

**SECOND AMENDMENT TO SOFTWARE SERVICES AGREEMENT
BETWEEN ART OF PROBLEM SOLVING
AND POUUDRE SCHOOL DISTRICT R-1**

This Second Amendment (“Amendment”) effective as of the April 1, 2024, is attached to and forms part of the Software Services Agreement between Poudre School District R-1 (the “District”) and Art of Problem Solving (the “Contractor”) executed July 7, 2022 and the First Amendment to the Agreement executed December 20, 2023 (“Agreement”), both of which are attached and made part of this Amendment. To the extent that any of the terms or conditions contained in this Amendment may contradict with any of the terms or conditions of the attached Agreement, it is expressly understood and agreed that the terms of this Amendment shall take precedence and supersede the attached Agreement. The parties agree to amend the Contract by adding the following language:

1. **Purpose of Amendment.** This Amendment shall constitute the Second Amendment to the Agreement between the District and the Contractor. The purpose of this Second Amendment is to amend the terms and deliverables between the District and Contractor.
2. **Term of Agreement.**
 - 2.1. At the conclusion of the term dated August 31, 2024, as outlined in section 2.1 of the Agreement, the District and Contractor elect to extend the term of the Agreement beginning on September 1, 2024 through August 31, 2025.
3. **Amended Responsibilities.**
 - 3.1. Exhibit A is deleted hereby in its entirety.
 - 3.2. Replace Exhibit A with Contractor’s PSD Student Data Information Request for Software Services, hereby attached to this Second Amendment and made a part of this Agreement.
 - 3.3. Exhibit B is deleted hereby in its entirety.
 - 3.4. Replace Exhibit B with Contractor’s Beast Academy Online Pricing Tiers for Poudre School District (2024 – 2025), hereby attached to this Second Amendment and made a part of this Agreement.
4. **Special Provisions.**
 - 4.1. **Terms and Conditions.** With the exception of items explicitly delineated in this Second Amendment, all terms and conditions of the original Agreement between the District and Contractor shall remain unchanged and in full force and effect.
5. **General Provisions.**
 - 5.1. **Entire Agreement.** The original Agreement, the First Amendment and this Second Amendment, constitutes the entire Agreement of the parties regarding the subject

matter addressed herein and supersedes all prior Agreements, whether oral or written, pertaining to said subject matter.

- 5.2. **Signatures.** This Agreement may be executed and delivered via portable document format (pdf), and the pdf signature of any party shall be considered valid, binding, effective and an original for all purposes.

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the District and the Contractor have signed this Amendment as of the Effective Date.

ART OF PROBLEM SOLVING

POUDRE SCHOOL DISTRICT R-1

By: _____

By: _____

Name:

R. David Montoya

Title:

Chief Finance Officer

By: _____

Julie Chaplain

Assistant Superintendent

Exhibit A



Clear Form

STUDENT DATA INFORMATION REQUEST FOR SOFTWARE SERVICES

Colorado’s Student Data Transparency and Security Act [C.R.S. Section 22-16-101 et seq.] requires Poudre School District (PSD) to set forth certain contractual requirements before agreeing to the use of products that share student data. Due to the specificity of this language, PSD has opted to use its own contract to ensure compliance and alignment with the law and U.S. Department of Education recommendations regarding National Institutes of Standards and Technology Guidelines for Media Sanitization.

The law defines Student Identifiable Data as all items which are collected, maintained, generated, or inferred through use of the service, which includes metadata. This means any data element in the software’s data table that can be connected to a student must be transparently identified along with how the data will be used. Because this may be different from what the company has reported under the Family Educational Rights and Privacy Act (FERPA), the District recommends pulling the data table to include all data elements.

Please provide the following information to facilitate the contracting process:

- Detailed, formal description of product and scope of work to be completed.
 - Descriptions should not include wording such as “most used” or “used by X number of schools.”
 - Service descriptions should be detailed and free of sales language so it’s clear what’s being purchased.

Access to Beast Academy Online, an elementary school learning system consisting of the following:

- Instructional reading material for students
- Instructional videos for students
- Sets of mathematical problems and puzzles for student training
- Extensive reporting for students and teachers

Pursuant to the Beast Academy Terms of Service (<https://beastacademy.com/terms>) and Privacy Policy (<https://beastacademy.com/privacy>)

- What student data is collected through use of the system?
 - List all student data that’s collected, maintained, generated, or inferred through use of the service; this includes information created or collected by the company.

See Attached

<i>Student</i>	<i>Teacher</i>	<i>Admin</i>	<i>Meta Data</i>

3. What is the purpose of collecting student data?

See Attached

4. What third parties does the company partner with who may receive student data in any format?

- *This includes storage and vendors receiving encrypted data.*

See Attached

5. What is the purpose of the third-party partners?

See Attached

6. Please provide:

- Current quote (if available)

- Tiered pricing for future purchases

- Name and email for contract notices

- Name and title of person who will sign the contract

- Does the system allow integration for rostering?

Yes No

If the above answer is yes, how is it completed?

The following pages contain an example that will serve as a guide for the company's IT team; these items are known as data tables or data dictionaries.

PSD must have specific information from the company in a separate document, which will become an exhibit to the contract. Links to online privacy policies will not be accepted; these policies must be transparently identified in a static document.

