



Kenton County School District | It's about ALL kids.

Issue Paper

DATE:

March 20, 2024

AGENDA ITEM (ACTION ITEM):

Consider/Approve: PRYOR Learning eLearning Subscription

APPLICABLE BOARD POLICY:

01.1 Legal Status of the Board

HISTORY/BACKGROUND:

PRYOR Learning is an established provider endorsed by SHRM for a wide range of employee training programs. The Finance Dept. has identified several eLearning training seminars in the areas of customer service, communication skills, email communication, business applications, project management, Supervisor and Manager training, and business applications (Excel, Outlook) that will support employees. A large library of on-line training programs will be available to 10 employees during a 12 month subscription period. Training sessions will occur during office hours eliminating the need for travel and be tailored to employee needs and interests.

FISCAL/BUDGETARY IMPACT:

\$2,790 annual General Fund Finance Dept. Budget

RECOMMENDATION:

Approval of the PRYOR eLearning subscription for 10 employees for April, 2024 – March, 2025 with annual renewals as needed.

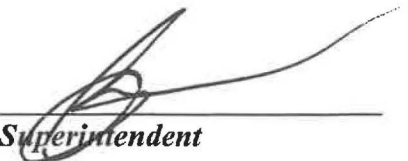
CONTACT PERSON:

Susan Bentle, Exec. Director Finance

Principal



District Administrator



Superintendent



PROPOSAL

Kenton County Board of Education

For: Erin Harlow

Prepared by: Holly Braun

Date: 2/28/2024

Description: Access to Pryor's entire eLearning content library plus live half-day, one-day and two-day seminars.

 **Curated Library Content**

 **Cloud-Based Learning Platform**

 **Online Access 24/7**

 **OSHA-Authorized Training Provider**

 **Professional Certifications & Accreditations**

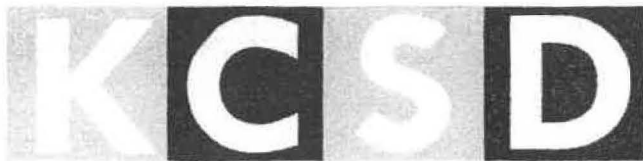
 **Advanced Administration Features**

Up to # of Seats:	Access Period:	Preferred Start Date:	Payment Due Date:	Fee:**
10	12 Months	3/15/2024	3/15/2024	\$2,790

**** - Applicable Sales and Use Taxes May Apply**

Terms of Use:

- Cancellation charges equal 50% of cancelled items and an increase in fee for other training.
- Use of Pryor Learning, LLC training resource is subject to Terms of Use available at lms.pryor.com/about/terms_of_use.
- Email confirmation will execute this agreement.
- We prefer MasterCard, Visa or American Express.
- Seats activate when payment and start date have been met for agreed access period.
- Late payments will result in suspended access.
- All half-day, one-day and two-day seminars priced \$299 or less are available if Full Library is purchased.
- Advanced administration features only available with qualifying purchase.
- Trainers may not be hired independently of Pryor Learning, LLC.
- Please, no audio/videotaping of any seminar.



It's about ALL kids

THE KENTON COUNTY BOARD OF EDUCATION

1055 EATON DRIVE, FORT WRIGHT, KENTUCKY 41017

TELEPHONE: (859) 344-8888 / FAX: (859) 344-1531

WEBSITE: www.kenton.kyschools.us

Dr. Henry Webb, Superintendent of Schools

**VENDOR ASSURANCES REGARDING PROTECTION OF
PERSONAL AND CONFIDENTIAL INFORMATION**

Data Security and Breach Protocols

Vendors that receive Personal Information from Kenton County Board of Education (herein referred to as "KCBOE") as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

"Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

- a) An account number, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
- b) A Social Security number;
- c) A taxpayer identification number that incorporates a Social Security number;
- d) A driver's license number, state identification card number or other individual identification number issued by any agency as defined under the Act;
- e) A passport number or other identification number issued by the United States government; or
- f) Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

As provided in KRS 61.931(5), a "non-affiliated third party" includes any person or entity that has a contract or agreement with the KCBOE and receives (accesses, collects or maintains) personal information from the KCBOE pursuant to the contract or agreement.

