

# Quote #249075

Quote Issued: January 22, 2024 • Quote Expires: April 30, 2024

## Boone County School District Burlington, KY, US

**District Membership for 2024-2025 with US \$6,048 discount**

Membership is valid through June 30, 2025.

Includes access to all lessons for all teachers at Boone County School District.

### Ready to purchase?

Activate your membership immediately by submitting your purchase order or payment online: <https://mysteryscience.com/order/94f91c>

Purchase orders submitted by mail are accepted but take longer to process.

### Pricing Breakdown

**District Membership 2024-2025**

Membership period: July 1, 2024 - June 30, 2025

\$1,999 x 12 priced schools \$23,988

\$504 Early Bird Discount x 12 priced schools - \$6,048

**Grand total (USD) \$17,940**

Total Discount of \$6,048

### See a mistake?

To cancel this quote, visit:

<https://mysteryscience.com/order/94f91c>

Other questions? visit our help center at

<https://support.mysteryscience.com>

**Terms of Service:** By submitting a payment or purchase order, you are agreeing to the Mystery Science Terms of Service available at [mysteryscience.com/terms](https://mysteryscience.com/terms), the terms and conditions of which are hereby expressly incorporated herein by reference.

**If you need a W-9,** you can view it at [mysteryscience.com/w9](https://mysteryscience.com/w9). Note that our W-9 lists our office mailing address, but our remit address is the Atlanta address listed below.

**Remit to**

Note: all purchase orders can be submitted online

Mystery Science  
c/o Discovery Education, Inc  
PO Box 745873  
Atlanta, GA 30374-5873

**Contact**

(650) 550-0670  
Fax provided after  
submitting PO #





## STANDARD TERMS OF SERVICE AND LICENSE DISCOVERY EDUCATION, INC.

These Standard Terms of Service and License (the “**Standard Terms**”) are applicable to any Order Form, DSSA, or Storefront Quote (each, an “**Order Form**”) issued by Discovery Education, Inc. (“**Discovery**”) to the Entity listed in the Order Form (“**Subscriber**”) to provide access to the products and services identified therein (the “**Services**”) and to Subscriber’s use of the Services. Each Order Form shall be deemed to be part of these Standard Terms and subject to the terms and conditions set forth herein. The Standard Terms also govern Subscriber’s use of the Services during a trial or pilot period (the “**Trial**”), to the extent applicable. The Standard Terms supersede all other prior and contemporaneous agreements, negotiations, communications, or understandings, oral or written, with respect to the subject matter hereof. In no event shall the terms and conditions of any other purchase order or agreement to amend or modify the terms and conditions of these Standard Terms.

### RIGHTS OF ACCESS AND USE

- 1.1. **Grant of License.** Subject to the terms and conditions set forth herein, Discovery grants to Subscriber, and its authorized educators, students (except in the case of the product known as “**Mystery Science**”) and administrators employed by Subscriber or enrolled in Subscriber’s program, as listed in the Order Form (the “**Users**”), for the term of the applicable Order Form, a limited, non-exclusive, non-sublicensable, non-transferable and revocable license to access the Service(s), and any and all content included therein (the “**Content**”), and to download, stream, and edit the Content pursuant to the terms and conditions set forth in the Standard Terms. Discovery may, in its sole discretion, make changes to the Services and/or the Content. All rights not expressly granted to Subscriber and its Users pursuant to the Standard Terms are reserved to Discovery, and all uses of the Content by Subscriber and its Users not expressly permitted herein are prohibited.
- 1.2. **Access.** Discovery shall provide Subscriber access to the Services by the date identified in the Order Form. Access rights granted to Subscriber shall be limited to those access rights necessary to use of the intended functionality of the Services. Discovery reserves the right to restrict or prevent access to activities or suspected activities that involve security breaches, hacking, distributed denial of service attacks, or uploading a virus, Trojan horse, time bomb, unauthorized application, or any other harmful form of programming or vandalism.
- 1.3. **Permitted and Prohibited Uses.**
  - a. **Use for Educational, Non-Commercial Purposes Only.** Subscriber and its Users may use the Service(s) and the Content for bona fide educational and research purposes only. For avoidance of doubt, Subscriber and its Users shall not use or access such Service(s) or Content for any commercial, for-profit, or non-instructional purposes, including but not limited to, user testing, product evaluation, or product reviews on behalf of non-Subscribers or third parties. Discovery reserves the right, in its sole and absolute discretion, to limit Subscriber’s and/or any Users’ use of the Service(s) in the event that Discovery, in its sole and absolute discretion, deems Subscriber’s and/or such Users’ use thereof to be inconsistent with these Standard Terms.
  - b. **Downloading of Content.** Users may download Content for noncommercial instructional use, including for lesson plans, copies of (i) images and (ii) videos and video clips designated on the website as downloadable. All copies must be deleted or erased after use or expiration of the Term, whichever occurs first. Such downloading shall be for individual User convenience only, and Users may not (1) systematically download any of the Content, (2) create distribution “libraries”, or (3) transfer, sell, rent, display, or exhibit any of the Content to any third party other than Users.
  - c. **Editing Content.** Users may edit videos and video clips that are designated on the Service(s) as editable, solely in connection with classroom or other school-related projects. Such videos and video clips, as edited by User, as well as any work containing User-edited videos or video clips, may not contain any libelous or unlawful materials or content or any commercial advertising materials, will not infringe upon any party’s proprietary rights, including but not limited to statutory or common-law copyright, trademark and right of privacy, and may not violate any law, regulation or right of any kind whatsoever or give rise to any actionable claim or liability. Under no circumstances may a User convert the Content from digital to analog format, such as by recording a video clip onto a DVD. Violation of this Section 1.3(c) may constitute copyright infringement. User must maintain all copyright, trademark

