



MASTER SUBSCRIPTION AGREEMENT

This Master Subscription Agreement (this "**Agreement**") is effective July 15, 2020 ("**Effective Date**") by and between Achieve3000, Inc. ("**Achieve3000**"), and Marion County Public School District ("**Customer**"), for Customer's use of the Achieve3000 services to which Customer has subscribed ("**Services**") as specified in one or more Achieve3000 order form(s) (each, an "**Order Form**"). The initial Order Form may be attached hereto as Exhibit A.

1. ENTIRE AGREEMENT

The agreement under which Customer is subscribing for the right to permit a certain number of Customer's students, parents, teachers and/or school administrators (up to the licensed number to whom Achieve3000 has provided a user ID and password to access and utilize particular Services (as applicable, the "**Authorized Users**")) consists of (a) the applicable Order Form(s) in which the specific Service(s) to be provided (including related professional development training ("**Professional Development**")), the school(s) to whom the Services are to be provided, the period during which the Authorized Users shall have the right to access and utilize the identified Service(s), pricing, invoicing schedule and other implementation-specific details and terms are specified; and (b) this Agreement. Customer's Order Forms and this Agreement contain the entire agreement and understanding regarding Achieve3000's provision of the specified Service(s) to Customer and Customer's Authorized Users and supersede all prior oral and written agreements the parties regarding the subject of this Agreement, if any. In the event of a conflict between an Order Form and this Agreement, the conflicting term(s) of this Agreement shall prevail, unless the parties expressly state in a subsequent written document that they intend that the conflicting terms of that Order Form prevail over the conflicting terms of this Agreement. In the event that any of the terms set forth in this Agreement are held invalid, illegal or unenforceable, all of the remaining terms of this Agreement will remain in effect.

2. TERM OF THIS AGREEMENT

Except as provided in the following sentence and unless stated otherwise in an Order Form, this Agreement shall commence on August 1 of the year in which Customer executes an Order Form (the "**Subscription Start Date**"), and shall conclude on June 30 of the following year (the "**Subscription End Date**", and such period between the Subscription Start Date and Subscription End Date constituting the "**Term**"). The previous sentence notwithstanding, (a) when Customer executes an Order Form subsequent to August 1, the Subscription Start Date shall be, and the Term shall commence on, such date and conclude on June 30 of the following year; and (b) the Subscription End Date and Term of all multi-year agreements shall be as indicated in the applicable Order Form.

3. DESCRIPTION OF SERVICES

The elements of each Service subscribed for hereunder (each a "**Service Element**"), and the first date on which the appropriate Authorized Users may access and utilize each such Service Element (in each case, a "**Service Element Activation Date**") shall be as set forth in the applicable Order Form.

4. LICENSE GRANT

Effective as of the Service Element Activation Date applicable to each Service Element, Customer's appropriate Authorized Users are granted a limited, non-transferable, non-sub-licensable, non-exclusive, personal license (revocable in the event of breach) to access and utilize the applicable Service Element that Customer has subscribed for the right to access and utilize, solely for educational purposes and solely as permitted by this Agreement, during the Term. The term "appropriate" here means that Service Elements intended for use by students may be accessed and utilized by any Authorized User, and that Service Elements intended for use by teachers and school administrators may only be accessed and used by Authorized Users functioning in those roles.

The foregoing notwithstanding, Achieve3000 will not be obligated to provide any Service to any user who has not agreed (i) to Achieve3000's Terms of Use and Privacy Policy and (ii) to comply with this Agreement. Achieve3000 reserve the right to change Achieve3000's Terms of Use and/or Privacy Policy (subject to Section 10 of this Agreement).

Achieve3000 will charge Customer for each Service it subscribes for based on the number of permitted users or "**Licensed Seats**" Customer elects for that Service and the applicable license pricing for the Service.

To allow Customer additional flexibility in Customer's use of the Services for appropriate purposes, Achieve3000 may permit Authorized Users in excess of the then-current number of Licensed Seats Customer has already subscribed for that Service ("**Additional Users**").

