

FLOYD COUNTY BOARD OF EDUCATION
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Linda C. Gearheart, Board Chair - District 1
William Newsome, Jr., Vice-Chair - District 3
Dr. Chandra Varia, Member - District 2
Keith Smallwood, Member - District 4
Steve Slone, Member - District 5

Consent Agenda Item (Action Item): Consider new Lease with Prosource for (1) Toshiba 5525AC Color MFP copier, (5) Toshiba 5528A MFP, and (5) Lexmark M3250 Printer effective June 1st, 2023. (Existing lease is with American Business Systems)

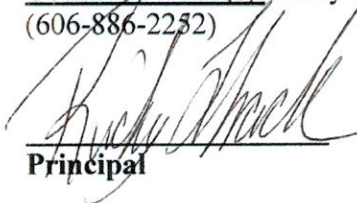
Applicable State or Regulations: KRS 162.90 Powers and Duties of the Local Board of Education. Board policy states that only the Board of Education can enter into contracts or agreements.

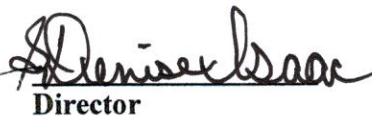
Fiscal/Budgetary Impact: Copier rental paid through school monies from (Title 1 and Section 6). ProSource has agreed to buy out our existing copier lease with American Business Systems. The lease expires 5-19-2025. Please see attached documents regarding the Prosource proposal.

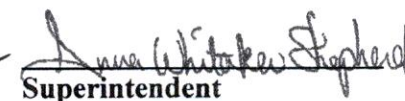
History/Background: ProSource has agreed to buy out our existing lease with American Business Systems. The new lease agreement is cheaper than what we are currently paying while providing more features. In addition to saving on monthly payments alone, the price for color copies coverage per page is cheaper. A bonus with the new lease with Prosource is a Managed Print Service Agreement for the networked printers we have in the school. The company will service and provide free toner for those printers. This alone will be substantial savings on toner cost. This extra cost will be beneficial because ink is provided free to these printers along with service.

Recommended Action: Approve the agreement as presented between Floyd County Schools/Prestonsburg High School and Prosource.

Contact Person(s): Ricky Thacker, Principal (606-886-2252)/Jenny Burchett, Office Manager (606-886-2252)


Principal


Director


Superintendent

Date: April 20, 2023



Prestonsburg High School

EQUIPMENT SOLUTION

(QTY 1) Toshiba 5525AC

- Prints 55 Pages Per Minute in B/W & Color
- Print, Scan, Copy, Fax & Mobile Print Ability
- Dual Document Scan – scans both sides simultaneously
- Extra Large Capacity Paper Drawer – 2K Sheets
- Saddle Stitch Finisher – staples, sorts, and makes booklets
- Hole Punch Unit
- 10" Tablet Style Color Control Panel

(QTY 5) Toshiba 5528A

- Prints 55 Pages Per Minute in B/W
- Print, Scan, & Copy
- Dual Document Scan – scans both sides simultaneously
- Extra Large Capacity Paper Drawer – 2K Sheets
- Finisher – sorts and staples
- Hole Punch Unit
- 10" Tablet Style Color Control Panel

(QTY 5) Lexmark M3250

- Prints 50 Pages Per Minute in B/W
- Standard 550 Sheet Paper Tray
- 4" Color Touch Screen

SERVICE ANALYSIS

Full Flex Service

- Guaranteed on-site maintenance within 4 hours of call if our Helpdesk resolve issue remotely
- Technical support & ongoing training included in service agreement
- FM Audit – Automated toner replenishment & monthly volume reports included in service agreement
- Parts, labor, and supplies (excluding paper and staples) included in service agreement
- No late fees or monthly overages
- Total Pro Guarantee: 100% customer satisfaction or you do not pay your monthly service bill



PRICING:

- 63-Month Fair Market Value Lease Payment of \$1,310.80

- Monthly Service Agreement Payment of \$777.50
 - Provides 55,000K B/W prints per month on copiers, overages billed quarterly at \$0.0083
 - Provides 500 Color prints per month on copiers, overages billed quarterly at \$0.046
 - Service Agreement provides toner (completely automated and shipped to your front door), copier maintenance, and ongoing training as needed.
 - Service Agreement is toner only on all desktops except the NEW Lexmark M3250's in office, they are toner and maintenance.