and proprietary notices included with, attached to or embedded all editable videos and video clips without modification, obstruction or deletion. The Content may include certain ancillary educational materials, such as student activity sheets, blackline masters and teacher’s guides (“**Ancillary Materials**”). User may modify, alter and revise the Ancillary Materials to meet specific instructional needs, provided that the following statement is prominently displayed on all such revised Ancillary Materials, in addition to any other proprietary notices, and with the understanding that Discovery or its content provider shall continue to own the Ancillary Materials: “Revised with the permission of Discovery. Discovery and its content providers are not responsible for the content or accuracy of the revision”.

d. **Dissemination of Content.** In the course of using any Content as permitted hereunder, Subscriber and its Users may not make the Content, or any part thereof, available to any party who is not a Subscriber or a User, except as permitted herein. Subscriber and its Users must ensure that the Content is at all times kept on a secure server, viewable only by Subscribers and/or its Users. If Subscriber wishes to use a third party to host the Content, Subscriber shall notify Discovery, and Discovery shall have the right to approve the use of such host in advance, in writing, and to approve the terms of agreement between such host and Subscriber. Notwithstanding the foregoing, if Subscriber chooses to use a third party host, Discovery disclaims all liability to Subscriber in connection with such third party host, and Discovery shall have no responsibility to Subscriber or any User to ensure that such third party host maintains its service. In addition, any Subscriber or User using the Local Host support option must use the Service(s), rather than a local directory, to search for and access the Content.

e. **Prohibited Uses.** Except as expressly set forth herein, neither Subscriber nor the Users may (i) copy, reproduce, alter, modify, transmit, perform, create derivative works of, publish, sub-license, resell or allow resale through a third-party, distribute, or circulate the Service(s), the Content, or any portion thereof; (ii) disassemble, decompile, or reverse engineer the Service(s) or any portion thereof, or use a robot, spider, or any similar device to copy or catalog the Content or any portion thereof; (iii) take any actions, whether intentional or unintentional, that may circumvent, disable, damage or impair the Service(s)’s or the Content’s control or security systems, nor allow or assist a third party to do so; or (iv) use the Content in a manner that disparages the Service(s), the Content or Discovery or its content providers, or in any manner that Discovery may, in its sole discretion, deem inappropriate. Subscriber and the Users acknowledge and agree that the Service(s) and the Content possess a special, unique and extraordinary character that makes difficult the assessment of the monetary damages that would be sustained as a result of unauthorized use, and that unauthorized use may cause immediate and irreparable damage to Discovery for which Discovery would not have an adequate remedy at law. Therefore, Subscriber agrees that, in the event of such unauthorized use, in addition to such other legal and equitable rights and remedies as may be available to Discovery, Discovery shall be entitled to seek injunctive and other equitable relief without the necessity of proving damages or furnishing a bond or other security.

f. **Credentials.** Each User shall have a valid username, password, passcode, and in certain circumstances, IP authentication, for the purpose of accessing the Service(s) and the Content (the “**Log-In Information**”). Subscriber and its Users must keep all Log-In Information strictly confidential, and all Log-In Information may be used only by the assigned User. Subscriber and its Users are responsible for maintaining the security and confidentiality of all Log-In Information, and for

preventing access to the Service(s) and/or the Content by unauthorized persons using a User's Log-In Information. Unauthorized access to or use of the Service(s) and/or the Content by someone using a User's Log-In information may be attributed to such User and is prohibited by these Standard Terms. Subscriber acknowledges that Discovery may require access to Subscriber's systems in order to perform single sign-on integration services to facilitate User access to the Service(s) and Content. Subscriber hereby grants to Discovery a limited license to access such systems.

g. **Join Activity via an Access Code.** Authorized educator Users may provide an alphanumeric access code or URL link generated by the Services to their student Users to join a lesson, activity, or assessment as an alternative to the student Users accessing a lesson, activity, or assessment via the student User's Log-In Information. Subscriber and its authorized educator Users shall ensure all participants who access the lesson, activity, or assessment via the access Code or URL are authorized student Users. Subscriber and its authorized educator Users shall promptly remove any unauthorized participants from the lesson, activity, or assessment.

h. **Audits.** Discovery shall have the right to audit Subscriber and each User's use of the Services at any time. Any such audit may include, but is not limited to, Discovery's examination of the number of Users using the Services, details of log-in attempts and use of the Log-In Information. Subscriber shall be required to disclose to Discovery any information requested in connection with any such audit no later than two (2) business days following such request.