The vendor hereby agrees to cooperate with the KCBOE in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The vendor shall notify as soon as possible, but not to exceed seventy-two (72) hours, KCBOE, the Commissioner of the Kentucky State Police, the Kentucky Auditor of Public Accounts, the Commonwealth (Kentucky) Office of Technology, and the Commissioner of the Kentucky Department of Education of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)(2) applies and the vendor abides by the requirements set forth in that exception. Notification shall be in writing on a form developed by the Commonwealth (Kentucky) Office of Technology.

The vendor hereby agrees to report to the KCBOE, immediately and within twenty-four (24) hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site.

The vendor hereby agrees that the KCBOE may withhold payment(s) owed to the vendor for any violation of the Act's notification requirements.

The vendor hereby agrees to undertake a prompt and reasonable investigation of any security breach as defined under the Act in accordance with KRS 61.933.

Upon conclusion of an investigation of a security breach as defined under the Act as required by KRS 61.933, the vendor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a), the vendor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth (Kentucky) Office of Technology and that are reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation, or destruction.

Student Data Security

Pursuant to KRS 365.734, if the vendor is a cloud computing service provider (which is defined pursuant to KRS 365.734(1)(b) as any person or entity other than an educational institution that operates cloud computing services) or, through service to the KCBOE, becomes the equivalent of a cloud computing service provider, the vendor further hereby agrees that:

- The vendor shall not process student data as defined pursuant to KRS 365.734 for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless the vendor receives express permission from the student's parent. The vendor shall work with the KCBOE to determine the best method of collecting parental permission.
- With a written agreement for educational research, the vendor may assist the KCBOE to conduct educational research as permitted by the Family Education Rights and Privacy Act of 1974, as amended, 20 U.S.C. sec. 1232g.
- Pursuant to KRS 365.734, the vendor shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement purposes.
- Pursuant to KRS 365.734, the vendor shall not sell, disclose, or otherwise process student data for any commercial purpose.
- Pursuant to KRS 365.734, the vendor shall certify in writing to the agency that it will comply with KRS 365.734(2).

Family Educational Rights and Privacy Act, National School Lunch Act and Child Nutrition Act

If during the course of this agreement, the KCBOE discloses to the vendor any data protected by the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended (20 U.S.C. sec. 1232g, *et seq.*), and its regulations, and data protected by the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. sec. 1751 *et seq.*), and the Child Nutrition Act of 1966 (CNA) (42 U.S.C. sec. 1771 *et seq.*), the vendor agrees that it is bound by and will comply with the confidentiality, security and redisclosure requirements and restrictions stated in FERPA, NSLA and CNA.

The vendor hereby agrees to report to the KCBOE, immediately and within twenty-four (24) hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site.

The vendor agrees that FERPA-protected information is confidential information. FERPA-protected information includes, but is not limited to the student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's social security number, student number, or biometric record, other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name, and other information that, alone or in combination, is linked or linkable to a specific

student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

The vendor understands and acknowledges that any unauthorized disclosure of confidential information is illegal as provided in FERPA and in the implementing federal regulations found in 34 CFR, Part 99. The penalty for unlawful disclosure is a fine of not more than \$250,000 (under 18 U.S.C. sec. 3571) or imprisonment for not more than five years (under 18 U.S.C. sec. 3559), or both.

The vendor understands and acknowledges that children's free and reduced price meal and free milk eligibility information or information from the family's application for eligibility, obtained under provisions of the NSLA or the CNA is confidential information and that any unauthorized disclosure of confidential free and reduced price lunch information or information from an application for this benefit is illegal. The penalty for unlawful disclosure is a fine of not more than \$1,000.00 (under 7 C.F.R. 245.6) or imprisonment for up to one year (under 7 C.F.R. 245.6), or both.

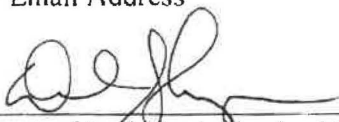
In the event there is a conflict between this agreement and any other agreement between KCBOE and Vendor, the terms of this agreement shall apply.