Third Party Providers utilized by Beast Academy Online				
Vendor	URL	Purpose	Student data (Y/N)	Teacher data (Y/N)
ActiveCampaign	activecampaign.com	Email management	N	Y
Alphabet	google.com	Usage data, incoming email	N	Y
Amazon AWS	aws.amazon.com	Web hosting	Y	Y
ClickUp	clickup.com	Internal task management	Y	Y
Facebook	facebook.com	Usage data	N	Y
Front	frontapp.com	Incoming email management	N	Y
Hotjar	hotjar.com	Usage data	N	Y
Linode	linode.com	Database backups	Y	Y
Microsoft	microsoft.com	Usage data	N	Y
Oracle NetSuite	netsuite.com	Accounting/ERP	N	Y
Salesforce	salesforce.com	CRM	N	Y
Sendgrid	sendgrid.com	Email delivery	N	Y
Sentry	sentry.com	Website error monitoring	Y	Y
Stitch	stitchdata.com	ETL for data warehouse	Y	Y
Vultr	vultr.com	Web hosting	Y	Y

Student Access Time	N	N	Provide technical support, research to improve user experience, reporting data for students/parents/teachers
Student App-specific ID Number	N	N	Required for product functionality
Student Avatar	N	N	Required for product functionality
Student Awards Earned	N	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Book Sections & Pages Read	N	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Class	Y	N	Required for product functionality -- Teachers may choose to use obfuscated data
Student Game XP/Level	N	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Grade Level	N	N	Required for product functionality
Student Lesson Performance	N	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Lesson Assignments	Y	N	Required for product functionality, reporting data for students/parents/teachers - Teachers may choose not to use this tool
Student Names	N	N	Required for product functionality
Student Overall Performance	N	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Pages Viewed	N	N	Required for product functionality, research to improve user experience
Student Password	N	N	Required for product functionality
Student Responses on Individual Problems	N	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Results on Individual Problems	N	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student School	N	N	Required for product functionality
Student School Individual ID	Y	Y	May be used by schools for their records
Student School-generated Username	Y	Y	Schools can optionally provide custom school usernames rather than using generic BA usernames
Student Settings (Volume, Pencil Color, etc.)	N	N	Required for product functionality
Student Stars Earned	N	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Time Spent on Individual Problems	N	N	Required for product functionality, research to improve user experience
Student Time Spent on Videos and Book	N	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Usernames	N	N	Required for product functionality
Student Videos Watched	N	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Teacher App-specific ID Number	N	N	Required for product functionality
Teacher Email Address	N	N	Provide technical support, required for product functionality
Teacher Names	N	N	Required for product functionality
Teacher Password	N	N	Required for product functionality
User Agent (Device, OS & Browser)	N	N	Provide technical support, research to improve user experience
User IP Address	N	N	Provide technical support, research to improve user experience

Exhibit B



Beast Academy Online Pricing Tiers for Poudre School District (2024 - 2025)

The pricing tiers below reflect the per-student rates for 12 months of access to Beast Academy Online:

- 10-100 students: \$60/student/year
- 101-200 students: \$57/student/year
- 201-300 students: \$54/student/year
- 301-400 students: \$51/student/year
- 401-500 students: \$48/student/year
- 501-600 students: \$45/student/year
- 601-700 students: \$42/student/year
- 701-800 students: \$39/student/year
- 801-900 students: \$36/student/year
- 901-1,000 students: \$33/student/year



**FIRST AMENDMENT TO SOFTWARE SERVICES AGREEMENT
BETWEEN ART OF PROBLEM SOLVING AND POUFRE SCHOOL DISTRICT R-1**

This First Amendment (“Amendment”) effective the 20th day of December 2023, is attached to and forms part of the Software Services Agreement between Poudre School District R-1 (the “District”) and Art of Problem Solving (the “Contractor”) executed July 7th, 2022 (“Agreement”), hereby attached and made part of this Amendment. To the extent that any of the terms or conditions contained in this Amendment may contradict with any of the terms or conditions of the attached Agreement, it is expressly understood and agreed that the terms of this Amendment shall take precedence and supersede the attached Agreement. The parties agree to amend the Agreement by adding the following language:

1. **Purpose of Amendment.** This Amendment shall constitute the First Amendment to the Agreement between the District and the Contractor. The purpose of this Amendment is to amend the terms and deliverables between the District and Contractor.

2. **Term of Agreement.**
 - 2.1. At the conclusion of the term dated August 31, 2023, as outlined in section 1 of the Agreement, the District and Contractor elect to extend the term of the Agreement beginning on December 20, 2023 through August 31, 2024.

3. **Amended Responsibilities.**
 - 3.1 Replace Exhibit B with 2023-2024 Contractor’s Pricing Information, hereby attached to this First Amendment and made part of the Agreement.

 - 3.2 The pricing of all Services under the Agreement shall not exceed as set forth on the attached Exhibit B.

 - 3.3 Within section 11, delete the language which has a strikethrough and replace with the following language which is underlined:

Poudre School District R-1
Attn: ~~Tracy Stibitz~~
2407 LaPorte Avenue
Fort Collins, CO 80521
E-mail: ~~tstibitz@psdschools.org~~

Attn: Contracts Administrator
2407 LaPorte Avenue
Fort Collins, CO 80521
E-mail: contracts@psdschools.org

4. Special Provisions.

4.1. **Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the original Agreement between the District and Contractor shall remain unchanged and in full force and effect.

5. General Provisions.

5.1. **Entire Agreement.** The original Agreement and this First Amendment constitutes the entire Agreement of the parties regarding the subject matter addressed herein and supersedes all prior Agreements, whether oral or written, pertaining to said subject matter.

5.2. **Signatures.** This Agreement may be executed and delivered via portable document format (pdf), and the pdf signature of any party shall be considered valid, binding, effective and an original for all purposes.

IN WITNESS WHEREOF, the District and the Contractor have signed this Agreement as of the date first set forth above.