- Papercut - \$137.00 per month (63 months)

- Bundle Payment - \$2,225.30



HARDWARE TERMS AND CONDITIONS

Prosource will service all equipment to manufacturers' recommendations and if unable to satisfactorily service a Prosource product in the field, a loaner will be provided while in-shop repairs are performed. If a Prosource product is unable to be satisfactorily repaired, a comparable replacement model will be provided.

All Prosource products are covered for a period of five years, provided the individual unit is continuously maintained under a Prosource maintenance agreement from the date of installation.

All Prosource service calls will have an average four-hour response time (Monday - Friday 8:00 a.m. - 5:00 p.m.). The four-hour response time will be reviewed annually. If Prosource fails to have an average four-hour response time, Prosource will refund your previous month's service fee.



THIS GUARANTEE:

- Applies to equipment that has not been damaged or destroyed by customer abuse or acts of nature
- Applies if the customer's account is current

SOFTWARE TERMS AND CONDITIONS

If Prosource is unable to complete the Statement of Work, Prosource will refund the unused portion of any Professional Services contract and deliver any project documentation to the customer.

All Prosource Software Applications are supported in conjunction with the software vendor's Annual Maintenance and Support Program. Prosource will continue to provide support in conjunction with the software vendor, as long as the vendor offers support and authorizes Prosource to deliver that support.

THIS GUARANTEE:

- Applies to software that is covered by an annual maintenance and support program through Prosource
- Requires a signed Statement of Work prior to the start of work
- Does not cover custom development or applications not installed by Prosource
- Does not cover loss of data
- Is only in effect if the customer account is in good standing with Prosource and with the Software Vendor

TotalPro Guarantee Authorization Form

Date: _____ Customer: PHS/Floyd County Schools

Customer Signature: _____

Print Name and Title: _____

Prosource Sales Executive Signature: _____

Print Name and Title: _____

Prosource Authorized Signature: _____

Print Name and Title: _____



Office Equipment | Document Automation | Technology Solutions



We Guarantee 100% Customer Satisfaction

Our unique TotalPro Guarantee puts our commitment to customer satisfaction in writing. Should you ever feel we have not exceeded your expectations, let us know – and we will immediately work to make things right.

888.698.0763 | TOTALPROSOURCE.COM

Supplier:



Schedule "A"

APPLICATION NO.

AGREEMENT NO.

This Schedule "A" is to be attached to and becomes part of the above-referenced Agreement by and between the undersigned and ProSource

Table with columns: EQUIPMENT DESCRIPTION, LOCATION ADDRESS, MAKE, MODEL, CONTACT INFORMATION. Contains 15 rows of equipment details including Toshiba eStudio and Lexmark M3250 printers.

CUSTOMER ACCEPTANCE

This Schedule "A" is hereby verified as correct by the undersigned Customer.

Prestonsburg High School CUSTOMER SIGNATURE TITLE DATED



SALES ORDER

SHIP TO				BILL TO			
Name Prestonsburg High School				Name Floyd County Schools			
Address 825 N Lake Drive				Address			
Address				Address			
City Prestonsburg		State KY	Zip 41653	City		State	Zip
Phone 6068862252		Fax		Phone		Fax	
PRIMARY CONTACTS							
Primary Ricky Thacker				Title Principal			
Email				Phone 606 213 5536			
IT				Title			
Email				Phone			
Accounting				Title			
Email				Phone			
EQUIPMENT / SOLUTIONS							
<input checked="" type="checkbox"/> See Schedule A							
ADDITIONAL INFORMATION							
63-Month Fair Market Value Lease of \$1,310.80							
Service Agreement - \$777.50 per month (includes toner, maintenance, and training)							
Papercut - \$137.00 per month for 63 months							
Bundle Monthly Payment - \$2,225.30							
ABS Buyout will be provided after installation.							
PURCHASE SUMMARY							
SALES PRICE (PLUS APPLICABLE TAXES)						\$ N/A	
SERVICE AGREEMENT							
MFP / PRINTER							
Agreement is valid for one year and covers all parts, labor and supplies except paper and staples.							
BLACK: Bills at \$ <u>456.50</u> per month. Includes <u>55,000</u> copies per month. Excess at \$ <u>0.00830</u> per copy.							
COLOR: Bills at \$ <u>23.00</u> per month. Includes <u>500</u> copies per month. Excess at \$ <u>0.04600</u> per copy.							
Excess charges bill: <input type="radio"/> Monthly <input checked="" type="radio"/> Quarterly							
ORDER ACCEPTANCE							
Prosource Representative						Date	
Customer Authorized Signer						Date	
Print Name of Authorized Signer						Purchase Order	