#### 1.4. **Subscriber Changes.**

a. **Licensed School Substitution.** In the event that Subscriber wishes to remove a Licensed School and replace it with another school, such that the total number of Licensed Schools under the respective Order Form is not affected, Subscriber may submit a written request to [DECommercialOpsTeam@Discoveryed.com](mailto:DECommercialOpsTeam@Discoveryed.com), setting forth (i) the name and address of the applicable school(s), (ii) the grade level of such school(s), (iii) the number of students enrolled in each school, if the Service includes student access, and (iv) the date the Subscriber wishes the substitution to take effect (each, a "**School Substitution Request**"). No School Substitution Request shall become effective until and unless Discovery formally approves such request via email or written notification to Subscriber. Any fees that result from such request shall be equal to the Fees, as assessed on a pro rata basis.

b. **Additional Licenses.** In the event that Subscriber wishes to add additional user licenses with respect to the Services to be provided under an Order Form (each, an "**Additional License**"), Subscriber may submit a written request to [DECommercialOpsTeam@Discoveryed.com](mailto:DECommercialOpsTeam@Discoveryed.com), setting forth (i) the amount of additional licenses and (ii) the date on which such licenses will be activated (each, an "**Additional License Request**"). No Additional License Request shall become effective until and unless Discovery submits to Subscriber an updated Order Form with the information contained in the Additional License Request and any changes to the Fees.

#### c. **District Add School Language**

If Subscriber is a school district, Subscriber may add schools in such district to this Agreement by written notice to Discovery, setting forth the name and address of the applicable school, the grade level of such schools, the number of students enrolled in each school, and the commencement date of the term for such schools (each, a "**School Notice**," and which may be submitted in the form of a purchase order). Upon receipt of a School Notice, the schools referenced therein shall be added to this Agreement and their Licenses shall become effective. Fees for additional schools will be prorated, based upon the number of months in the term of the License for such additional school. The Fees for the additional schools shall be due and payable no later than thirty (30) days after the commencement date. Notwithstanding anything to the contrary set forth herein, the foregoing shall not apply to any Subscriber that is a school, rather than a district.

d. **Purchase Order.** DE may reject a purchase order in its sole and absolute discretion. Purchase orders accepted by Discovery Education are subject to and governed by these Standard Terms. Discovery shall

only accept a purchase order if the Subscriber has agreed to these Standard Terms and the purchase order includes, but is not limited to, the following details: total Fees, product description, product quantity, and the Term. Discovery reserves the right to negotiate any legal terms listed in a purchase order.

## 2. **PROPRIETARY RIGHTS**

2.1. **Discovery Property.** As between Subscriber, the Users, and Discovery, the Service(s) and the Content are the property of Discovery and are protected by United States and international copyright and trademark law. By using the Service(s) and the Content, even as permitted hereunder, neither Subscriber nor any of its Users gain any ownership interest in the Service(s) or the Content.

2.2. **DMCA Notice and Takedown Policy.** It is our policy to respond to alleged infringement notices that comply with the Digital Millennium Copyright Act of 1998 (the "DMCA"), or similar regulations. If you believe that your copyrighted work has been copied in a way that constitutes copyright infringement and is accessible via the Products and Services, please notify our copyright agent as set forth in the DMCA, or applicable regulation. For your complaint to be valid under the DMCA, it must contain all the elements provided in 17 USC §512(c)(3) and be submitted to the following DMCA Agent:

- DMCA Notice, Legal Department
- Discovery Education, Inc.
- 4350 Congress Street, Suite 700, Charlotte, NC 28209
- Name of Agent Designated to Receive Notification of Claimed Infringement: Heather Pasek-Delaney
- Telephone Number of Designated Agent: (704) 557-2403
- Email: [DiscoveryEducationDMCA@discoveryed.com](mailto:DiscoveryEducationDMCA@discoveryed.com)

## 3. **DATA PRIVACY AND SECURITY.**

3.1. When providing the Services, Discovery will process Personal Data, as such term is defined in the Data Protection Addendum (the "DPA") located at [www.discoveryeducation.com/Data-Protection-Addendum](http://www.discoveryeducation.com/Data-Protection-Addendum), in accordance with the provisions of such DPA. The DPA is hereby incorporated and made a part of these Standard Terms.

3.2. In engaging the Subscriber, Discovery will process information which identifies individuals acting on behalf of the Subscriber (including employees) including in connection with opening the account, maintaining the relationship and/or sending marketing materials. Discovery will process this personal data in accordance with applicable data protection laws and its applicable privacy policies.

3.3. **User Data Statewide Subscriptions.** This section applies to the extent the Subscriber is a state department of education (the "State DOE") or similar entity that is subscribing to the Services (including Professional Development) for the benefit of schools and/or school districts within such state. or similar entity that is not a school or school district. Subscriber authorizes Discovery to disclose to the school and the school district with which the authorized Users of the Services are affiliated, reports of authorized Users' engagement data, including but not limited to usage statistics of the Services, webinars and/or Professional Development by authorized Users.

3.4. Subscriber authorizes Discovery Education to use the de-identified data to ensure the availability and integrity of the operation of Discovery's services. Furthermore, Subscriber permits Discovery Education to use de-identified and aggregate usage data of Discovery's services for internal and external reporting, marketing (i.e., the inclusion of total number of Discovery Education Experience platform users in Discovery's marketing materials), research and development, and for other analytics, marketing, and research purposes.

#### 3.5 **Consents and Notifications for Disclosures of Personal Data.**

The Parties acknowledge and agree that Discovery meets the requirements contained in 34 CFR § 99.31(a) and qualifies as a school official pursuant to FERPA. Subscriber affirms, represents, and warrants that it has obtained, and is solely responsible for: (i) the accuracy and quality of Personal Data; and (ii) obtaining, all consents as may be required by Data Protection Laws, as well as making all required disclosures to the individuals, parents, legal guardians, and students as may be required by Data Protection Laws, to disclose or

transmit Personal Data to Discovery. Subscriber will provide proof of the required consent within five (5) business days of Discovery's written request. Subscriber will notify Discovery concerning any changes to its public school district or its administrators, faculty members, staff members, students, parents, or guardians that may affect Discovery's compliance with the Data Protection Laws.