ART OF PROBLEM SOLVING

POUDRE SCHOOL DISTRICT R-1

By: Rose Fein
Rose Fein (Jan 2, 2024 13:35 PST)

Rose Fein
B2B Director

By: R. David Montoya

R. David Montoya
Chief Finance Officer

By: Dr. Traci Gile

Dr. Traci Gile, Ph.D.
Assistant Superintendent

Exhibit B



Beast Academy Online Pricing Tiers for Poudre School District (2023 - 2024) The pricing tiers below reflect the per-student rates for 12 months of access to Beast Academy Online:

- 10-100 students: \$60/student/year
- 101-200 students: \$57/student/year
- 201-300 students: \$54/student/year
- 301-400 students: \$51/student/year
- 401-500 students: \$48/student/year
- 501-600 students: \$45/student/year
- 601-700 students: \$42/student/year
- 701-800 students: \$39/student/year
- 801-900 students: \$36/student/year
- 901-1,000 students: \$33/student/year



AoPS

Art of Problem Solving

Company Address 15330 Avenue of Science
San Diego, California 92128
United States

Phone (858) 675-4555

Prepared By Sean Russom
Email srussom@artofproblemsolving.com

Bill To Name Poudre School District
Bill To 2407 LaPorte Avenue
Fort Collins, Colorado 80521-2297
United States

Created Date 12/13/2023

Expiration Date 2/15/2024

Quote Number 00002433

Contact Name Jennifer Vaad

Phone Formatted () -

Email jvaad@psdschools.org

Ship To Name Poudre School District
Ship To 2407 LaPorte Avenue
Fort Collins, Colorado 80521-2297
United States

Product	Line Item Description	Sales Price	Quantity	Total Price w/ Tax
BAO to Schools	End Date: 6/30/24	\$40.00	5.00	\$200.00

Subtotal \$200.00

Total Price \$200.00

Tax \$0.00

Grand Total \$200.00

**SOFTWARE SERVICES AGREEMENT
BETWEEN ART OF PROBLEM SOLVING
AND POUFRE SCHOOL DISTRICT R-1**

This Software Services Agreement (“Agreement”) is entered into this 7th day of July 2022, by and between Poudre School District R-1 (the “District”) and Art of Problem Solving (the “Contractor”). The District and the Contractor are collectively referenced herein as the “parties.” In consideration of the mutual covenants and promises contained in this Agreement, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Term of Agreement.**

This Agreement shall commence on September 1, 2022 and continue through and including August 31, 2023, unless earlier terminated as provided herein. The Agreement, at the option of the District, may be extended for up to four (4) additional one-year terms, upon a written mutually agreed upon amendment for each one-year term.

2. **Deliverables and Purchase Price.**

2.1. The Contractor shall make its elementary school learning system with instructional reading materials, videos, math supports and reporting for use in the District, in accordance with the scope of work set forth in the attached Exhibit A (hereinafter the “Services”).

2.2. The cost for all Services under this contract shall not exceed the pricing set forth on Exhibit B hereby attached and made part of this Agreement.

2.3. Additional District schools may participate in Services under all terms and conditions specified within this Agreement, not to exceed the term within section 1.1. This Agreement in no way binds the District or District Schools to exclusive use of Contractor’s Services. Discretion to utilize Services is under the direction of each District School Principal or Principal designee. District Principals or Principal designee will adhere to applicable laws, regulations, and District policies.

2.4. Fulfillment of Services under the terms and conditions set forth in this Agreement shall be exclusively through the issuance of a District purchase order.

2.4.1. The Contractor shall provide the contact in section 9 a quote for Services conforming to the pricing, which shall be payable by the District thirty (30) days after receipt of Contractor’s invoice.

2.4.2. Site-based credit cards and/or site-based restricted checks shall not be permitted for payment.

2.4.3. Services provided by Contractor without conforming to section 2.4 of the Agreement shall be considered unauthorized and payment shall not be issued by the District.

- 2.4.4. Contractor shall assure compliance with the District Policy DJG/DJGA, attached as Exhibit C and hereby made part of this Agreement, direct communication with schools or sales must be approved by contact in section 9 of this agreement.

2.5. Invoicing. Contractor will provide invoices for the Services at the rate specified in Exhibit B Invoices shall be submitted to the Accounts Payable Department within thirty (30) days of receipt of Purchase Order. Invoices for Services shall include name of provider, dates of Services conforming to section 1.1, location for Services and a description of the Services provided.

- 2.5.1. Invoices received from the Contractor pursuant to this Agreement will be reviewed and approved by the District's representative, indicating that services have been rendered in conformity with the Agreement and then will be sent to the Finance Department for payment. Payment for Services not approved by the District in writing, shall not be considered valid and the District will not be responsible for covering associated costs. Invoices will generally be paid within thirty (30) days following the District representative's approval.
- 2.5.2. Invoices which do not conform with the agreement will be paid thirty (30) days from receipt of a revised and corrected invoice.
- 2.5.3. All invoices must be submitted within 30 days of fiscal year end June 30 and may not include items received by the District outside of the fiscal year July 1 – June 30.
- 2.5.4. Invoices shall be sent to ap@psdschools.org.
- 2.5.5. **Tax Exemption.** The District is exempt from federal and state taxes under Colorado Tax Exempt Number 98-03335.

2.6. The Contractor grants the District a non-exclusive, non-transferable, non-sublicenseable license to access and use, and permit authorized users to access and use the Services solely in the United States during the term of the Agreement.

2.7. The District shall access and use the Services solely for non-commercial instructional and administrative purposes within the District. Further, the District shall not, except as expressly authorized or directed by the Contractor: (a) copy, modify, translate, distribute, disclose or create derivative works based on the contents of, or sell, the Services, or any part thereof; (b) decompile, disassemble or otherwise reverse engineer Services or otherwise use the Services to develop functionally similar products or services; (c) modify, alter or delete any of the copyright, trademark, or other proprietary notices in or on the Services; (d) rent, lease or lend the Services or use the Services for the benefit of any third party; (e) avoid, circumvent or disable any security or digital rights management device, procedure, protocol or mechanism in the Services; or (f) permit any authorized user or third party to do any of the foregoing. The District also agrees that any works created in violation of this section are derivative works, and,

as such, the District agrees to assign, and hereby assigns, all right, title and interest therein to the Contractor.