From time to time during the Term, Achieve3000 will compare the number of Authorized Users Customer has provided with access to a Service with the number of Licensed Seats Customer has subscribed for that Service. If the number of Authorized Users exceeds the number of Licensed Seats Customer has subscribed for the Service, Achieve3000 will notify Customer in writing and invoice Customer for the Additional Users Achieve3000 has identified through its comparison. Achieve3000 will work with Customer to resolve promptly any question or issue Customer may have regarding the number of Additional Users Achieve3000 has identified or the associated additional Service fees Achieve3000 has invoiced for those Additional Users. Customer is responsible for all activities conducted under its Authorized User logins and for its personnel's compliance with this Agreement.

5. RESERVATION OF RIGHTS; RESTRICTIONS ON USE; CONTENT DISCLAIMER

Every aspect of each Service, including its underlying concepts, methodologies, processes, formats, specifications, other know-how, site layout, design, images, programs, text, forms and other information (collectively its "Content"), is solely Achieve3000's property or, where applicable, the property of Achieve3000's licensors. Customer receives no rights to or interest in any Content other than the rights conferred upon Customer by Section 4 of this Agreement. All Content is protected by copyright and other intellectual property laws, and nothing herein grants Customer any ownership interest in any Content or any right with respect to any Content other than those rights expressly granted in Section 4 of this Agreement. Customer and its Authorized Users may not:

- (a) permit any third party whom Achieve3000 has not provided a user ID and password to access or utilize any Service;
- (b) copy, modify, translate, decompile, disassemble, reverse engineer, or otherwise attempt to discover the source code of any software used to provide any Service or permit any other party to do so; Content may not be merged with any other service or software, or be adapted or modified in any way, by anyone;
- (c) (i) copy, reproduce, publish, distribute, modify, transfer or in any way commercially exploit any part of the Content, (ii) mirror the Content on any other server, (iii) create any derivative works, (iv) attempt to avoid, circumvent, or disable any security device, procedure, protocol, or mechanism that may be established with respect to the Content, or (v) delete, alter, cover, or distort any copyright, trademark, or other proprietary rights notice placed on or in the Content;
- (d) use any Service in a manner that includes any service bureau use, outsourcing, renting, reselling, sublicensing, concurrent use of a single Authorized User login, or time-sharing of such Service;
- (e) use any Service in a manner that is contrary to applicable law or in violation of any third-party rights of privacy or intellectual property rights;
- (f) use unauthorized modified versions of any Service, including (without limitation) for the purpose of building a similar or competitive product or service or for the purpose of obtaining unauthorized access to such Service;
- (g) engage in systematic retrieval of Content from the Services to create or compile, directly or indirectly, a collection, compilation, database or directory of any kind without Achieve3000's written permission; Customer may not use any robots, spiders, crawlers or other automated downloading programs or devices to search any Content, harvest personal information, or cause disruption to the Service;
- (h) publish, post, upload or otherwise transmit any Content that contains any viruses, Trojan horses, worms, time bombs, corrupted files or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any systems, data, personal information or property of another; or
- (i) print or download Content for Customer's own personal educational use unless it keeps intact all copyright and other proprietary notices.

Achieve3000 shall have the right, but not the obligation, to remove any Content at any time.

6. COMMENTS

During the Term, Customer, through Customer's employees and agents, may contribute certain ideas, comments, criticisms, and suggestions for improvements, modifications, and other changes to the Services (including with respect to associated Content) (collectively, "Comments"). Customer agrees that Achieve3000 may use, modify, and incorporate these Comments as Achieve3000 sees fit and will own all rights to such Comments as incorporated into the Services.

7. PAYMENT TERMS

Unless the parties agree otherwise in Customer's Order Form, Achieve3000 may invoice Customer for Services and other items subscribed for hereunder in the case of one-year agreements, on the day that Customer executes an Order Form, and in the case of multiple-year agreements, on the day that Customer executes the Order Form and each anniversary thereof. Payment of the undisputed amounts set forth on each invoice shall be due within thirty (30) days of the date of the invoice. Should Customer dispute any portion of an invoice, Customer will communicate to Achieve3000 in writing (email to suffice) the basis of Customer's belief that a portion of the invoice is incorrect no later than the date on which the invoice is to be paid in full, and shall engage with Achieve3000 in good faith to resolve such dispute as expeditiously as reasonably possible. Absent a good-faith payment dispute, if Customer fails to pay on time, Achieve3000 shall be entitled to claim interest on any overdue amount at the rate of 1% per month or the maximum amount allowed by law, whichever is greater and Achieve3000 may suspend the applicable Services, without limitation or waiver of any other right or remedy available under this Agreement or at law. If Achieve3000 is required to retain a collection agency or attorney to collect overdue payment of undisputed invoices, all reasonable collection costs, including attorney fees, will be payable by Customer.