Pryor Learning LLC
Vendor Name

5700 Broadmoor St. #300, Mission, KS 66202
Vendor Address

1-800-780-8476
Vendor Telephone

payments@pryor.com
Vendor Email Address


Signature by Vendor's Authorized Representative

DEREK STUPE
Print Name

2/29/21
Date

1. CHANGES TO THE TERMS
2. SERVICES
3. FEES TAXES (IF APPLICABLE)
4. YOUR REGISTRATION OBLIGATIONS
5. USER REPRESENTATIONS
6. INTELLECTUAL PROPERTY
7. GENERAL PRACTICES REGARDING USE AND STORAGE
8. TERM; TERMINATION
9. DEALINGS WITH ADVERTISERS
10. LINKS
11. SYSTEM AVAILABILITY AND ERRORS
12. INDEMNIFICATION
13. DISCLAIMER OF WARRANTIES
14. LIMITATION OF LIABILITY
15. DISPUTE RESOLUTION AND GOVERNING LAW, JURISDICTION AND COSTS
16. COPYRIGHTS AND COPYRIGHT AGENTS
17. GENERAL INFORMATION

Pryor Learning, LLC Terms of Use and Policies

Effective Date: September 1, 2023

Please carefully read these Terms of Use ("**Terms**" or "**Agreement**"). This Agreement is legally binding between you ("**you**" or "**your**") and Pryor Learning, LLC, together with any subsidiaries and affiliates, including Fred Pryor Seminars and CareerTrack, (collectively, "**Pryor**," "**we**," "**our**," or "**us**"). Pryor makes its services, related software, portal and web-based services, the Pryor.com website (the "**Site**"), all content contained in it, and all versions, updates, corrections, enhancements, and modifications thereof (collectively, the "**Services**") available to you for your use subject to these Terms.

In addition, when using particular Services directly or through distributors and affiliates, you may be subject to any guidelines or rules applicable to such Services which may be posted on the Site or directly provided to you from time to time. All such guidelines or rules are hereby incorporated by reference into the Terms. Pryor also may offer other services from time to time that are governed by different terms.

By accessing and using the Services, you agree to be bound by the terms and conditions of this Agreement. DO NOT ACCESS THE SERVICES IN ANY WAY IF YOU DO NOT AGREE TO THESE TERMS OF USE. THIS AGREEMENT CONTAINS AN ARBITRATION REQUIREMENT AND CLASS ACTION WAIVER. PLEASE SEE SECTION 15 FOR DETAILS.

1. CHANGES TO THE TERMS

Pryor Learning, LLC reserves the right to change or modify the Terms at its sole discretion at any time. If you do not agree to the changes, you should discontinue your use of the Services. Otherwise, your continued use of the Services will constitute your acceptance. Therefore, it is important that you monitor the Site regularly for updates.

with the most updated Agreement. UNLESS OTHERWISE STATED, ANY CHANGES TO THIS AGREEMENT WILL APPLY IMMEDIATELY UPON POSTING. Any changes will not apply retroactively.

2. SERVICES

a) The Services. Pryor's Services currently provides users with access to a rich collection of on-line resources, including various training tools, online forums, a knowledgebase of information, personalized content and branded programming through its network of properties. Unless explicitly stated otherwise, any new features that augment or enhance the current Services, including the release of new Fred Pryor Seminars or CareerTrack properties, shall be subject to the Terms.

b) Right to Access and Use. Subject to all the terms and conditions of this Agreement, Pryor hereby grants to you, on a non-exclusive, non-sublicensable, non-transferable, revocable, and limited basis, a license to access and use the Services. Accessing and using the Services may include downloading software to use in connection with the Services, downloading files from the Site, or receiving tangible materials provided at an in-person seminar or class. These materials may only be used by you subject to these Terms. All rights not expressly granted are reserved by Pryor and, if applicable, its third-party providers.

c) Account. You may be required to create an account to use or access certain parts of the Services (an "**Account**"). You may have the opportunity to provide information to Pryor as part of the account creation process, such as name, email address and password. You shall provide Pryor with accurate and complete registration information. You will receive a password and account designation upon completing the Service's registration process. You are responsible for maintaining the confidentiality of the password and Account and are fully responsible for all activities that occur under your Account. You agree to (a) immediately notify Pryor of any unauthorized use of your Account or any other breach of security, and (b) ensure that you exit from your Account at the end of each session. We will not be liable for any loss or damage arising from your failure to comply with this Section 1(c).

d) Modification. We may modify, discontinue, restrict, or alter, temporarily or permanently, any aspect of the Services at our sole discretion and without prior notice or liability to you or any third party. We may also install bug fixes, patches, and other upgrades to the Services without prior notice or liability to you. Your only remedy is to discontinue using the Services if you do not want a modification we make to the Services.

e) Communications. By providing your email address to Pryor, you initially consent to receiving email communications regarding the Services, including but not limited to: (i) notices about your use of the Services; (ii) notices about updates to the Services; and (iii) promotional information and materials. You may opt out of receiving promotional emails from us by following the opt-out instructions provided in the message.