2.8. The District agrees, subject to the limited rights expressly granted hereunder, that all rights, title and interest in and to all Services, including all related IP Rights, are and shall remain the sole and exclusive property of Contractor or its third-party licensors. “IP Rights” means, collectively, rights under patent, trademark, copyright and trade secret laws, and any other intellectual property or proprietary rights recognized in any country or jurisdiction worldwide. The District shall notify Contractor of any violation of Contractor’s IP Rights in the Services, and shall reasonably assist Contractor as necessary to remedy any such violation. Contractor Services are protected by patents.

2.9. The District understands and agrees that its students’ access to and use of the Services under this Agreement may require that it disclose confidential student records and information, as that term is defined below, to the Contractor. The Contractor understands and agrees that if it fails to comply with any of the requirements under sections 4, 5, 6 or 7 below at any time during or after the term of this Agreement the District may, as applicable, terminate the Agreement and/or disqualify the Contractor from future agreements with the District.

3. **Definitions.**

3.1. As used in this Agreement, “personally identifiable information” is defined as information (including metadata) that, alone or in combination, is linked or linkable to a specific student so as to 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. Personally identifiable information includes but is not limited to: (a) the student’s name; (b) the name of the student’s parent or other family members; (c) the address or phone number of the student or student’s family; (d) personal identifiers such as the student’s social security number, student number or biometric record; and (e) indirect identifiers such as the student’s date of birth, place of birth or mother’s maiden name.

3.2. As used in this Agreement, “education records” is defined as records, files, documents and other materials that: (a) contain information directly related to a student; and (b) are maintained by the District, or by a party acting for the District such as the Contractor.

3.3. As used in this Agreement, “confidential student records and information” is defined as education records and personally identifiable information concerning District students, including but not limited to confidential student records and information disclosed to, collected by and/or generated by the Contractor. Confidential student records and information does not include “de-identified confidential student records and information,” as defined in section 3.5 below.

3.4. As used in this Agreement, “collect” is defined as the gathering of data and other information by any means, including but not limited to the use of logs, cookies, tracking pixels, etc.

3.5. As used in this Agreement, “de-identified confidential student records and information” is defined as confidential student records and information from which all personally

identifiable information, and the ability to determine any personally identifiable information, is removed.

3.6. As used in this Agreement, “securely destroy” is defined as removing confidential student records and information from the Contractor’s systems, paper files, hard-copy and electronic records, databases and any other media regardless of format, in accordance with the standard detailed in the National Institute of Standards and Technology (“NIST”) SP 800-88 Guidelines for Media Sanitization, so that the confidential student records and information are permanently irretrievable in the Contractor’s normal course of business.

3.7. As used in this Agreement, “eligible student” is defined as a student who is at least 18 years of age or who is legally emancipated.

4. **Ownership of Confidential Student Records, Information.** All confidential student records and information shall remain the exclusive property of the District and all rights, title and interest in the confidential student records and information, including but not limited to intellectual property rights in the confidential student records and information, belong to and are retained solely by the District. The District hereby grants to the Contractor a limited, nonexclusive license to access, view, collect, generate and use confidential student records and information solely for the purpose of performing its obligations under this Agreement.

5. **Security of Confidential Student Records and Information.**

5.1. The Contractor shall store and process confidential student records and information in accordance with commercial best practices, including implementing appropriate administrative, physical and technical safeguards that are no less rigorous than those outlined in CIS Critical Security Controls, as amended, to secure such confidential student records and information from unauthorized access, disclosure, alteration and use. The Contractor shall ensure that all such safeguards, including the manner in which confidential student records and information is collected, accessed, used, stored, processed, disposed of and disclosed, comply with all applicable federal and state data protection and privacy laws, regulations and directives, including but not limited to Colorado’s Student Data Transparency and Security Act, C.R.S. §§ 22-16-101 to -112. Without limiting the foregoing, and unless expressly agreed to the contrary in writing, the Contractor warrants that all electronic confidential student records and information will be encrypted in transmission and at rest in accordance with NIST Special Publication 800-57, as amended.

5.2. The Contractor shall conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. The Contractor shall promptly notify the District in the event of: (a) any security or privacy breach concerning confidential student records and information; and/or (b) any use or disclosure of student personally identifiable information not authorized under this Agreement.

6. **Use of Confidential Student Records and Information.**

6.1. Under the Contract, Contractor may access, view, collect, generate and/or use confidential student records and information only under the following terms and conditions: (a) Contractor shall not disclose confidential student records and information, in whole or in part,

to any other party; (b) Contractor shall not use any confidential student records or information to advertise or market to students or their parents/guardians; (c) Contractor shall access, view, collect, generate and use confidential student records and information only to the extent necessary to perform its obligations under the Contract; and (d) at the conclusion of the term of the Contract Contractor shall, as directed by the District, either securely destroy all confidential student records and information in its possession, custody or control, or return such confidential student records and information to the District.

6.2. Contractor may use de-identified confidential student records and information for purposes of research, the improvement of its products and services, and/or the development of new products and services. In no event shall Contractor re-identify or attempt to re-identify any de-identified confidential student records and information.

6.3. Contractor shall promptly furnish to the District upon request all confidential student records and information collected and/or generated by Contractor and not in the District's possession. Such requests may include but shall not be limited to those made in order to respond to parent/guardian and eligible student requests to inspect and review education records as authorized under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g ("FERPA") and/or under the Colorado Open Records Act, C.R.S. §§ 24-72-200.1 to -206 ("CORA"). The District, not Contractor, shall respond to all parent/guardian and eligible student requests to inspect and review records, data and other information.