THE ADDITIONAL TERMS AND CONDITIONS ON THE REVERSE SIDE HEREOF ARE INCORPORATED IN AND MADE PART OF THIS AGREEMENT AND SUPERSEDES ALL OTHER DOCUMENTATION PERTAINING TO THE SALE AND/OR MAINTENANCE OF THE ABOVE ITEMS.

Corporate Headquarters: 4720 Glendale Milford Rd, Cincinnati, OH 45242 | 513.769.0606 | Fax: 513.769.0080 | www.totalprosource.com

TERMS AND CONDITIONS

Customer hereby agrees to the following terms and conditions.

1. This Agreement shall become binding once approved and accepted by Prosource. This Agreement is not a sale on approval or trial basis. Provisions of this Agreement, once accepted by Prosource, constitute the entire Agreement between Customer and Prosource and supersede all other written or oral communication between the parties. Prosource is specifically not bound by any oral or written representations made by its employees or salespersons to Customer which do not appear herein in writing. This Agreement may not be cancelled or altered after acceptance without Prosource's written consent.
2. All rights, title or interest to the equipment or supplies described herein shall remain the property of Prosource (or its leasing agent) until paid in full.
3. Customer shall pay all federal, state and local sales, use, property, excise or other taxes imposed on or with respect to the equipment.
4. Prosource makes no warranty, expressed or implied, of fitness for a particular use or merchantability.
5. All invoices are due and payable within fifteen (15) days from the date of invoice and Customer agrees to pay interest at a rate of 1 1/2% per month on any amounts not paid within those fifteen (15) days. Customer shall pay Prosource's costs in the collection of any amount due hereunder, in the recovery of any property pursuant hereto or in the enforcement of its rights against Customer, including attorney's fees whether or not suit be brought. Prosource reserves the right to hold service in the event customer's account balance is delinquent. If an account balance is delinquent, Prosource can declare any and all Agreements with the customer delinquent and hold service or supplies accordingly. If payment is not received by Prosource in accordance with payment terms, Prosource, at its option, may require a physical inspection of the equipment prior to acceptance of a new Service Agreement, with all costs incurred billed to the Customer.
6. Prosource shall not be liable for failure to deliver or for delays due to causes beyond our control, including without limitation, strikes, non-delivery, or delays by shippers, carriers or others, accidents, or government acts.
7. Customer hereby jointly and severally releases, acquits, forgives and discharges Prosource from any actions, claims, demands, suits, Agreements, judgments, liabilities, and proceedings, whether arising in equity or in law, as relates to this Agreement, and arising from the pick-up and disposal of Trade-in equipment. This release shall remain binding upon all successors in interest and personal representatives of the contracting parties, to the extent permitted by law.
8. Customer agrees that Prosource shall not incur any liability to Customer for any loss of business, loss of products, loss of data, expenses, or any other damage, direct, indirect or consequential, arising out of or in connection with the use or performance of this equipment.
9. All correspondence, notices, and inquiries should be directed to: Prosource, Attn: Customer Service, 4720 Glendale-Milford Rd., Cincinnati, Ohio 45242 or by email: customerservice@totalprosource.com.