8. TAXES AND TAX-RELATED OBLIGATIONS

The rates and charges for Services do not include and Customer acknowledges that it is responsible for any sales, use, excise, gross receipts, personal property, privilege, and value added tax liabilities and any other duties or other transaction taxes or charges imposed by any governmental entity for products and Services provided under this Agreement, excluding only taxes based solely on Achieve3000's net income. Customer shall hold Achieve3000 harmless from all claims and liabilities arising from the failure to pay any such taxes, including penalties, interest, duties, tariffs or charges. Customer will promptly reimburse Achieve3000 for any and all taxes, assessment, permits and fees that Achieve3000 may be required to pay in connection with this Agreement or its performance.

Customer acknowledges that contemporaneous documentation (e.g., exemption certificate, etc.) is critical to ensure that appropriate tax treatment is afforded and Customer agrees to provide Achieve3000 with the required documentation in a timely manner.

9. OUR GUARANTEE

Achieve3000 will (a) refund to Customer a pro-rated portion of any prepaid and unused fees for any Service provided hereunder corresponding to the period after termination, other than fees received for Professional Development, (b) waive Achieve3000's right to future payment, and (c) consider this Agreement revoked if, after Customer has provided Achieve3000 the data described in Section 10 and has certified that the teacher of each class of students utilizing the Service(s) has completed the preparation described in Section 11, the Service(s) is/are not accessible and usable for extended periods of time by substantially all of Customer's Authorized Users.

10. STUDENT DATA

In order to enable Achieve3000 to provide the Services to Customer and Customer's Authorized Users, Customer shall provide Achieve3000 the following data in electronic form (in .CSV (comma separated values) or .XLS (Excel) format) regarding each student whom Customer wants to enable to use a Service: name of the student's school and school district, student ID number, student first name, student last name and student grade level (collectively, "**Student Data**"). Additional demographics are optional for Customer to provide (gender, race, ethnicity, English language status, special education status and free lunch status). Alternatively, Customer can upload the data itself. Visit the Achieve3000 Hub at hub.achieve3000.com for secure data upload instructions. Alternative methods for providing Student Data electronically include transferring Student Data through a standards-based API or through on-demand electronic transfer through Authorized User login using standards-based SSO.

At Customer's request, Achieve3000 will also accept, include in Achieve3000's reports to teachers and administrators, and treat as Student Data the following additional information: class code or room number, student race/ethnicity, gender, socio-economic or demographic information, familial background, student disabilities, student test scores, test dates, English language status and information related to English language learners, special education status, free lunch status, language spoken at home, and such other information that Customer may request and that Achieve3000 can feasibly track in the course of delivering applicable Services.

Student Data can be transferred to Achieve3000 using a secure file sharing service, SFTP, or any other method required by Customer. All Student Data received from Customer will be stored on a secure server and accessible only to Achieve3000's personnel on a need-to-know basis. The Student Data received from Customer will be matched to Achieve3000's usage records using student IDs or student names (provided by Customer during the rostering process). Customer agrees that Student Data may be shared with an external contractor who is under contract with Achieve3000 to protect the confidentiality of shared information and meet all standards of confidentiality described in this Agreement. All Student Data collected by Achieve3000 will be kept strictly confidential, consistent with the terms of this Agreement. Student Data received from Customer will only be used for the purposes described in this Agreement or as otherwise agreed to in writing by the parties. At such time as Customer requires by written notice, Achieve3000 will purge Student Data from all storage media. Achieve3000 may collect usage data, query data and other aggregated or de-identified data in connection with Customer's use of the Services. Achieve3000 may use such data for purposes of improving the Services (e.g., corroborating the data in Achieve3000's databases). Provided that none of Customer's Authorized Users or students is individually identifiable and none of Customer's Confidential Information is disclosed, Achieve3000 may also collect, retain, disclose, distribute and otherwise utilize such aggregated or de-identified data.