7. **School Service Contract Provider.** If Contractor is a "school service contract provider" under the Colorado Student Data Transparency and Security Act (the "Act"), the Contract is amended to add the language in this section 7. Under the Act, a "school service contract provider" is defined as an entity (other than the Colorado Department of Education, a K-12 public education entity or an institution of higher education) that enters into a formal, negotiated contract with the District to provide a "school service." Under the Act, a "school service" is defined as an Internet website, online service, online application or mobile application that: (a) is designed and marketed primarily for use in a preschool, elementary school or secondary school; (b) is used at the direction of District teachers or other District employees; and (c) collects, maintains or uses confidential student records and information.

7.1. As a school service contract provider under the Act, the Contractor has provided the following information the attached Exhibit A: (a) the data elements of confidential student records and information that Contractor collects under the Contract, regardless of whether the data elements are initially collected or ultimately held individually or in the aggregate using protocols that are effective for preserving the anonymity of each student included in the data; (b) the learning purpose for which Contractor collects the confidential student records and information; and (c) how the Contractor uses and shares the confidential student records and information. Contractor shall update this information as necessary to maintain accuracy.

7.2. Contractor shall facilitate the District's access to and correction of any factually inaccurate confidential student records and information as required in response to correction requests from parents/guardians and eligible students.

8. **Remedies.** If Contractor fails to comply with any of the foregoing requirements in sections 4, 5, 6 or 7 at any time during or after the term of the Agreement the District may, as applicable, terminate the Agreement and/or disqualify Contractor from future contracts and subcontracts with the District.

9. **Access to District Server.** If access to any District server is necessary for the functionality of the Contractor's services. Upon written approval by the Executive Director of Information Technology or designee, the District grants the Contractor limited access to the District server for the sole purpose of providing Services

9.1. The Contractor agrees to protect the confidentiality, integrity and availability of all electronic District or student information at all times.

9.2. The Contractor agrees to take proper steps to ensure the security of the device in which they connect to the District's systems remotely. The Contractor agrees not to copy information accessed remotely to local devices and or portable devices. Printing information is not permitted unless specific authorization has been granted.

9.3. The Contractor shall not share passwords, codes, credentials or user accounts with others.

9.4. The Contractor shall have a valid and up-to-date antivirus agent installed to ensure protection against malware and viruses upon connection to the District network.

10. The Contractor acknowledges that if the District determines in its discretion that remote access has been compromised by unauthorized parties, or that remote access has been misused, the Contractor's access will be disabled or terminated immediately.

11. **Notices and Communications.** All notices and communications required or permitted under this Agreement shall be in writing and shall be: (a) sent via certified mail, return receipt requested and postage prepaid, to the address of the other party set forth below; or (b) sent via e-mail to the other party via the e-mail address set forth below.

Poudre School District R-1
Attn: Tracy Stibitz
2407 LaPorte Avenue
Fort Collins, CO 80521
E-mail: tstibitz@psdschools.org

Art of Problem Solving
Attn: Legal Team
15330 Avenue of Science
San Diego, CA 92128
Email: privacy@beastacademy.com

12. **Insurance.** Contractor shall procure and maintain the required insurance specified below for the duration of this Agreement, which insurance shall be written for not less than the amounts specified or greater if required by law. The District's receipt of a Certificate of

Insurance from the Contractor with limits and or coverages that do not meet the requirements does not waive the requirements and the Contractor shall still be responsible for the limits and coverages stated in this Agreement. Specified coverages and amounts may be provided by a combination of a primary policy plus an umbrella or following form excess policy. All insurance shall be with a carrier licensed in the state of Colorado and shall have a minimum A.M. Best rating of A- VII. Contractor shall furnish the District’s Director of Records and Risk Management with certificates of the required insurance prior to the District’s approval and signing of this Agreement, and with renewal certificates prior to the expiration of any required insurance that expires during the term of this Agreement. Memorandums of Insurance will not be accepted. Certificates of Insurance and all communication regarding insurance shall be addressed to:

Poudre School District
Attention: Risk Management
2407 Laporte Ave
Ft. Collins, CO 80521
Email Certificate to: COI@psdschools.org

Any insurance and/or self-insurance carried by the District is excess of the coverage extended to the District by Contractor. Contractor shall provide at least thirty (30) days’ advance written notice to the District prior to cancellation, change of coverage, or non-renewal. The insurance requirements specified in this section 12 shall not reduce the indemnification liability that Contractor has assumed in section 13.

Commercial General Liability

Minimum Limits

- | | |
|--|-------------|
| a. Each Occurrence Bodily Injury & Property Damage | \$2,000,000 |
| b. General Aggregate | \$3,000,000 |
| c. Products/Completed Operations Aggregate | \$2,000,000 |
| d. Personal/Advertising Injury | \$2,000,000 |
| e. Coverage must be written on an “occurrence” basis. | |
| f. Poudre School District R-1 and its elected officials, employees, agents, and volunteers shall be named as an additional insured or covered as an additional insured by way of a blanket endorsement and shall be insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Agreement. | |

Technology Errors and Omissions Liability (Professional Liability, including Network Security and Privacy Liability)

Minimum Limits

- | | |
|--------------|-------------|
| a. Per Loss | \$1,000,000 |
| b. Aggregate | \$3,000,000 |

- c. Liability extends for a period of three (3) years beginning at the time work under this Agreement is completed. Contractor shall maintain continuous coverage, as required by the Agreement, for this period.