SERVICE AGREEMENT

1. This Agreement is NON-CANCELLABLE for the term of the Agreement. Prosource may terminate this Agreement in the event equipment is modified, altered or serviced by personnel other than those employed by Prosource or its authorized servicing partners. This Agreement is non-refundable and will be renewed at the end of the contract period unless notification in writing is received within thirty (30) days prior to the renewal date. The Agreement is subject to annual increases not to exceed 15%. In the event Prosource cannot offer a regular Service Agreement because normal maintenance and parts replacement can no longer keep the equipment in satisfactory operating condition, at the sole discretion of Prosource, a Conditional Service Agreement may be offered. Customer shall not assign or transfer this Agreement or any interest herein to a third party without the prior written permission of Prosource. This Service Agreement is transferable to new equipment purchased from Prosource.
2. Prosource agrees to provide on-site service availability Monday through Friday, excluding holidays, from 8:00 A.M. to 5:00 P.M., and to keep the equipment in good working order while operated in accordance with published specifications while the equipment is located within Prosource's area of responsibility. Customer shall provide electrical service to the Equipment, and shall provide an environment that is reasonably free of dust, humidity, hazardous chemicals or erratic temperature changes. Failure to provide a suitable Equipment Environment may negate the terms of this Agreement. Customer agrees to provide full and free physical access during the on-site hours in this Agreement. Service rendered under the Service Agreement excludes any: (a) service or parts required by damage caused by accident, neglect, misuse, altering the equipment, unfavorable environmental conditions, electric current fluctuations, work performed by other than a representative of Prosource, or any force of nature, (b) service required due to the use of supplies not approved by Prosource, (c) service connected with the unauthorized relocation of equipment. In the event that the equipment is moved from the location set forth in this Agreement, at Prosource's option, this Agreement may be terminated and/or additional service charges may be made. Prosource agrees to provide toner in sufficient quantity appropriate to the Customer's usage and the manufacturer's published yields which are based on the industry standards of 80% coverage black and white and 20% coverage full color. In the event that the Customer's actual yield varies from the manufacturer's published yields by more than 20%, Prosource reserves the right to remedy this variance by either adjusting the amount of toner provided or adjusting the rate(s) of this Agreement or invoicing Customer for excess toner used. Prosource may charge a freight fee with your service contract.
3. Remote device configuration and connectivity support is included as a part of your equipment installation fee and Service Agreement. Installation includes, as necessary, the installation of drivers on up to 5 local computers. Print Server and Print Queue installation is the responsibility of the Customer. Additional on-site connectivity and networking support beyond device connection and device configuration settings is not included and will be provided at the Prosource prevailing rates.
4. Customer agrees to the installation of the Prosource Device Monitoring Agent for the purposes of collecting use, supply, and device performance data. The Customer agrees to provide the use (meter readings) for all devices that cannot be monitored by the agent. For the purposes of billing, if readings are unavailable, Prosource will estimate the reading based on the available history of use. If readings are not provided for two consecutive months, Prosource reserves the right to move the non-reporting device to a flat rate per month adequate to cover the anticipated use. The rate will be based upon the 6-month history reading of the device, and if that data is not available, the Business Equipment Index (BEI) average monthly use for the device. Prosource has the right to withhold service and supply replenishment for the withholding or manipulation of meter counts. Customer agrees to provide notification to Prosource of system upgrades that may impact performance of the monitoring agent or covered devices, and any restriction or hazard to physical access which will impede the delivery of service and support under this Agreement. Customer agrees to remote access to the Equipment via Prosource Device Monitoring Agent 24 hours a day.
5. Customer agrees that Service Agreement invoices will be for a minimum of \$50.00, and that Prosource, at its sole discretion, may adjust the billing frequency to cause invoices to reach or exceed the \$50.00 minimum.

Supplier:



AGREEMENT NO.

STATE AND LOCAL GOVERNMENT ADDENDUM

Addendum to Agreement # _____ and any future supplements/schedules thereto, between **Floyd County Schools**, as Customer ("Customer") and **U.S. Bank Equipment Finance**, as Lessor. The words "you" and "your" refer to Customer. The words "we" and "us" refer to Lessor.

1. The parties wish to amend the above-referenced Agreement by adding the following language:

REPRESENTATIONS AND WARRANTIES OF CUSTOMER: You hereby represent and warrant to us that: (i) you have been duly authorized under the Constitution and laws of the applicable jurisdiction and by a resolution or other authority of your governing body to execute and deliver this Agreement and to carry out your obligations hereunder; (ii) all legal requirements have been met, and procedures have been followed, including public bidding, in order to ensure the enforceability of this Agreement; (iii) this Agreement is in compliance with all laws applicable to you, including any debt limitations or limitations on interest rates or finance charges; (iv) the Equipment will be used by you only for essential governmental or proprietary functions of you consistent with the scope of your authority, will not be used in a trade or business of any person or entity, by the federal government or for any personal, family or household use, and your need for the Equipment is not expected to diminish during the term of this Agreement; (v) you have funds available to pay Payments until the end of your current appropriation period, and you intend to request funds to make Payments in each appropriation period, from now until the end of the term of this Agreement; and (vi) your exact legal name is as set forth on page one of this Agreement.