3. FEES TAXES (IF APPLICABLE)

a) Purchase. You must provide us with one or more Payment Methods. "**Payment Method**" means a current, valid, accepted method of payment, as may be updated from time to time and which may include payment through your Account with a third party. If you purchase a Pryor+ Annual Pass, please note that such access does not automatically renew. Pryor will notify you prior to the expiration date to renew your Account, at which point you must reauthorize us to charge your Payment Method. Your renewal shall be subject to the then-current Terms and prices.

b) Billing Cycle. You shall pay Pryor the fees for the Services ("**Fees**") at the time of purchase. Unless otherwise provided, Pryor shall charge your Payment Method or issue an invoice to you for all Fees. If paying by credit card, you authorize Pryor to promptly process the payment. If paying by invoice, you shall pay Pryor the Fees within 15 days of the date on Pryor's invoice. If any amount is past due, you may be assessed a late charge equal to 1.5% of the unpaid amount per month, or the maximum limit permitted by law, whichever is less. If you become 10 or more days past due and fail to pay all past due fees within 10 days of Pryor's written notice of such delinquency, Pryor may, in its sole discretion, suspend access or delivery of any Services until all past due charges and

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terminate the Agreement. During any period for which access or delivery of the Services is suspended, you shall continue to incur and pay any minimum fees due. You shall pay Pryor all costs of collection of past due amounts owed to Pryor hereunder, including without limitation, attorney or collection fees.

c) Payment Methods. You authorize Pryor to charge any Payment Method associated to your Account. You remain responsible for any uncollected amounts. If a payment is not successfully settled, due to expiration, insufficient funds, or otherwise, we may suspend your access to the Services until we have successfully charged a valid Payment Method.

d) Fee Changes. We reserve the right to change the fees charged for our Services or any components thereof in any manner and at any time as we may determine in our sole and absolute discretion. Except as otherwise expressly provided for in this Agreement, any fee changes will take effect following notice to you.

e) Taxes. Fees are exclusive of sales, use, excise, ad valorem, personal property, and other taxes. You will be responsible for any applicable taxes Pryor must collect, unless you provide Pryor with a valid tax exemption certificate. You shall indemnify, defend and hold harmless us for all actions, claims, demands, liabilities, losses, damages, costs, and expenses, including reasonable attorneys' fees, arising directly or indirectly out of any failure to pay any taxes owed by you in connection with your purchase or use of the Services to the appropriate taxing authority.

f) Refunds. Requests for refunds for events or materials must be submitted within thirty 30 days of the payment or invoice date or session, respectively. Pryor+ refunds may be requested up to 30 days after your account is activated, provided you have not completed any training during that time. Requests can be submitted to customerservice@pryor.com or by calling 1-800-780-8476. If you are eligible for a refund, such refund may take up to 15 business days.

4. YOUR REGISTRATION OBLIGATIONS

a) Registration. In consideration of your use of the Services, you agree to: (i) provide true, accurate, current and complete information about yourself as prompted by the Services' registration form (such information being the "**Registration Data**") and (ii) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or we have reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Pryor has the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof).

b) Restrictions. You understand that all information, data, text, software, music, sound, photographs, graphics, video, messages or other materials ("**Content**"), whether publicly posted or privately transmitted, are the sole responsibility of the person from which such Content originated. This means that you, and not Pryor, are entirely responsible for all Content that you upload, post, email or otherwise transmit via the Services. Pryor does not pre-screen Content before it is uploaded or transmitted, so Pryor does not guarantee the accuracy, integrity, or quality of such Content and will not be liable for an errors, omissions, or loss or damages as a result of using such Content. However, Pryor reserves the right (but not the obligation) in its sole discretion to remove any Content that is made available via the Services, that violates these Terms, or is otherwise objectionable. We shall have no liability to you if we take such action. Subject to the foregoing, you further agree not to use the Services, and will not permit any third parties, to:

4.b.1. sublicense, lease, rent, loan or otherwise transfer to any third party any of your rights under these Terms to access or use the Services or make the Services available to or for the benefit of any third party;

4.b.2. use the Services to develop, or assist a third party, in developing a competing or similar service or product;

4.b.3. permit access to the Services by two or more individual users using the same access information (e.g., username and password) or access the Services by any means other than through the interface that is provided for use in accessing the Services;

4.b.4. upload, post, email or otherwise transmit any Content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, or otherwise violates applicable law or public policy.

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ethnically

or otherwise objectionable, spam content or communications or other forms of solicitation;

4.b.5. harm minors in any way, or “stalk” or otherwise harass another;

4.b.6. impersonate any person or entity, misrepresent your affiliation with a person or entity, or manipulate identifiers in order to disguise the origin of any Content transmitted through the Services;

4.b.7. upload, post, email or otherwise transmit any Content that you do not have a right to transmit under any law, contractual or fiduciary relationships, or which otherwise infringes any patent, trademark, trade secret, copyright or other intellectual property or proprietary rights of Pryor or any third party;

4.b.8. upload, post, email or otherwise transmit any material that contains software viruses, harmful or malicious code, or any other computer code, files or programs that causes or is designed to interrupt, destroy or limit in any way the functionality of any data, computer software, hardware or telecommunications equipment of the Services, or to allow any other third party to access, damage, or corrupt any data, storage, media, program, equipment or communications of the Services;

4.b.9. disrupt the normal flow of dialogue, cause a screen to “scroll” faster than other users of the Service are able to type, or otherwise act in a manner that negatively affects other users’ ability to engage in real time exchanges;

4.b.10. violate applicable laws, ordinances or regulations or otherwise use the Services for any unlawful purposes;

4.b.11. remove or modify any program markings or identification, proprietary, copyright or other notice of Pryor’s or its licensors’ proprietary rights contained in the Services;

4.b.12. modify, adapt, alter, translate or create derivative works from the Services or reverse engineer, decompile, disassemble or otherwise attempt to derive the source code for the Services;

4.b.13. reproduce, duplicate, copy, record, broadcast, sell, resell or exploit for commercial or personal purposes, any portion of the Services, use of the Services, or access to the Services;

4.b.14. collect or store personal data about other users.

5. USER REPRESENTATIONS

By accessing our Services or creating an Account, you represent and warrant that: (i) you (a) are at least the age of 18, and (b) have the power and authority to enter into and perform your obligations under this Agreement; (ii) you will comply with the terms and conditions of this Agreement and all applicable laws, rules and regulations, including laws regarding the transmission of technical data exported from the United States or the country in which you reside; (iii) your access to and use of any part of our Services will not constitute a breach or violation of any other agreement, contract, terms of use or any law or regulation to which you are subject; (iv) you will immediately notify us once you learn or suspect any unauthorized use of the Services, including if your Account has been accessed by a person other than you; (v) you will not use our Services in order to gain competitive intelligence about us, our Services, or any product or service offered via our Services or to otherwise compete with us; and (vi) Your Content and Feedback (as defined below) do not violate the rights of any third party, including, without limitation, the intellectual property, privacy or publicity rights of any third party, or you otherwise have all rights and permissions required to submit Your Content and Feedback to us.

6. INTELLECTUAL PROPERTY

a) Your Content. For purposes of the Terms, “publicly accessible areas of the Service” are those accessible by the general public. By way of example, a publicly accessible area of the Services would include public Pryor.com and Careertrack.com Message Boards but would not include private Pryor.com and Careertrack.com training services. With respect to Content you elect to post for inclusion in publicly accessible areas of Pryor.com and Careertrack.com or that consists of photos or other graphics you elect to post to any other publicly accessible area of the Services, you grant Pryor the world-wide, royalty free and non-exclusive license to reproduce, modify, adapt and publish such Content on the Services solely for the purpose of displaying, distributing and promoting the same on Pryor.com and