In Achieve3000's receipt and handling of Student Data, Achieve3000 will act as Customer's contractor and provider of institutional or assessment services, as applicable, and will comply with associated provisions of the Department of Education's regulations under the federal Family Educational Rights and Privacy Act or "FERPA". Achieve3000 will only use Student Data in a manner that complies with Sections 99.33(a) of the Department of Education's FERPA regulations and is consistent with Achieve3000's Privacy Policy (which is set forth at <http://www.achieve3000.com/privacy-policy/>). Customer will treat Achieve3000's staff as authorized school recipients of education records under FERPA.

In addition, Achieve3000 does and will comply with the provisions of the Children's Online Privacy Protection Act ("COPPA") in the operation of the Achieve3000 website through which Customer's Authorized Users will access and use Services.

Notwithstanding Achieve3000's reservation of rights to revise this Agreement and Achieve3000's Privacy Policy, no change to this Agreement or Achieve3000's Privacy Policy that materially diminishes protections afforded Student Data will become effective with respect to Customer or Customer's Authorized Users unless and until Achieve3000 has advised Customer of such change and received Customer's written consent (email to suffice) to such change.

11. TEACHER AND ADMINISTRATOR PREPARATION

Customer will require the teacher of each class of students utilizing a Service to be familiar with its use before the teacher permits students, parents, and administrators to access and utilize the Service.

Implementation planning and initial training Professional Development sessions, whether online or on-site, must be completed no later than sixty (60) days after the Subscription Start Date. All subsequent Professional Development sessions subscribed for hereunder, whether online or on-site, must be completed before the end of the period indicated in Customer's Order Form. Such session(s) shall not "roll over" to a subsequent period and Customer will not be entitled to a refund for such unused sessions. All Professional Development sessions, whether online or on-site, not scheduled by Customer within the appropriate time frame as described in this paragraph shall be treated as having been duly provided by Achieve3000. Confirmed Professional Development sessions may be postponed and rescheduled without charge only upon seventy-two (72) hours' prior notice. Professional Development sessions canceled or postponed on less than seventy-two (72) hours' prior notice shall be treated as having been duly provided by Achieve3000.



Achieve3000 may make additional Professional Development opportunities available from time to time, on a selective basis, such as participation in a School of the Future® event. The reasonable and verifiable costs of participation in such events, as well as any associated travel costs, are included in the cost of the Services.

12. INVALID LEVELSET ASSESSMENTS

All potentially invalid LevelSet assessments are flagged in a report for Customer's teachers and it is up to those teachers to have the individual student retake the relevant LevelSet assessment.

13. EMAIL COMMUNICATIONS

Customer hereby authorizes Achieve3000 to send electronic mail to Customer's teachers and school administrators for the following purposes:

1. delivering Professional Development and similar materials to Customer's teachers and administrators; and
2. advising Customer of changes or additions to Achieve3000's Services or about any of Achieve3000's Services.

If Customer does not want its teachers and/or school administrators to receive such emails, please notify Achieve3000 at support@achieve3000.com.

14. SERVICE RELIABILITY

Subject to Achieve3000's need to perform periodic and routine maintenance, Achieve3000 takes reasonable measures to make its Services available 24 hours a day, seven days a week, and to maintain saved information. However, technical failures, acts of God and routine and unscheduled maintenance may render one or more Services unavailable at times (including during normal business or school hours), and/or may result in the loss of information. Achieve3000 shall not be liable to Customer or anyone else for any loss of information or for the non-availability of any Service, unless such loss of information or non-availability of a Service has resulted from Achieve3000's gross negligence or willful misconduct.

15. USER CONDUCT

Customer agrees that Achieve3000's Terms of Use set forth at <http://www.achieve3000.com/terms-of-use/> are reasonable and appropriate, and shall undertake reasonable measures to assist Achieve3000 in enforcing such Terms of Use. Derogatory, harmful or unlawful conduct is not permitted on any Services. Customer's Authorized Users are not permitted to upload, distribute through, or otherwise publish any content which is libelous, defamatory, obscene, pornographic, threatening, invasive of privacy or publicity rights, abusive, illegal or otherwise objectionable that would constitute or encourage a criminal offense, violate the rights of any party violate any law, or otherwise violate Section 8 (Code of Conduct) or any other provisions of the Terms of Use.