INITIAL TERM AND RENEWAL TERM(S): The term of the Agreement consists of an initial term beginning on the date we pay Supplier and ending at the end of your fiscal year in which we pay Supplier, and a series of renewal terms, each co-extensive with your fiscal year. Except to the extent required by applicable law, if you do not exercise your right to terminate the Agreement under the Non-Appropriation or Renewal paragraph as of the end of any fiscal year, the Agreement will be deemed automatically renewed for the next succeeding renewal term.

An election by you to terminate the Agreement under the Non-Appropriation or Renewal paragraph is not a default.

Notwithstanding anything to the contrary set forth in the Agreement, if we cancel the Agreement following a default by you, we may require that you pay the unpaid balance of Payments under the Agreement through the end of your then-current fiscal year, but we may not require you to pay future Payments due beyond that fiscal year or the anticipated residual value of the Equipment. If we sell the Equipment following a default by you, you will not be responsible for a deficiency, except to the extent of our costs of repossession, moving, storage, repair and sale, and our attorneys' fees and costs.

NON-APPROPRIATION OR RENEWAL: If either sufficient funds are not appropriated to make Payments or any other amounts due under this Agreement or (to the extent required by applicable law) this Agreement is not renewed either automatically or by mutual ratification, this Agreement shall terminate and you shall not be obligated to make Payments under this Agreement beyond the then-current fiscal year for which funds have been appropriated. Upon such an event, you shall, no later than the end of the fiscal year for which Payments have been appropriated or the term of this Agreement has been renewed, deliver possession of the Equipment to us. If you fail to deliver possession of the Equipment to us, the termination shall nevertheless be effective but you shall be responsible, to the extent permitted by law and legally available funds, for the payment of damages in an amount equal to the portion of Payments thereafter coming due that is attributable to the number of days after the termination during which you fail to deliver possession and for any other loss suffered by us as a result of your failure to deliver possession as required. You shall notify us in writing within seven days after (i) your failure to appropriate funds sufficient for the payment of the Payments or (ii) to the extent required by applicable law, (a) this Agreement is not renewed or (b) this Agreement is renewed by you (in which event this Agreement shall be mutually ratified and renewed), provided that your failure to give any such notice under clause (i) or (ii) of this sentence shall not operate to extend this Agreement or result in any liability to you.

SUPPLEMENTS; SEPARATE FINANCINGS: To the extent applicable, in the event that the parties hereafter mutually agree to execute and deliver any supplement or

schedule ("Supplement") under the above-referenced Agreement, such Supplement, as it incorporates the terms and conditions of the Agreement, shall be a separate financing distinct from the Agreement or other Supplements thereto. Without limiting the foregoing, upon the occurrence of an event of default or a non-appropriation event with respect to the Agreement or a Supplement (each, a separate "Contract"), as applicable, we shall have the rights and remedies specified in the Agreement with respect to the Equipment financed and the Payments payable under such Contract, and we shall have no rights or remedies with respect to Equipment financed or Payments payable under any other Contract unless an event of default or non-appropriation event has also occurred under such other Contract.

2. The parties wish to amend the above-referenced Agreement by restating certain language as follows:

Any provision in the Agreement stating that you shall indemnify and hold us harmless is hereby amended and restated as follows: "You shall not be required to indemnify or hold us harmless against liabilities arising from this Agreement. However, as between you and us, and to the extent permitted by law and legally available funds, you are responsible for and shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses, damages or losses arising under or related to the Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof, except that you shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses, damages or losses that arise directly from events occurring after you have surrendered possession of the Equipment in accordance with the terms of this Agreement to us or that arise directly from our gross negligence or willful misconduct."

Any provision in the Agreement stating that the Agreement is governed by a particular state's laws and you consent to such jurisdiction and venue is hereby amended and restated as follows: "This Agreement will be governed by and construed in accordance with the laws of the state where you are located. You consent to jurisdiction and venue of any state or federal court in such state and waive the defense of inconvenient forum."