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Careertrack.com service to which such Content was submitted, or, in the case of photos or graphics, solely for the purpose for which such photo or graphic was submitted to the Services. This license exists only for as long as you elect to continue to include such Content on the Service and shall be terminated at the time you delete such Content from the Services. With respect to all other Content you elect to post to other publicly accessible areas of the Services, you grant Pryor the royalty-free, perpetual, irrevocable, non-exclusive and fully sublicensable right and license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, perform and display such Content (in whole or part) worldwide and/or to incorporate it in other works in any form, media, or technology now known or later developed.

b) Destruction of Your Content. We may, but are not required to, keep your Content or any other information related to your Account within the Services if you close your Account with us or if you cease use of our Services. Pryor may preserve Content and may also disclose Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (i) comply with legal process; (ii) enforce the Terms; (iii) respond to claims that any Content violates the rights of third-parties; or (iv) protect the rights, property, or personal safety of Pryor, its website users, and the public.

c) Retention of Data. When you use our Services, this generates technical and other data about your usage ("**Data**"). Pryor owns all right, title, and interest to this Data. We may use this for legitimate business purposes, such as improving the Services, marketing and advertising, and other lawful purposes. We retain this Data pursuant to our Privacy Policy.

d) Ownership. At all times, Pryor, its affiliates, or third-party licensors exclusively own and hold all right, title, and interest in and to the Services, including without limitation, all intellectual property contained therein, and all materials related to the Services and all intellectual property derived from the Services. This includes, but is not limited to, systems, databases, documents, content, methods, processes, hardware, software (including source and object code), ideas, inventions, discoveries, derivative works, enhancements, upgrades, fixes and patches, and all images, trademarks, service marks, logos and icons displayed or related therein or thereto. Except as expressly provided in these Terms, you have no right, license, or authorization with respect to any of the Services or material contained therein. You shall not remove, alter or obscure any trademarks or logos or any proprietary notices contained in the Services or any other material provided by Pryor. You shall not assert any claims to the contrary or otherwise do anything inconsistent with Pryor's ownership rights. In the event you are ever deemed to be the owner of any of the Services or materials derived therefrom, you shall immediately take all necessary steps to evidence, transfer, perfect, vest, or confirm Pryor's right, title and interest in such material.

e) Feedback. We welcome your comments, feedback, information, or materials regarding the Services (collectively, "**Feedback**"). By submitting your Feedback to us, you agree to assign, and hereby irrevocably assign to us, all right, title, and interest in and to the Feedback and all copyrights and other intellectual property rights embodied in such Feedback on a worldwide basis. We may use, copy, distribute, publish and modify your Feedback on an unrestricted basis, without compensation to you.

7. GENERAL PRACTICES REGARDING USE AND STORAGE

You acknowledge that Pryor may establish general practices and limits concerning use of the Services, including without limitation the maximum disk space that will be allotted on Pryor servers on your behalf, and the maximum number of times (and the maximum duration for which) you may access the Services in a given period of time. You agree that Pryor has no responsibility or liability for the deletion or failure to store any messages and other communications or other Content maintained or transmitted by the Services. You acknowledge that Pryor reserves the right to log off accounts that are inactive for an extended period of time. You further acknowledge that Pryor reserves the right to change these general practices and limits at any time, in its sole discretion, with or without notice.

8. TERM; TERMINATION

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a) Term. This Agreement is effective upon the date of your acceptance of this Agreement in connection with your access to the Services and is effective until terminated according to this Section 8. Upon termination, you must cease use of the Services immediately.

b) Termination. You agree that Pryor, in its sole discretion, may terminate your Account (or any part thereof) or use of the Services, and remove and discard any Content within the Services, for any reason, including, without limitation, for lack of use or if Pryor reasonably believes that you have violated the Terms. Pryor may also in its sole discretion and at any time discontinue providing the Services, or any part thereof, with or without notice. You agree that any termination of your access to the Services under any provision of these Terms may be affected without prior notice and acknowledge and agree that Pryor may immediately deactivate or delete your Account and all related information and files in your Account and/or bar any further access to such files or the Services. Further, you agree that Pryor shall not be liable to you or any third-party for any termination of your access to the Service.

c) Survival. The following sections shall survive the termination or expiration of this Agreement: 3(a)-(c) (Fees; Taxes), 4(a)-(b) (Your Obligations and Restrictions), 5 (User Representations), 6 (Intellectual Property), 8 (Term; Termination), 9 (Dealings with Advertisers), 10 (Links), 12 (Indemnification), 13 (Disclaimer of Warranties), 14 (Limitation of Liability), 15 (Dispute Resolution and Governing Law, Jurisdiction and Costs) and 17 (General Information).