The insurance shall provide coverage for:

- a. Liability arising from theft, dissemination and/or use of confidential information (defined term including but not limited to bank account, credit card account, personal information such as name, address, social security numbers, etc. information) stored or transmitted in electronic form.
- b. Network Security Liability arising from the unauthorized access to, use of or tampering with computer systems including hacker attacks, inability of an authorized third party to gain access to Contractor's services including denial of service, unless caused by a mechanical or electrical failure.
- c. Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a District or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon.

13. **Indemnification.** The Contractor shall indemnify and hold harmless the District and the District's Board members, employees, representatives and agents from and against any and all liability arising from any suit, action, third party claims, grievance, or proceeding, including all attorneys' fees, costs and expenses, incurred as a result of any negligent or intentional act or omission by Contractor, or its employees, agents, Subcontractors, or assignees related to the terms of this Agreement and any Services provided under this Agreement.

14. **Governmental Immunity.** It is specifically understood and agreed that nothing contained in this Agreement shall be construed as an express or implied waiver by the District of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Constitution or Governmental Immunity Act, C.R.S. §§ 24-10-101 *et seq.*, as now or hereafter amended.

15. **General Provisions.**

15.1. **No Assignment.** The Contractor shall not assign this Agreement or any of its rights, interests or obligations under this Agreement without the prior written consent of the District, which consent may be withheld for any reason or no reason as determined by the District in its sole discretion.

15.2. **No Waiver.** The parties agree that no assent or waiver, express or implied, to any breach of any one or more of the covenants of this Agreement shall be construed as or deemed to be an assent to or a waiver of any subsequent breach.

15.3. **Amendment or Modification.** No amendment or modification of this Agreement shall be valid unless set forth in writing and executed by the District and the Contractor through written amendments to the Agreement, in the same manner and with the same formality as was done for this Agreement.

15.4. **Conflict of Terms.** In the event of any conflict of terms found between this Agreement, any incorporated exhibits, any other terms and conditions, end user license agreements or privacy policies, the terms of this Agreement shall prevail.

15.5. **Survival of Certain Contract Terms.** Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this Contract and the exhibits and/or attachments hereto which may require continued performance, compliance, or effect beyond the termination date of the Contract shall survive such termination date and shall be enforceable by the District as provided herein in the event of such failure to perform or to comply by the Contractor.

15.6. **Governing Law and Venue.** All issues regarding the formation, performance and/or legal enforcement of the Contract shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for the resolution of any disputes arising out of or relating to the Contract shall be in Larimer County, Colorado.

15.7. **No Third-Party Beneficiary.** Enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the District and the Contractor. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any third person other than the District or the Contractor. It is the express intent of the parties that any third person receiving services or benefits pursuant to this Agreement shall be deemed an incidental beneficiary only.

15.8. **Binding Arbitration Prohibited.** The District does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary is null and void.

15.9. **Attorney Fees and Costs.** In the event it becomes necessary for either party to institute litigation to enforce any provision of this Agreement, the substantially prevailing party in such litigation shall receive, as part of any judgment or award entered, its reasonable attorney fees and costs, including expert witness fees.

15.10. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successors and permitted assigns.

15.11. **Headings.** The headings used in this Agreement are for convenience only and shall have no effect upon the construction or interpretation of this Agreement.

15.12. **Entire Agreement.** This Agreement constitutes the entire Agreement of the parties regarding the subject matter addressed herein and supersedes all prior Agreements, whether oral or written, pertaining to said subject matter.

15.13. **Signatures.** This Agreement may be executed and delivered via portable document format (pdf), and the pdf signature of any party shall be considered valid, binding, effective and an original for all purposes. This Agreement may be signed in counterparts, and each counterpart shall be deemed an original, and all the counterparts taken as a whole shall constitute one and the same instrument.

15.14. **Warranty of Authority.** The individuals signing below represent and warrant that they have the authority to execute this Agreement on behalf of their respective organizations and bind their respective organizations to the terms of this Agreement.

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the District and the Contractor have signed this Agreement as of the date first set forth above.

ART OF PROBLEM SOLVING

POUDRE SCHOOL DISTRICT R-1

DocuSigned by:
Anakaren Santana Galvez
7D3F1EAE605B4A1...

Anakaren Santana Galvez
Associate Business Director

By: *R. David Montoya*

R. David Montoya
Executive Director of Finance

By: *Dr. Traci Gile*

Traci Gile, Ph.D.
Assistant Superintendent of Elementary
Schools

Exhibit A

- Provide a detailed formal description of the product and scope of work to be completed. Descriptions should not include wording such as “most used” or “used by x amount of schools”.
 - *Access to Beast Academy Online, an elementary school learning system consisting of the following:*
 - *Instructional reading material for students*
 - *Instructional videos for students*
 - *Sets of mathematical problems and puzzles for student training*
 - *Extensive reporting for students and teachers*
- What Student Data is collected through the use of the system?
- What is the purpose for collecting Student Data?
 - Attached
- What third parties does the vendor partner with, who may receive Student Data in any format?
- What is the purpose of these third-party partners?