16. TERMINATION

- Either party may terminate this Agreement immediately for default if the other party fails to cure all material defaults in its performance within ten (10) days of its receipt of written notice of its default(s) from the terminating party.
- Immediately upon the termination or expiration of any of Customer's Order Forms, Customer and Customer's Authorized Users shall immediately cease use of all Service(s) subscribed for under that Order Form. Should any Order Form be terminated prior to its natural expiration, Customer shall pay Achieve3000 all amounts owed for Services provided to Customer and Customer's Authorized Users under that Order Form up to the effective date of such termination.

17. CHANGES TO SERVICES

Achieve3000 is constantly innovating in order to provide the best possible instructional solutions to its customers' Authorized Users. Customer acknowledges and agrees that the form and nature of the Services may change from time to time without prior notice to Customer without reducing the overall level of benefit received by Customer. Customer further acknowledges that Achieve3000 may stop (permanently or temporarily) providing any features or may add new features within any Service at Achieve3000's sole discretion without prior notice to Customer.

18. LINKS TO OTHER SITES

Our Services may contain hyperlinks to other sites or resources that are provided solely for the convenience and information of Customer's Authorized Users. Achieve3000 is not responsible for the availability of external sites or resources linked and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from, or policies employed by, such sites or resources. Achieve3000 makes no representations as to the quality, suitability, functionality, or legality of any sites to which links may be provided. Accordingly, Customer should review the terms and conditions and privacy policies of each linked site, as its policies may differ from Achieve3000's. If Customer's Authorized Users decide to access linked third-party content and sites, they do so at their and Customer's own risk.

19. CONFIDENTIALITY

"Confidential Information" shall mean any and all non-public proprietary business, technical, and operational information disclosed by one party to the Agreement to the other party, including by or through its respective employee, agent, contractor, or representative, during the Term of this Agreement or in connection with correspondence or negotiations culminating in this Agreement, provided such information is clearly marked as "proprietary" or "confidential" or is of such nature that a person would reasonably understand the information to be of a confidential or proprietary nature. The terms of Customer's Order Form which are unique to Customer shall be deemed to be the Confidential Information of each party.

Each party agrees to secure and protect the Confidential Information of the other in a manner consistent with the maintenance of the other party's rights therein, using at least as great a degree of care as it uses to maintain the

confidentiality of its own confidential information of a similar nature, but in no event less than reasonable efforts. Each party agrees to hold the Confidential Information of the other party in confidence, not to disclose it to others or use it in any way, commercially or otherwise, except as authorized in writing by the disclosing party or in performance of its obligations under this Agreement.

Notwithstanding Achieve3000's Privacy Policy, Confidential Information of a party shall not include information which: (i) is as of the time of its disclosure or thereafter becomes part of the public domain through a source other than the receiving party and without claim or challenge by the disclosing party to such public disclosure; (ii) was rightfully known to the receiving party as of the time of its disclosure; (iii) is independently developed by the receiving party without reference to or reliance on Confidential Information of the disclosing party; or (iv) was received by the receiving party from a third party without any confidentiality obligation owed to the disclosing party. Notwithstanding a party's obligations hereunder, it may disclose the other party's Confidential Information if it the party is required to disclose such Confidential Information pursuant to a duly authorized subpoena, court order, or government authority, whereupon the party subject to same shall provide prompt written notice to the other party prior to such disclosure, so that such other party may seek a protective order or other appropriate remedy.

20. DATA OWNERSHIP AND LOCATION OF SERVICES

Customer will own data on Customer's Authorized Users' use of Achieve3000's Services ("Program Data") and the Student Data Customer provides to Achieve3000. At Customer's request, at the end of the Term of this Agreement or if and when Customer otherwise requires, Achieve3000 will return or destroy in a verifiable manner Student Data in Achieve3000's possession and provide Customer with copies of associated Program Data Achieve3000 has not previously provided to Customer. To comply with applicable laws, Achieve3000 reserves the right to destroy or otherwise dispose of Student Data and Program Data Customer has not directed Achieve3000 to return or destroy following this Agreement's Term. Customer agrees that Achieve3000 may use Student Data and Program Data to provide the Services, and that Achieve3000 may use Program Data for Achieve3000's internal purposes; for example, development and assessment of Services and Content.