9. DEALINGS WITH ADVERTISERS

You agree not to reproduce, duplicate, copy, sell, resell or exploit for any commercial purposes, any portion of the Service, use of the Service, or access to the Service.

10. LINKS

The Services may provide, or third parties may provide, links to other websites or resources. Because Pryor has no control over such sites and resources, you acknowledge and agree that Pryor is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any information, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that Pryor shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such information, goods or services available on or through any such site or resource.

11. SYSTEM AVAILABILITY AND ERRORS

You must provide the equipment and Internet connections necessary to access the Services at your own expense. We do not guarantee that the Services will operate with your computer, mobile device, internet service plans, or mobile provider service plans or with any particular computer or other piece of hardware, software, equipment, or device you install on or used with your computer.

There may be times when the Services are unavailable due to technical errors or for maintenance and support activities. We do not represent, warrant, or guarantee that the Services will always be available or is completely free of human or technological errors.

The Services may contain typographical mistakes, inaccuracies, or omissions and some information may not be complete or current. We expressly reserve the right to correct any errors, inaccuracies, or omissions and to change or update information at any time without prior notice. We do not make any representation or warranty concerning errors, omissions, delays, or defects in the Services or any information supplied to you via the Services, or that files available through Services are free of viruses, worms, Trojan horses, or other code that include or manifest contaminating or destructive characteristics.

12. INDEMNIFICATION

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You agree to indemnify, defend, and hold harmless Pryor and its affiliates, officers, agents, employees, and assignees (“**Pryor Parties**”) from any and all claims, liabilities, expenses and damages, including reasonable attorneys’ fees and costs, made by any third party relating to or arising out of: (a) your use or attempted use of the Services or any Content contained therein; (b) your violation of any law or rights of any third party, (c) Content that you post or otherwise make available on the Services, including without limitation any claim of infringement or misappropriation of intellectual property or other proprietary rights, and (d) any act or omission by you which is a breach of your obligations under this Agreement.

13. DISCLAIMER OF WARRANTIES

YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. YOU MUST EVALUATE, AND BEAR ALL RISKS ASSOCIATED WITH, THE USE OF ANY CONTENT, INCLUDING ANY RELIANCE ON THE ACCURACY, COMPLETENESS, OR USEFULNESS OF SUCH CONTENT. PRYOR EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

PRYOR MAKES NO WARRANTY THAT (I) THE SERVICES WILL MEET YOUR REQUIREMENTS, (II) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (III) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE, (IV) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR EXPECTATIONS, AND (V) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED.

ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM PRYOR OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS.

14. LIMITATION OF LIABILITY

TO THE FULLEST EXTENT PERMISSIBLE BY LAW, PRYOR OR PRYOR PARTIES SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF PRYOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING OUT OF OR RESULTING FROM: (I) THE USE OR THE INABILITY TO USE THE SERVICE; (II) YOUR PLACEMENT OF CONTENT THROUGH THE SERVICES; (III) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR CONTENT, TRANSMISSIONS, OR DATA; (IV) STATEMENTS OR CONDUCT OF ANY THIRD PARTY USING OR ACCESSING THE SERVICES; (V) ANY PURCHASES FROM THE SERVICES OR SITE; OR (V) ANY OTHER MATTER RELATING TO THE SERVICE, WHETHER BASED IN CONTRACT, TORT, STATUTORY OR OTHER LAW. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, IN NO EVENT SHALL PRYOR’S TOTAL LIABILITY TO YOU OR THIRD PARTY IN CONNECTION WITH THIS AGREEMENT, THE SERVICES OR ANY OTHER RELATED SERVICES EXCEED ONE HUNDRED U.S. DOLLARS (\$100.00). THE EXISTENCE OF MULTIPLE CLAIMS DOES NOT ENLARGE THIS LIMIT.