Any provision in the Agreement stating this Agreement supersedes any invoice and/or purchase order is hereby amended and restated as follows: "You agree that the terms and conditions contained in this Agreement, which, with the acceptance certification, is the entire agreement between you and us regarding the Equipment and which supersedes any purchase order, invoice, request for proposal, response or other related document."

Any provision in the Agreement stating that this Agreement shall automatically renew unless the Equipment is purchased, returned or a notice requirement is satisfied is hereby amended and restated as follows: "Unless the purchase option is \$1.00 or \$101.00, you agree to send us written notice at least 30 days before the end of the final renewal term that you want to purchase or return the Equipment, and you agree to so purchase or return the Equipment not later than the end of the final renewal term. If you fail to so purchase or return the Equipment at or before the end of the final renewal term, you shall be a holdover tenant with respect to this Agreement and the Equipment, and this Agreement shall renew on a month-to-month basis under the same terms hereof until the Equipment has been purchased or returned."

Any provision in the Agreement stating that we may assign this Agreement is hereby amended and restated as follows: "We may sell, assign, or transfer this Agreement without notice to or consent from you, and you waive any right you may have to such notice or consent."

Any provision in the Agreement stating that you grant us a security interest in the Equipment to secure all amounts owed to us under any agreement is hereby amended and restated as follows: "To the extent permitted by law, you grant us a security interest in the Equipment to secure all amounts you owe us under this Agreement and any supplements hereto. You authorize and ratify our filing of any financing statement(s) and the naming of us on any vehicle title(s) to show our interest."

NOTE: CAPITALIZED TERMS IN THIS DOCUMENT ARE DEFINED AS IN THE AGREEMENT, UNLESS SPECIFICALLY STATED OTHERWISE.

Any provision in the Agreement stating that a default by you under any agreement with our affiliates or other lenders shall be an event of default under the Agreement is hereby amended and restated as follows: "You will be in default if: (i) you do not pay any Payment or other sum due to us under this Agreement when due or you fail to perform in accordance with the covenants, terms and conditions of this Agreement; (ii) you make or have made any false statement or misrepresentation to us; or (iii) you dissolve, liquidate, terminate your existence or are in bankruptcy.

Any provision in the Agreement stating that you shall pay our attorneys' fees is hereby amended and restated as follows: "In the event of any dispute or enforcement of rights under this Agreement or any related agreement, you agree to pay, to the extent permitted by law and to the extent of legally available funds, our reasonable attorneys' fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee."

Any provision in the Agreement requiring you to pay amounts due under the Agreement upon the occurrence of a default, failure to appropriate funds or failure to renew the Agreement is hereby amended to limit such requirement to the extent permitted by law and legally available funds.

3. If your end-of-term option is the purchase of all Equipment for \$1.00 or \$101.00, the following applies: Unless otherwise required by law, upon your acceptance of the Equipment, title to the Equipment shall be in your name, subject to our interest under this Agreement.

4. With respect to any "Financed Items," the following provisions shall be applicable to such Financed Items:

This Addendum concerns the granting to you of certain software and/or software license(s) ("Licensed Software"), the purchase by you of certain software components, including but not limited to, software maintenance and/or support ("Products") and/or the purchase by you of certain implementation, integration, training, technical consulting and/or professional services in connection with software ("Services") (collectively, the "Financed Items") from software licensor(s) and/or supplier(s) (collectively, the "Supplier"), all as further described in the agreement(s) between you and Supplier (collectively, the "Product Agreement"). For essential governmental purposes only, you have requested and we have agreed that instead of you paying the fees pursuant to the Product Agreement to Supplier for the Financed Items, we will satisfy your obligation to pay such fees to Supplier, and in consideration thereof, you shall repay the sums advanced by us to Supplier by promptly making certain installment payments to us, which are included in the Payments set forth in the Agreement.

To the extent permitted by law, you grant us a security interest in the license(s), including without limitation, all of your rights in the Licensed Software granted thereunder, the Products, all rights to payment under the Product Agreement, the Financed Items, and all proceeds of the foregoing to secure all amounts you owe us under this Agreement. You authorize and ratify our filing of any financing statement(s) to show our interest.