#### 4. FEES AND TAXES

4.1. **Fees.** Subscriber shall pay Discovery the fees in the amounts specified in the Order Form (the "Fees"). Upon Subscriber's acceptance of the Order Form, Subscriber shall submit to Discovery the executed Order Form and Discovery shall issue Subscriber an invoice for the applicable Fees. In the event that Subscriber elects to pay such Fees with a credit card, Discovery shall have the right to charge Subscriber a convenience fee. Subscriber shall pay the Fees within 30 days of Discovery's invoice. Failure to pay the Fees in accordance with the Standard Terms shall constitute a material breach by Subscriber. The fees for any Renewal Term shall be at Discovery's then current, applicable rates, as provided by Discovery and in accordance with applicable law. All fees paid by subscriber are final and non-refundable.

4.2. **Taxes.** Subscriber certifies that Subscriber is exempt from all federal, state, and local taxes and will furnish Discovery with copies of all relevant certificates demonstrating such tax-exempt status upon request. In the event Subscriber is not exempt from certain of such taxes, Subscriber agrees to remit payment for such taxes to Discovery.

#### 5. TERM AND TERMINATION

5.1. **Term.** The term ("Initial Term") is defined in the applicable Order Form referencing the Standard Terms. Thereafter and in accordance with applicable law, the Term shall automatically renew for additional periods in increments of the Initial Term ("Renewal Term(s)", collectively with the Initial Term, the "Term") until terminated by either party by giving written notice ninety (90) days prior to the expiration of any Renewal Term. The Fees for the Renewal Term shall be as set forth in Section 4.1 herein.

5.2. **Termination for Breach.** In the event that Subscriber or its Users breach any term of the Standard Terms, and such breach is not cured within 10 days after receipt of notice thereof from Discovery, Discovery may terminate the Order Form or Standard Terms in whole or in part immediately upon written notice to Subscriber.

5.3. **Termination for Bankruptcy.** Either party may terminate the Standard Terms immediately if any of the following events occur affecting the other party: (a) voluntary bankruptcy or application for bankruptcy; (b) involuntary bankruptcy or application for bankruptcy not discharged within 60 days; (c) appointment of receiver or trustee in bankruptcy for all or a portion of the other party's assets; or (d) an assignment for the benefit of creditors.

5.4. **Termination due to Overlap.** Discovery may offer a pro-rated credit (the "Credit") to Subscriber to purchase additional services offered by Discovery, if the following conditions are met: i) Subscriber's State DOE purchases Services for Subscriber that Subscriber has already purchased ii) there is an overlap in the Term of the Services purchased by the State DOE and the Subscriber's Initial Term or renewal Term and iii) the State DOE Purchases an equal or greater number of licenses to the Licenses purchased by Subscriber. Discovery reserves the right to restrict the services for which a credit can be used, revoke the credit entirely, or add an expiration date for use of the credit by Subscriber.

5.5. **Effect of Termination.** Upon expiration or termination of the Standard Terms, all rights granted herein shall revert to Discovery; all access to and use of the Service(s) and the Content by Subscriber and its Users must cease; and all materials downloaded from the Service(s) by Subscriber or any Users must be erased, deleted, or destroyed.

5.6. **Additional Services.** In the event that Discovery and Subscriber agree that Subscriber may license any Services that are not listed on the applicable Order Form (each, an Additional Service"), Subscriber shall submit a purchase order to Discovery memorializing such agreement. Please refer to Section 1.4(d) for additional details regarding Purchase Orders. Subscriber's use of and access to any such Additional Service shall be subject to all of the terms and conditions set forth in these Standard Terms.

#### 6. GENERAL WARRANTIES

6.1. **Discovery Warranties.** Discovery represents and warrants that it has full power and authority to enter into the Standard Terms.

6.2. **Subscriber Warranties.** Subscriber represents and warrants that (i) it has full power and authority to enter into the Standard Terms and has received all parental and other permissions required to permit Discovery to obtain and retain information (including personal information) from Users; (ii) only Subscriber or its Users shall access the Service(s) and the Content; (iii) Subscriber and its Users will at all times use the Service(s) and the Content only as expressly permitted by the Standard Terms; (iv) in the event that Subscriber requests that Discovery customize the Service(s) interface with Subscriber's trade name, trademarks or logos, and/or digitize and/or encode and/or host any of Subscriber's content on the Content and/or the Service(s), Discovery has the right to so use and exploit any and all such trade names, trademarks, logos and content, including without limitation any and all underlying elements (the "Subscriber IP"), and (v) the Subscriber IP, any content, materials, and/or information contributed by Users, and any revisions to the Content by Users does not and will not contain any libelous, unlawful or infringing materials or content, will not infringe upon any party's proprietary rights, including without limitation statutory or common-law copyright, trademark and right of privacy, and will not violate any law, regulation or right of any kind whatsoever or give rise to any actionable claim or liability.