The Services and Content are provided from, and Student Data and Program Data are stored on, servers located in the United States. Customer acknowledges and agrees that Achieve3000 may provide the Services and Content, and store Program Data and Student Data, in this manner. Customer further confirms that, as applicable, Customer's transfer of Student Data from outside the United States and Achieve3000's use and processing of such data in connection with delivery of Services to Customer and Authorized Users shall be consistent with laws applicable to Customer's transfer and Achieve3000's processing of such data.

21. WARRANTIES AND DISCLAIMER; LIMITATION OF LIABILITY; INDEMNIFICATION

- Achieve3000 warrants that it has the full authority to grant the rights granted to Customer herein. EXCEPT FOR THE FOREGOING EXPRESS WARRANTY, ACHIEVE3000 DISCLAIMS ANY AND ALL WARRANTIES WITH RESPECT TO ANY SERVICE PROVIDED HEREUNDER, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ACCURACY OR UTILITY OF CONTENT, EFFECTIVENESS OF ANY SERVICE IN IMPROVING ANY STUDENT SKILL OR CAPABILITY, OR NONINFRINGEMENT, AND ANY WARRANTY THAT ANY SERVICE WILL BE AVAILABLE AT ALL TIMES OR WITHOUT INTERRUPTION. EXCEPT FOR THE FOREGOING EXPRESS WARRANTY, EACH SERVICE IS PROVIDED "AS IS" AND WITH ALL FAULTS, AND CUSTOMER UNDERSTANDS THAT IT IS ASSUMING ALL RISKS OF SUCH SERVICE'S USE, QUALITY, AND PERFORMANCE.
- EXCEPT IN CONNECTION WITH A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR ITS INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL (A) EITHER PARTY, INCLUDING ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES OR AGENTS, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR COVER DAMAGES, INCLUDING LOSS OF PROFITS, REVENUE, DATA, OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, EVEN IF SUCH PARTY, AS THE CASE MAY BE, HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR, IN ACHIEVE3000'S CASE, BE RESPONSIBLE OR LIABLE FOR ANY INJURY THAT MAY BE ATTRIBUTED TO THE CONTENT OF COMMUNICATIONS TRANSMITTED BY MEANS OF A SERVICE BY ANY PERSON OTHER THAN ACHIEVE3000'S EMPLOYEES OR AGENTS; OR (B) EITHER PARTY'S MAXIMUM AGGREGATE LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT FOR ANY REASON EXCEED DIRECT DAMAGES UP TO THE TOTAL AMOUNT OF FEES PAID BY CUSTOMER TO ACHIEVE3000 DURING THE 12 MONTHS BEFORE THE EVENT GIVING RISE TO SUCH LOSS, COST, CLAIM OR DAMAGES. THE FOREGOING LIMITATIONS APPLY TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, STRICT LIABILITY, NEGLIGENCE AND OTHER TORTS. IN NO EVENT SHALL ACHIEVE3000, INCLUDING ITS DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS AND ITS LICENSORS, BE RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY FOR ANY DAMAGE OR LOSS CAUSED OR ALLEGED TO BE CAUSED BY OR IN CONNECTION WITH THE USE OF OR RELIANCE ON ANY SERVICE OR CONTENT PROVIDED HEREUNDER TO CUSTOMER OR TO ANY AUTHORIZED USER.
- Achieve3000 agrees to indemnify and defend Customer and its employees and agents from and against any action, claim, demand, or liability, including reasonable attorney's fees and costs, arising from or relating to a claim that a Service provided to Customer hereunder infringes upon the intellectual property rights of a third party. If any such Service is held to infringe, or if in Achieve3000's opinion, such a claim is likely to occur, Achieve3000 may, at Achieve3000's sole option and expense, either: (i) procure for Customer and Customer's Authorized Users the right to continue using the Service in question; or (ii) replace or modify the infringing Service Elements so that they

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become non-infringing as long as functionality is not materially and adversely affected. If neither alternative (i) nor (ii) is reasonably available, then Achieve3000 may terminate Customer's license to access and utilize the allegedly infringing Service and Achieve3000 shall refund to Customer a pro-rated portion of any prepaid and unused fees for such Service corresponding to the period after termination. The preceding sentences in this bullet states Achieve3000's entire liability and obligation, and Customer's exclusive remedy, for infringement.