Vendor	URL	Purpose	Student data (Y/N)	Teacher data (Y/N)
ActiveCampaign	activecampaign.com	Email management	N	Y
Alphabet	google.com	Usage data, incoming email	N	Y
Amazon AWS	aws.amazon.com	Web hosting	Y	Y
Digital Ocean				
Facebook	facebook.com	Usage data	N	Y
Front	frontapp.com	Incoming email management	N	Y
Hotjar	hotjar.com	Usage data	N	Y
Linode	linode.com	Database backups	Y	Y
Microsoft	microsoft.com	Usage data	N	Y
Oracle NetSuite	netsuite.com	CRM	N	Y
Sendgrid	sendgrid.com	Email delivery	N	Y
Stitch	stitchdata.com	ETL for data warehouse	Y	Y
Vultr	vultr.com	Web hosting	Y	Y

- Please provide:
 - W9
Attached
 - Name and email for contract notices
Beast Academy Legal Team, legal@beastacademy.com

- Name and title of the person who will be signing the contract.
Anakaren Santana Galvez, Associate Business Director, Beast Academy

Data Collected	Optional (Y/N)	Purpose
Class Grade Level	Y	Required for product functionality -- Teachers may choose to use obfuscated data
Class Name	Y	Required for product functionality -- Teachers may choose to use obfuscated data
Class School	Y	Required for product functionality -- Teachers may choose to use obfuscated data
School District Name	N	Required for product functionality (only applicable for District-level accounts)
School Name	N	Required for product functionality
Student Access Time	N	Provide technical support, research to improve user experience, reporting data for students/parents/teachers
Student App-specific ID Number	N	Required for product functionality
Student Avatar	N	Required for product functionality
Student Awards Earned	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Book Sections & Pages Read	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Class	Y	Required for product functionality -- Teachers may choose to use obfuscated data
Student Game XP/Level	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Grade Level	N	Required for product functionality
Student Lesson Performance	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Lesson Assignments	Y	Required for product functionality, reporting data for students/parents/teachers - Teachers may choose not to use this tool
Student Names	N	Required for product functionality
Student Overall Performance	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Pages Viewed	N	Required for product functionality, research to improve user experience
Student Password	N	Required for product functionality
Student Responses on Individual Problems	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Results on Individual Problems	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student School	N	Required for product functionality
Student School Individual ID	Y	May be used by schools for their records
Student School-generated Username	Y	Schools can optionally provide custom school usernames rather than using generic BA usernames
Student Settings (Volume, Pencil Color, etc.)	N	Required for product functionality
Student Stars Earned	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Time Spent on Individual Problems	N	Required for product functionality, research to improve user experience
Student Time Spent on Videos and Book	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Student Usernames	N	Required for product functionality
Student Videos Watched	N	Required for product functionality, research to improve user experience, reporting data for students/parents/teachers
Teacher App-specific ID Number	N	Required for product functionality
Teacher Email Address	N	Provide technical support, required for product functionality
Teacher Names	N	Required for product functionality
Teacher Password	N	Required for product functionality
User Agent (Device, OS & Browser)	N	Provide technical support, research to improve user experience
User IP Address	N	Provide technical support, research to improve user experience

Subprocessors

Amazon

AWS hosts our main BA server, our database server, backups of the database, and BA test servers. AWS also hosts our data warehouse in Redshift.

<https://aws.amazon.com/service-terms/>

https://d1.awsstatic.com/legal/aws-gdpr/AWS_GDPR_DPA.pdf

<https://aws.amazon.com/privacy/>

<https://docs.aws.amazon.com/whitepapers/latest/aws-overview/security-and-compliance.html>

Linode

Linode hosts a server with extra database backups.

<https://www.linode.com/legal-compliance/>

<https://www.linode.com/legal-privacy/>

<https://www.linode.com/legal-msa/>

<https://www.linode.com/legal-dpa/>

https://github.com/linode/agreements/blob/master/customer_agreement.md

Vultr

Vultr is used to host the BA server that receives SFTP files for school roster import.

<https://www.vultr.com/legal/tos/>

<https://www.vultr.com/legal/privacy/>

<https://www.vultr.com/legal/gdpr/>

https://www.vultr.com/legal/vultr_gdpr_dpa.pdf

SendGrid (now owned by Twilio)

SendGrid is our email provider and used to send all emails to BA users.

<https://www.twilio.com/legal/tos>

<https://www.twilio.com/legal/privacy>

<https://www.twilio.com/legal/data-protection-addendum>

<https://sendgrid.com/policies/security/>

Stitch

Stitch is the ETL tool used to pull data from various sources (including a subset of data from the BA database) into the data warehouse.

<https://www.stitchdata.com/eula/>

<https://www.talend.com/legal-terms/privacy/>

https://www.talend.com/wp-content/uploads/Talend-DPA-standard-customers_website.pdf

Alphabet (Google)

Google collects automated usage data on our website; this is disabled as soon as a student account is signed in, but may record data when a user is not yet signed in.

<https://policies.google.com/privacy?hl=en-US>

<https://marketingplatform.google.com/about/analytics/terms/us/>

<https://privacy.google.com/businesses/processorterms/>

<https://privacy.google.com/businesses/processorterms/ccpa/>

Microsoft

Microsoft collects automated usage data on our website; this is disabled as soon as a student account is signed in, but may record data when a user is not yet signed in.

<https://about.ads.microsoft.com/en-us/resources/policies/microsoft-advertising-agreement>

<https://privacy.microsoft.com/en-us/privacystatement>

<https://docs.microsoft.com/en-us/legal/gdpr>

Facebook

Facebook collects automated usage data on our website; this is disabled as soon as a student account is signed in, but may record data when a user is not yet signed in.

<https://www.facebook.com/policy.php>

https://www.facebook.com/legal/technology_terms

<https://www.facebook.com/legal/terms/dataprocessing>

<https://www.facebook.com/business/gdpr>

Hotjar

Hotjar collects automated usage data on our website; this is disabled as soon as a student account is signed in, but may record data when a user is not yet signed in.

<https://www.hotjar.com/legal/policies/privacy/>

<https://www.hotjar.com/legal/policies/terms-of-service/>

<https://www.hotjar.com/legal/support/dpa/>

TikTok

TikTok collects automated usage data on our website; this is disabled as soon as a student account is signed in, but may record data when a user is not yet signed in.