6.3. **Disclaimer of Warranty.** THE SERVICES AND CONTENT ARE PROVIDED AS IS, AND ALL WARRANTIES OF ANY KIND, PAST OR PRESENT, WHETHER STATUTORY, COMMON-LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SECURITY AND, EXCEPT AS MAY BE OTHERWISE STATED IN THESE STANDARD TERMS, NON-INFRINGEMENT, ARE EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW. DISCOVERY DOES NOT GUARANTEE OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR ACCURACY OF THE WEBSITE OR THE CONTENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY DISCOVERY EDUCATION OR ITS EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF DISCOVERY'S OBLIGATIONS HEREUNDER, AND SUBSCRIBER MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE.

7. **Release.** To the extent permitted by law, Subscriber and its Users release and waive all claims (whether known or unknown) against Discovery, its parent, subsidiaries, affiliated companies, agents or content providers, and the directors, trustees, officers, shareholders, employees, agents and representatives of each of the foregoing, from any and all claims, damages, liabilities, costs and expenses arising out of User's use of the Service(s) and the Content. California residents waive any rights they may have under Sec.1542 of the California Civil Code, which reads: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

8. **Indemnity.** To the extent permitted by law, Subscriber and its Users shall defend, indemnify and hold Discovery, its parent, subsidiaries, affiliated companies, agents or content providers, and the directors, officers, shareholders, employees, agents and representatives of each of the foregoing, harmless against and from any and all claims, damages, liabilities, costs and expenses arising out of any violation



by Subscriber and/or its Users of these Standard Terms, any downloading of the Content, any modification or edit made to any portion of the Content, and the use of any portion of the Content with products or services not supplied by Discovery.

## 9. LIMITATIONS OF LIABILITY

9.1. **Consequential damages exclusion.** IN NO EVENT SHALL DISCOVERY BE LIABLE FOR ANY LOST DATA, LOST PROFITS, BUSINESS INTERRUPTION, REPLACEMENT SERVICE OR OTHER SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR INDIRECT DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THEORY OF LIABILITY.

9.2. **Aggregate Liability.** To the maximum extent permitted by law, in no event shall Discovery's aggregate liability with respect to any matters whatsoever arising under or in connection with the Standard Terms exceed the lesser of (i) total fees paid by Subscriber to Discovery under the Standard Terms within the twelve-month period prior to the date the cause of action giving rise to liability arose or (ii) \$100,000. The foregoing liability is cumulative with all payments for claims or damages in connection with the Standard Terms being aggregated to determine satisfaction of the limit.

## 10. CONFIDENTIALITY

10.1. Discovery understands that government entities, such as Subscriber, may be required to disclose information pursuant to applicable open records acts. Prior to any such disclosure, Subscriber shall make any claim of privilege that may be applicable to prevent such disclosure and will make reasonable efforts to give Discovery reasonable prior notice and a reasonable opportunity to resist such disclosure. In all other respects, all provisions of these Standard Terms and materials provided by Discovery which are designated as confidential or should reasonably be presumed to be treated as confidential ("Confidential Information") shall be kept strictly confidential by Subscriber and may not be disclosed without prior written consent, except for any disclosure required by any order of a court or governmental authority with jurisdiction over Subscriber.

10.2. Subscriber authorizes Discovery to include the following in Discovery's marketing materials, press releases, and sales materials as applicable: Subscriber's business relationship with Discovery, Subscriber's testimonials and quotes, Subscriber's logo, Subscriber's contact information for purposes of a business reference, and Subscriber's and User's anonymized testimonials gathered in webinars.

## 11. MISCELLANEOUS

11.1. **Changes.** Discovery reserves the right to change these Standard Terms (excluding the Order Form) from time to time. Such changes will become effective when Discovery posts the revised Standard Terms. Subscriber and Users should check the Standard Terms from time to time, as they are bound by the Standard posted on Discovery's website at the time of access. Any revised Standard Terms shall supersede all previous versions.

11.2. **Force Majeure.** Failure to perform by reason of any law, natural disaster, labor controversy, encumbered intellectual property right, war or any similar event beyond a party's reasonable control shall not be a breach hereof.

11.3. **Governing Law.** The Standard Terms shall be construed and enforced under the laws of the state of New York, USA without reference to the choice of law principles thereof. User hereby consents to and submits to the jurisdiction of the federal and state courts located in the State of New York. User waives any defenses based upon lack of personal jurisdiction or venue, or inconvenient forum. If any provision herein is unenforceable, then such provision shall be of no effect on any other provision hereof.

11.4. **No waiver.** No waiver of any breach hereof shall be deemed a waiver of any other breach hereof.

11.5. **Survival.** All representations, warranties, and indemnities shall survive the expiration or prior termination of the Standard Terms.

11.6. Section headings are provided for convenience only and shall not be used to construe the meaning of any section hereof.

11.7. **Entire Agreement.** The Standard Terms contain the entire understanding and supersedes all prior understandings between the parties relating to the subject matter herein. The terms and conditions set forth herein shall not be binding on Discovery, or any of its affiliates, until fully executed by an authorized signatory for both Subscriber and Discovery (or its applicable affiliate). Signatures may be exchanged in counterparts. Signatures transmitted electronically by fax or PDF shall be binding and effective as original ink signatures.

11.8. **Assignment.** The rights and obligations of either party under the Standard Terms may not be transferred or assigned directly or indirectly without the prior written consent of the other party, except that Discovery may assign the Standard Terms without restriction to an entity that acquires substantially all of its stock, assets, or business. Except as otherwise expressly provided herein, the provisions hereof will inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties.