15. DISPUTE RESOLUTION AND GOVERNING LAW, JURISDICTION AND COSTS

a) Governing Law; Venue. This Agreement will be governed by the laws of the State of Kansas, without regard to any conflict of laws or provisions. Each party irrevocably and unconditionally: (i) consents to submit to the exclusive jurisdiction of the courts of the State of Kansas for any proceeding arising in connection with this Agreement and each party agrees not to commence any such proceeding except in such courts; and (ii) w Consent Preferences he laying of

venue of any such proceeding.

b) Binding Arbitration. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Services or the Agreement must be filed for arbitration within one (1) year after such claim or cause of action arose or be forever barred. Any claim, dispute, or controversy arising out of or relating to the Services, the terms of the Agreement, or the breach, termination, enforcement, interpretation or validity of this Agreement, will be resolved exclusively by binding arbitration. The arbitration shall be commenced and conducted under the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). The arbitration shall be held in Johnson County, Kansas. The arbitrator will make a decision in writing but need not provide a statement of reasons unless requested by a party. The arbitrator must follow applicable law, and any award may be challenged if the arbitrator fails to do so. Except as otherwise provided in this Agreement you and Pryor may litigate in court to compel arbitration, stay proceeding pending arbitration, or to confirm, modify, vacate or enter judgment on the award entered by the arbitrator.

c) Waiver of Rights. You acknowledge that you understand the consequences of agreeing to binding arbitration under this Section, including giving up any constitutional rights to have disputes determined by a court of law or by a jury and any right that you may have under to have a trial de novo by a court after nonbinding arbitration of a dispute concerning fees or costs; that discovery of information in arbitration may be limited; and that the arbitration decision will be final and binding, except to the limited extent that judicial review might be available. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. CLAIMS OF MORE THAN ONE USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER USER.

16. COPYRIGHTS AND COPYRIGHT AGENTS

Pryor respects the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, please provide our Copyright Agent the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (b) a description of the copyrighted work that you claim has been infringed; (c) a description of where the material that you claim is infringing is located on the site; (d) your address, telephone number, and email address; (e) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; (f) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. Our Copyright Agent for Notice of claims of copyright infringement on the Site can be reached by email at customerservice@pryor.com.

17. GENERAL INFORMATION

a) Notices. Notices to you may be made via either email or regular mail. The Services may also provide notices of changes to the Terms or other matters by displaying notices or links to notices to you generally on the Services or Site.

b) Privacy. We collect, store, and use personal information collected from you in accordance with our Privacy Policy located on our website. Our Privacy Policy is hereby expressly incorporated into these Terms. Please note that we may also collect information that does not identify you. We may use non-personal information for any purposes as appropriate and subject to applicable law.

c) Entire Agreement; Construction; Severability. The Terms constitute the entire agreement between you and Pryor and govern your use of the Service, superseding any prior agreements between you and Pryor. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content or third-party software. The section titles in the Terms are for convenience only and have no legal or contractual effect. If any provision of the Terms is found by a court of competent jurisdiction to be invalid, the entire agreement shall be enforceable without that provision.

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that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Terms remain in full force and effect.

d) Relationship of Parties. The parties are independent contractors, and this Agreement does not and will not establish any relationship of partnership, joint venture, employment, franchise or agency between the parties. Neither party has the power to bind the other or incur obligations on the other's behalf.

e) Third Party Beneficiaries. Pryor and You agree that this Agreement is for the benefit of Pryor and you and is not intended to confer any rights or benefits to any third party. There are no third party beneficiaries as to this Agreement or any specific provision.

f) Assignment. You shall not assign this Agreement, or any of the rights or obligations hereunder without Pryor's prior written consent. Any assignments will be null and void and of no force or effect. This Agreement binds and inures to the benefit of you and Pryor and the respective permitted successors and permitted assigns.

g) Force Majeure. Pryor shall not be liable to you for any delay or failure in the performance of its obligations hereunder if and to the extent the delay or failure is due to events beyond the reasonable control of the parties, including, but not limited, to acts of God, strikes, pandemics or epidemics, blockades, governmental orders, terrorism, riots, natural disasters, internet and power outages or distortions.

h) Waiver. The failure of Pryor to exercise or enforce any right or provision of the Terms shall not constitute any kind of waiver of such right or provision.

i) Violations. Please report any violations of the Terms to our Customer Care group, where the contact information may be found at <https://www.pryor.com/contact-us/>.

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