Ownership of any Licensed Software shall remain with Supplier thereof. All Financed Items shall be provided by a Supplier unrelated to us, and your rights with respect to such Financed Items shall be governed by the Product Agreement between you and

Supplier, which shall not be affected by this Agreement. IN NO EVENT SHALL WE HAVE ANY OBLIGATION TO PROVIDE ANY FINANCED ITEMS, AND ANY FAILURE OF SUPPLIER TO PROVIDE ANY FINANCED ITEMS SHALL NOT EXCUSE YOUR OBLIGATIONS TO US IN ANY WAY. YOU HAVE SELECTED SUPPLIER AND THE FINANCED ITEMS BASED UPON YOUR OWN JUDGMENT. WE DO NOT TAKE RESPONSIBILITY FOR THE INSTALLATION OR PERFORMANCE OF THE FINANCED ITEMS. SUPPLIER IS NOT AN AGENT OF OURS AND WE ARE NOT AN AGENT OF SUPPLIER, AND NOTHING SUPPLIER STATES OR DOES CAN AFFECT YOUR OBLIGATIONS HEREUNDER. YOU WILL MAKE ALL PAYMENTS UNDER THIS AGREEMENT REGARDLESS OF ANY CLAIM OR COMPLAINT AGAINST ANY SUPPLIER, LICENSOR OR MANUFACTURER, AND ANY FAILURE OF A SERVICE PROVIDER TO PROVIDE SERVICES WILL NOT EXCUSE YOUR OBLIGATIONS TO US UNDER THIS AGREEMENT. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE FINANCED ITEMS COVERED BY THE PRODUCT AGREEMENT AND TAKE ABSOLUTELY NO RESPONSIBILITY FOR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR AS TO ANY PATENT, TRADEMARK OR COPYRIGHT INFRINGEMENT, CONDITION, QUALITY, ADEQUACY, TITLE, DATA ACCURACY, SYSTEM INTEGRATION, FUNCTION, DEFECTS OR ANY OTHER ISSUE IN REGARD TO THE FINANCED ITEMS. YOU HEREBY WAIVE ANY CLAIM (INCLUDING ANY CLAIM BASED ON STRICT LIABILITY OR ABSOLUTE LIABILITY IN TORT) THAT YOU MAY HAVE AGAINST US FOR ANY LOSS, DAMAGE (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF DATA OR ANY OTHER DAMAGES) OR EXPENSE CAUSED BY THE FINANCED ITEMS COVERED BY THE PRODUCT AGREEMENT OR A TERMINATION OF THE FINANCED ITEMS PURSUANT TO AN EVENT OF DEFAULT, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, LOSS, EXPENSE OR COST.

The following shall be additional events of default under the Agreement: (i) you fail to perform in accordance with the covenants, terms and conditions of the Product Agreement, or (ii) the Product Agreement is terminated, suspended, materially restricted or limited.

The following shall be additional remedies we have for your default under the Agreement: We shall have the right to: (a) cause the termination of the Financed Items and you irrevocably consent to such termination of the Financed Items by Supplier; and (b) require you to immediately stop using the Financed Items (regardless of whether you are in default under the Product Agreement) and you shall, at our option, either deliver to us a certification executed by a duly authorized officer certifying that you have ceased use of the Financed Items or deliver the Financed Items to a location designated by us. In the event you are entitled to transfer the right to use the Financed Items to any third party, you hereby agree to transfer any such right to use the Financed Items to any third party selected by us and acknowledge that you shall have no right to fees payable by any third party in connection with such transfer. However, we shall not be required to mitigate our damages caused by a default by transferring any Financed Items to a third party.

By signing this Addendum, Customer acknowledges the applicable changes noted above are incorporated by reference into the Agreement. In all other respects, the terms and conditions of the Agreement remain in full force and effect and remain binding on Customer. Customer has caused this Addendum to be executed by its duly-authorized officer as of the date below.

U.S. Bank Equipment Finance

Lessor

Signature

Title

Date

Floyd County Schools

Customer

X

Signature

Title

Date

NOTE: CAPITALIZED TERMS IN THIS DOCUMENT ARE DEFINED AS IN THE AGREEMENT, UNLESS SPECIFICALLY STATED OTHERWISE.