11.9. **Relationship of the Parties.** The parties are independent contractors and not joint venture partners or otherwise affiliated. Neither party has any right or authority to assume or create any obligations of any kind or to make any representation or warranty on behalf of the other party, whether express or implied, or to bind the other party in any respect whatsoever. There are no third-party beneficiaries to the Agreement.

11.10. **Professional Development Services.** Any content provided by Discovery during any Professional Development, including, but not limited to, instructional support and lesson development, in any format (the "PD Content") is the property of Discovery. Subscriber acknowledges that it does not gain any ownership interest in the PD Content by using the PD Content. In the event that any Professional Development services cannot be provided onsite for any reason that is beyond the control of either party, Discovery reserves the right to provide such services in a remote, virtual environment. Upon Subscriber's written notice to Discovery, Discovery shall record and transmit to Subscriber any virtual professional learning session that Discovery provides to Subscriber pursuant to the Order Form (each, a "Product PD or Hourly PD Session"). Subscriber shall have the right to distribute such Product PD Session recordings on Subscriber's intranet and/or learning management system only. Subscriber may access and download the PD Session recording for no more than seven (7) days after the PD Session takes place. If requested by Discovery, Subscriber shall promptly delete and remove all records of PD Sessions in its possession.

11.11. **Professional Development Session Cancellation.** Subscriber may cancel or reschedule a PD Session, in writing, up to 48 hours in advance of a scheduled PD Session. If the cancellation is received less than 48 hours prior to a scheduled PD Session, the Subscriber will be charged the full Fees. If the Subscriber has prepaid for the PD Session and they cancel less than 48 hours before it is scheduled, the PD Session will be marked in Subscriber's account as having been provided in full.

11.12. **Mystery Science Membership.** Full, continuous access to the Mystery Science curriculum and lesson plans is only available with a paid membership. Limited access to the curriculum and lesson plans is available for free. Subscriber may purchase school or district memberships on a per site basis as indicated in the applicable Order Form, which entitles teachers and staff (each, a "Member") at that site to create individual accounts which they may use to access the Services from anywhere on an unlimited number of devices. Purchase of a classroom membership entitles one teacher to create an account which they may use to access the Services for a single classroom. Memberships may not be reassigned, transferred, resold, or sublicensed without Discovery's prior written consent. Subscriber acknowledges and agrees to ensure that Users sign up for their own accounts and agree to, and comply with, these Standard Terms when they access and use the Services.

11.13. **Trial Terms** In addition to all of the above Terms, where a Trial is permitted by applicable law and offered by Discovery, the following terms apply: i) the Term for a Trial is defined in the



applicable Order Form but shall be no longer than six (6) months ii) a Trial may be terminated by Discovery at any time, for any reason, and without notice. iii) Participation in a Trial shall not entitle a Trial Subscriber (a "Trial Subscriber") to participation in future Trials or additional access to the Services outside a Trial. iv) a Trial Subscriber will have the option to purchase the trialed Services after the Trial ends. v) the Trial Subscriber may terminate the Trial at any time during the Trial without penalty and vi) by signing up to a Trial, Subscriber agrees to all applicable Terms as described in these Standard Terms.

11.14. **Physical Goods and Shipping.** Mystery Packs and hands-on activity Kits ("Physical Goods") are shipped F.O.B origin. Subscriber is responsible for the shipping and handling Fee listed on the invoice and/or Order Form. If Physical Goods are returned for any reason, Subscriber shall pay Discovery the cost of restocking and shipping back the Physical Goods. Discovery will replace missing or damaged items if Subscriber notifies Discovery within 30 days of delivery of

the Physical Goods. If such notification occurs after the 30 days, Subscriber must cover the costs associated with replacing missing or damaged items. All Fees paid by Subscriber for the Physical Goods are final and non-refundable.

11.15. **Notices.** All notices and statements shall be in writing and sent by a reputable overnight service such as Federal Express to the address set forth below; provided that, notices that relate to Renewal Terms may be sent via email to the following email address:

Discovery Education, Inc.  
4350 Congress Street  
Suite 700  
Charlotte, NC 28209  
Email: [DECommercialOpsTeam@discoveryed.com](mailto:DECommercialOpsTeam@discoveryed.com)

DS  
DB

## ADDENDUM

This Addendum is agreed and entered into by and between the **Boone County School District** (“District”) and Discovery Education (“Vendor”), and is intended to amend, modify, and supplement the \_\_\_\_\_ (hereinafter, the “Agreement”).

**WHEREAS**, the Vendor is providing educational or digital services to the Boone County Board of Education and, by extension, the District; and

**WHEREAS**, the Vendor and the District recognize the need to protect personally identifiable student information, and other regulated data exchanged between them as required by applicable laws and regulations, such as the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232(g), 34 C.F.R. Part 99; the Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. § 6501-6506, 16 C.F.R. Part 312; the Protection of Pupil Rights Amendment (“PPRA”), 20 U.S.C. § 1232h; 34 C.F.R. Part 98; and applicable state privacy laws and regulations; and

**WHEREAS**, the Vendor and District desire to enter into this Addendum for the purpose of establishing their respective obligations and duties in order to comply with applicable laws and regulations, and to amend, modify, and supplement the Agreement previously entered into; and

**NOW THEREFORE**, in consideration of the of the terms, covenants, conditions and promises set forth herein, as well as those set forth in the Parties’ Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend, modify, and supplement the Agreement as follows:

**Section 1. Definitions for Addendum.** For the purpose of this Addendum, the following definitions shall apply:

- 1.1 “Confidential Student Information” shall mean all information, whether PII or directory information, included in the Education Records provided to or accessed by Vendor pursuant to the terms of the Parties’ Agreement.
- 1.2 “District Data” shall mean any information or data owned by the District and provided to Vendor pursuant to the Parties’ Agreement.
- 1.3 “Education Records” shall be defined consistent with the definition set forth in 20 U.S.C. § 1232g(a)(4)(A); 34 C.F.R. § 99.3, and shall mean records that are: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution.