<https://ads.tiktok.com/i18n/official/policy/privacy> (Business Product Privacy)

<https://ads.tiktok.com/i18n/official/policy/product> (Business Product Terms)

<https://ads.tiktok.com/i18n/official/policy/disclaimer> (Broad Terms)

<https://ads.tiktok.com/i18n/official/article?aid=300871706948451871> (Jurisdiction Specific Terms)

Active Campaign

Active Campaign is our email list management tool.

<https://www.activecampaign.com/legal/privacy-policy>

<https://www.activecampaign.com/security>

Front

Front is used by our customer and technical service teams as a collaborative email inbox management system. Any emails sent to those teams (including any emails from teachers and school admins) go to Front.

<https://frontapp.com/privacy-policy>

<https://help.frontapp.com/t/63249k/fronts-security-practices>

NetSuite

NetSuite is our accounting/ERP software.

<https://www.oracle.com/legal/privacy/privacy-policy.html>

<https://www.netsuite.com/portal/platform/infrastructure/operational-security.shtml>

Salesforce

Salesforce is our institutional CRM software.

<https://www.salesforce.com/company/privacy/>

<https://security.salesforce.com/>

Click-up

Click-up is our internal project management software.

<https://clickup.com/privacy>

<https://clickup.com/security>

Sentry

Sentry is our error monitoring tool.

<https://sentry.io/privacy/>

<https://sentry.io/security/>

Exhibit B



Beast Academy Online Pricing Tiers for Poudre School District (2022 - 2023)

The pricing tiers below reflect the per-student rates for 12 months of access to Beast Academy Online:

- 10-100 students: \$60/student/year
- 101-200 students: \$57/student/year
- 201-300 students: \$54/student/year
- 301-400 students: \$51/student/year
- 401-500 students: \$48/student/year
- 501-600 students: \$45/student/year
- 601-700 students: \$42/student/year
- 701-800 students: \$39/student/year
- 801-900 students: \$36/student/year
- 901-1,000 students: \$33/student/year

Exhibit C



Poudre School District

DJG/DJGA - VENDOR RELATIONS, SALES CALLS AND DEMONSTRATIONS

VENDOR QUALIFICATIONS

No favoritism shall be extended to any vendor. The Finance Department, in cooperation with other interested District departments, sites and employees, may establish required vendor qualifications for certain District purchases, and may prequalify vendors, as they determine necessary or appropriate.

CONFLICT OF INTEREST

District employees have a fiduciary duty to act in the best interests of the District regarding all work they perform in connection with any District contract or purchase. No vendor shall offer, and no District employee shall accept, any gift, service, honorarium, stipend or fee that may objectively be viewed as having the purpose or effect of improperly influencing the employee to purchase goods and/or services from the vendor. No District employee may have a financial or business interest in any District contract or purchase made by the employee in his or her official capacity, and no District employee may influence or attempt to influence the District regarding any contract or purchase in which the employee has a financial or business interest.

SALES CALLS

To protect District students and staff against disruption of the educational process and/or interruption of the work day, sales representatives shall not be permitted in District schools for the purpose of making sales calls unless authorized to do so by the superintendent, executive director of finance or their designees.

The superintendent or executive director of finance may, when they determine it to be in the best interest of the District, bar any vendor, organization or person from any or all District facilities for soliciting purchases from or services to students, their parents/guardians, or District employees.

VIOLATIONS

Employees who violate any provision of this policy shall be subject to discipline up to and including termination of employment. Any vendor engaging in conduct that is inconsistent with this policy may be disqualified indefinitely from doing business with the District.

Adopted by Board: May 1972

Revised by Board: May 1982

Revised by Board: April 1988

Revised by Board to conform with practice: May 22, 1995

Revised by Board: April 8, 1996

Revised by Board: June 10, 1996

Revised by Superintendent: May 14, 2007

Revised by Superintendent: March 8, 2017

Revised by Board: February 12, 2019

Revised by Board: December 8, 2020

LEGAL REF:

C.R.S. 24-18-101, et seq.

CROSS REFS:

DJ, Purchasing

DJA, Purchasing Authority

DJB, Purchasing Procedures

FE, Construction Projects and Contracting Procedures

FEAA, Construction Project Prequalification

GBEA, Staff Ethics/Conflict of Interest

GBEBC, Gifts to and Solicitations by Staff

2023-2024 Art of Problem Solving - Beast Academy Agreement - V2 - Final Vendor Signed

Final Audit Report

2024-01-14

Created:	2024-01-11
By:	Becky Hall (rehall@psdschools.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAG3_tczo7nnFvx4px4iaQDqYH1Sn_9Nkg

"2023-2024 Art of Problem Solving - Beast Academy Agreement - V2 - Final Vendor Signed" History

-  Document created by Becky Hall (rehall@psdschools.org)
2024-01-11 - 8:43:13 PM GMT- IP address: 164.104.6.137
-  Document emailed to Traci Gile (tgile@psdschools.org) for signature
2024-01-11 - 8:44:49 PM GMT
-  Email viewed by Traci Gile (tgile@psdschools.org)
2024-01-12 - 3:58:40 AM GMT- IP address: 104.28.94.118
-  Document e-signed by Traci Gile (tgile@psdschools.org)
Signature Date: 2024-01-12 - 11:04:55 PM GMT - Time Source: server- IP address: 63.225.118.89
-  Document emailed to Dave Montoya (davem@psdschools.org) for signature
2024-01-12 - 11:04:59 PM GMT
-  Email viewed by Dave Montoya (davem@psdschools.org)
2024-01-14 - 11:12:04 PM GMT- IP address: 71.237.95.156
-  Document e-signed by Dave Montoya (davem@psdschools.org)
Signature Date: 2024-01-14 - 11:12:29 PM GMT - Time Source: server- IP address: 71.237.95.156
-  Agreement completed.
2024-01-14 - 11:12:29 PM GMT