplier.

**Payment.** Invoices are due and payable in full within thirty (30) days after the date of the invoice. All Invoices shall reference applicable purchase order numbers and be sent via U.S. Mail to the address identified on the purchase order or letterhead orders.

Binding prices for products shall be listed and identified in Exhibit A.

**Delivery.** All Supplier ship dates are estimates. Loss or damage that occurs during shipping is Supplier's responsibility and any such claims shall be resolved between Supplier and its courier. Title to product passes from Supplier to ILTPP or its Member upon receipt at ILTPP or its Member's facility, also known as Freight on Board (F.O.B.) – Destination.

**Association of Educational Purchasing Agents Terms and Conditions.** To the extent any transaction relates to performance involving or related to the Association of Educational Purchasing Agents (AEPA), the terms and conditions regarding ILTPP as set forth on the AEPA website are and shall be deemed attached hereto, made a part hereof, and incorporated by reference herein.

**"Total Satisfaction" Return Policy.** Products may be returned to the Supplier up to thirty (30) days after the day they are delivered. If paid for, Supplier will provide a full refund. If unpaid for, Supplier shall withdraw and cancel the purchase. ILTPP or its Member must request and the

Supplier shall issue a Credit Return Authorization Number before products are returned. If the product(s) consist(s) of personal property, they shall be shipped at Member's expense to Supplier in their original packaging, shipping charges prepaid. Risk of loss or damage during shipment to Supplier shall be the responsibility of the Member. Returned products must be in as new condition, together with all manuals and other items.

**Limited Warranties.** Subject to the risk of loss provisions otherwise contained in this Agreement, Suppliers warranties do not cover damage due to external causes, including matters involving electrical power, servicing not authorized by Supplier, usage not in accordance with product specifications and instructions, failure to perform preventative maintenance, abuse and misuse.

**Customer and Technical Support.** The Supplier shall endeavor to provide the reasonable best customer and technical telephone support in its industry. The Supplier's support staff shall provide telephone assistance regarding any problem involving Supplier products.

**Ownership of Products and Related Content.** ILTPP hereby acknowledges that the Supplier is the sole owner of the Products, the Product content and all related websites and web pages, and ILTPP expressly disclaims any ownership interest in the Products, Product content and/or any of the components thereof. The Supplier reserves the right to make changes to its Products at any time.

**Exhibit A**  
**PRODUCTS AND SERVICES PROVIDED**

Effective Date: <u>May 15, 2021</u>	Renewal Options: <u>Three, 1-year terms</u>
Pricing: <u>See Exhibit A</u>	Payment Terms: <u>Net 30</u>
Days Required for Delivery: <u>N/A</u>	Minimum Order: <u>N/A</u>
Freight Terms: <u>N/A</u>	Administrative Fee: <u>2%</u>