1.4 “Personally Identifiable Information” (“PII”) shall be defined consistent with the definition set forth in 20 U.S.C. § 1232g(a); 34 C.F.R. § 99.3, and shall mean identifiable information that is maintained in education records and includes direct identifiers, such as a student’s name or identification number, indirect identifiers, such as a student’s date of birth, or other information which can be used to distinguish or trace an individual’s identity either directly or indirectly through linkages with other information.

**Section 2. Student Privacy Acknowledgements.** The Parties acknowledge the following: (a) the District is a public school district and is subject to the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g; 34 CFR Part 99, which protects the privacy of student education records; (b) the District has outsourced certain services to Vendor, as defined in the Agreement, in furtherance of a legitimate educational interest that would otherwise be performed by the school district; (c) these services include the collection and storage of certain District Data and Confidential Student Information, as set forth in Section 1 of this Addendum; (d) the Vendor is under the direct control of the District with respect to the use and maintenance of District Data and Confidential Student Information provided to it pursuant to the Parties’ Agreement; and (e) Vendor is subject to the requirements in FERPA that any PII obtained from Education Records may be used only for the purposes for which the disclosure was made and consistent with the terms of the Parties’ Agreement.

**Section 3. Vendor’s Obligations.** Vendor acknowledges and agrees to the following: (a) Vendor is acting as a contractor to the District in performing the function, either directly under the terms of the Agreement and this Addendum, or indirectly through Vendor’s interfaces with another District contractor; (b) Vendor uses reasonable methods to ensure that only individuals with a legitimate educational interest (as to a particular student, such as the student, his or herself, the student’s guardian, and the District) shall have access to the District Data in Vendor’s possession or control; and (c) Vendor uses reasonable methods to ensure that no third parties shall have access to Confidential Student Information or Education Records in its control unless written authorization to distribute such information is provided by the student’s parent/guardian.

**Section 4. Ownership of Data.** As between District and Vendor, the District retains ownership of all data provided to Vendor pursuant to the Parties’ Agreement, regardless of whether such data is provided to Vendor by the District, its students, parents, guardians, or any other authorized user.

**Section 5. Data Transmission.** The Vendor shall ensure the secure transmission of any data exchanged during the course of this agreement. All data transmissions, whether internal or external, shall be encrypted using encryption processes for data in motion



which comply, as appropriate, with National Institute of Standards and Technology (“NIST”) Special Publications 800-52; NIST Special Publications 800-77; NIST Special Publications 800-113, or others which are Federal Information Processing Standards (“FIPS”) 140-2 validated, to protect the confidentiality and integrity of the transmitted data. In the event of any security incidents or breaches affecting data while in transit, the Vendor agrees to promptly notify BCS and take necessary remedial actions to mitigate the impact as set forth in Section 8 of this Addendum.

**Section 6. Security of Data at Rest.** Vendor acknowledges that it is responsible for implementing robust measures to safeguard data at rest. This includes, but is not limited to, encryption of stored data, physical/logical access controls, regular security audits, and the prohibition of storing any data onto a personally owned device. All District Data must be stored in a secure environment, with access limited to authorized personnel only. Vendor shall adhere to valid encryption processes for data at rest that are consistent with NIST Special Publication 800-111 and comply with relevant data protection regulations to ensure the confidentiality and integrity of data at rest. If requested by the District, Vendor shall provide a list of locations where student data is/may be stored, and whenever possible, including where required by applicable law, data shall be stored within the United States. In the event of any security incidents or breaches affecting data at rest, the Vendor agrees to promptly notify the Client and take necessary remedial actions to mitigate the impact.

**Section 7. Prohibition Against Use of Student or District Likeness.** Vendor acknowledges and agrees that it may not disseminate the District’s name, logo, or likeness for any reason, including marketing, internal training, or similar purposes, to any third party without written authorization from the District. Vendor further acknowledges and agrees that it may not disseminate any Confidential Student Information or District Data – whether explicitly protected under FERPA, directory information (i.e., name, grade, etc.), or student likeness – without written authorization from the student or, if the student is a minor, the student’s parent/guardian. 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 purpose, and shall not sell, disclose, or otherwise process student data for any commercial purpose as defined by KRS 365.734.

**Section 8. Security Breach Remediation and Notice.** Vendor agrees to maintain procedures and practices to preemptively safeguard against security breaches as described in KRS 61.932. However, in the event of a security breach as defined by KRS 61.931, Vendor shall notify the District in the most expedient time possible and without unreasonable delay, but within seventy-two (72) hours of determination of a security breach relating to the personal information in the possession of Vendor. The notice to the District shall

include all information the nonaffiliated third party has with regard to the security breach at the time of notification. In the event of a security breach relating to the personal information in the possession of Vendor, Vendor shall bear the full cost of the notification and investigation requirements set forth in KRS 61.933. In the event of a suspected or confirmed breach, Vendor agrees to retain an independent IT consulting firm, which is mutually agreed-upon by the Parties, to provide requisite forensic/recovery/notification services as provided for by the Commonwealth Office of Technology's recommended data breach response plan. Vendor agrees to comply with all provisions of KRS 61.931-.934 pertaining to the prevention of, investigation of, response to, and remediation of any and all such security breaches.