22. GENERAL

Nothing in this Agreement shall cause the relationship between Customer and Achieve3000 to be anything other than that of independent contractors. None of Customer's and Achieve3000's actions under this Agreement shall be joint, and Customer and Achieve3000 has not formed, and shall not form, a joint venture to perform any of their respective obligations hereunder. The failure of either party to require performance of any part of this Agreement shall not be deemed a waiver of any present or future right. Modifications of this Agreement shall be binding only if in writing and signed by an authorized representative of each party. The rights and obligations of each party established herein are intended for the sole use and benefit of each of the parties and no one else. Accordingly, this Agreement confers no rights upon any third party. Except for payment obligations, neither party shall be responsible for any delay or failure in its performance to the extent such delay or failure is caused by causes beyond a party's reasonable control. Customer may not assign this Agreement without Achieve3000's prior written consent, and any attempted assignment of this Agreement without such consent shall be null and void. Achieve3000 may assign this Agreement to any entity that purchases all or substantially all of Achieve3000's assets or that obtains control of it by purchase, merger or other means so long as such assignee agrees to assume all of Achieve3000's material obligations hereunder. All notices, including notices of address changes, required to be sent hereunder shall be in writing and shall be deemed to have been given when sent by email or mailed by registered or certified mail, postage prepaid to Customer at the address set forth in Customer's Order Form, and to Achieve3000 at Achieve3000, Inc., 331 Newman Springs Rd, Suite 304, Red Bank, NJ 07701, Attn: Chief Executive Officer, or to Customer or Achieve3000 at such other address (or email address) as Customer or Achieve3000 may designate in writing from time to time. The following Sections shall survive the termination or expiration of this Agreement: 1, 5 –10, 16, and 19 – 22.

This Agreement shall be governed by and construed in accordance with the substantive laws of the State of New Jersey, USA, without regard to its principles of conflict of laws. Each party agrees that sole and exclusive jurisdiction and venue for any action or litigation relating to this Agreement shall reside with a federal or state court located in the State of New Jersey.

23. CONTACT INFORMATION

Achieve3000, Inc.
331 Newman Springs Road, Suite 304
Red Bank, NJ 07701
732-367-5505
info@achieve3000.com

Marion County Public School District
755 E Main St.
Lebanon, KY 40033
270-692-3721
taylor.schlosser@marion.kyschools.us

ACHIEVE3000, INC.

CUSTOMER: Marion County Public School District

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ADDITIONAL RESOURCES

[Achieve3000 Technical and Organizational Measures](#)

[Data Processing Addendum to Achieve3000 Terms of Service and Master Subscription Agreement](#)

Achieve3000®

Exhibit A to the Master Subscription Agreement dated _____
ORDER FORM (attached on following page)



Acceptance for Quote ID Q-40053: \$168,851.60

Marion Co Public School Dist

Achieve3000

Account Name

Signature

Signature

Name / Title

Name / Title

Date

Date

The Complete Signed Quote and Purchase Orders can be sent to:

Achieve3000
331 Newman Springs Road
Suite 304
Red Bank, NJ 07701

Fax: (316) 221-0718

Email: orders@achieve3000.com

This quote is governed by and subject to the Achieve3000 terms and conditions at <https://achieve3000.com/about/terms-of-service/>. By signing this quote, you are agreeing to such terms and conditions.

About Achieve3000®

At Achieve3000, we believe literacy is the key to unlocking student success. Since 2001, we have partnered with schools and districts to accelerate literacy growth for all students with our flagship platform, Achieve3000 Literacy, that empowers educators to effectively and efficiently differentiate instruction. We also offer Smarty Ants for personalized foundational literacy, and Actively Learn for secondary curriculum depth. New in 2020 we are offering Achieve3000 Math, an individualized, research-based math solution to help students practice and master the standards. Together, our solutions help all preschool through adult learners reach their full potential.

Discover all of Achieve3000's research-based solutions by visiting www.achieve3000.com.

A Proven Solution for Summer Success! Engage, motivate and accelerate learning this summer with Achieve Intensive - the rapid intervention solution for Grades 2 - 12 from Achieve3000! Visit www.achieve3000.com/intensive to learn more.

Smarty Ants®

LevelSet™

Achieve3000
Literacy

Actively Learn