**Section 9. Cloud Computing Service Providers.** If Vendor is a cloud computing service provider (as defined in KRS 365.734(1)(b) as "any person other than an educational institution that operates a cloud computing service"), Vendor agrees that: (a) Vendor shall not process Confidential Student Information or student data as defined by KRS 365.734 for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless Vendor receives express permission from the student's parent. Vendor shall work with the student's school and the District to determine the best method of collecting parental permission; (b) 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 advertising purposes; (c) Vendor shall not sell, disclose, or otherwise process Confidential Student Information for any commercial purpose; and (d) Vendor shall certify in writing to the District that it will comply with KRS 365.734(2).

**Section 10. Advertising Limitations.** Vendor is prohibited from using, disclosing, or selling Confidential Student Information or District Data to (a) inform, influence, or enable targeted advertising; or (b) develop a profile of a student, family member/guardian or group, for any purpose other than providing the services as set forth in the Parties' Agreement. This section does not prohibit Vendor from using Confidential Student Information or District Data (i) for adaptive learning or customized student learning (including generating personalized learning recommendations); or (ii) to make product recommendations to teachers or District employees; or (iii) to notify account holders about new education product updates, features, or services or from otherwise using Confidential Student Information or District Data for any purpose explicitly permitted by the Parties' Agreement.

**Section 11. Open Records.** Vendor acknowledges that the District is subject to the Kentucky Open Records Act, KRS 61.870 to KRS 61.884, and may be required to disclose certain information obtained pursuant to the Parties' relationship as set forth therein.

Vendor agrees that it will not pursue any legal action against the District for any disclosure of Vendor's information or data made in response to an Open Records Request.

**Section 12. Law Enforcement or Court-Mandated Disclosures.** Should law enforcement or other government entities ("Requesting Part(ies)") contact Vendor with a request for Confidential Student Information or Education Records held by the Vendor pursuant to the Parties' Agreement, the Vendor shall notify the District in advance of a compelled disclosure to the Requesting Party, unless lawfully directed by the Requesting Party not to inform the Board of the request. Similarly, if Vendor becomes legally compelled to disclose any District Data, Confidential Student Information, or Education Records (whether by judicial or administrative order, applicable law, rule, regulation, or otherwise), Vendor shall use all reasonable efforts to provide the District with advance notice before disclosure so that the District may seek a protective order or other appropriate remedy to prevent the disclosure or to ensure the Board's compliance with the confidentiality requirement of federal or state law.

**Section 13. Data Protection Upon Conclusion of Contract.** Upon termination, cancellation, expiration, or other conclusion of the Parties' Agreement, Vendor shall return all District Data in the possession of Vendor, its subcontractors, or agents to the District, unless otherwise directed by the District in writing that such Client Data alternatively be destroyed. Vendor shall complete such return or destruction within thirty (30) calendar days of the termination of this Agreement and shall certify compliance with this Section, in writing, to the District within ten (10) calendar days of such return or destruction.

**Section 14. Insurance.** Vendor shall maintain, during the term of the Agreement, a cyber-insurance liability policy, in the amount of \$3 million. Upon request, Vendor shall furnish the certificate of insurance evidencing this coverage. The certificate of insurance shall name the Boone County Board of Education as additional insured in the Description of Operations section of the Certificate of Insurance.

**Section 15. Equitable Relief.** In any action or proceeding to enforce rights under the Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. Vendor acknowledges that the District may seek and obtain injunctive relief for the unauthorized use or dissemination of District Data or Confidential Information, or other violations of the Parties' Agreement, in addition to, and not in limitation of, other legal remedies provided under state and federal law.

**Section 16. Governance.** The laws of the Commonwealth of Kentucky shall govern all questions as to the execution, validity, interpretation, construction and performance of this Agreement and Addendum, or any of their terms. Any suit, action or other proceeding regarding the execution, validity, interpretation, construction or performance of this agreement shall be filed in the Boone Circuit Court of the Commonwealth of Kentucky. In

the event of litigation in a U.S. District Court, venue shall lie exclusively in the Eastern District of Kentucky.

**Section 17. Effect of Addendum.** The Parties agree that the terms and conditions set forth in this Addendum modify, amend, and supplement the Agreement as set forth above, and agree to be bound to the terms herein. To the extent that the Addendum expressly conflicts with the terms and conditions of the Agreement, the Addendum shall control.

**IN WITNESS WHEREOF,** the District and Vendor execute this Addendum to be effective consistent with the effective date of the Parties' Agreement.

**BOONE COUNTY SCHOOL DISTRICT**

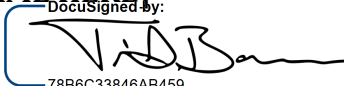
By: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title/Position: \_\_\_\_\_

**[VENDOR NAME HERE]** Discovery Education

DocuSigned by:  
  
78B6C33846AB459...

By: \_\_\_\_\_

Date: January 25, 2024

Travis Barrs

Printed Name: \_\_\_\_\_

Title/Position: Global Head of Strategy & Transformation