



REQUEST TO EMERGENCY COMMISSION
SECRETARY OF STATE
 (See SFN 02580)

Request #: 2149

Requestor Information

Department name: North Dakota Center for Distance Education
 Department number: 20400
 Name of contact person: Rebecca Pollert
 Telephone number: (701) 515-1396

Purpose of Request

Is this request related to a state emergency? No
 Purpose of request: Increase in line item spending authority

Line Item	Amount
20470 Special Funds	\$250,000

Funding Information

What is the source of funds for the requested increase? Other
 Source: Pathmaker Grant
 Is the funding source a pass-through from another agency? Yes
 Agency name: North Dakota Department of Public Instruction
 Does the request require a general fund match in this bienium? No
 Will the request require general fund support in the next biennium? No

Background Information

Was any portion of the request presented during the previous legislative session? No
 Is the request for a new program? Yes

Provide explanation:

Funds to be used for turn-key digital courses and student scholarships through a partnership with NDCDE and Savvas. NDCDE will offer Savvas Pathmaker courses to provide students with course curriculum aligned to certification objectives, ensuring students get everything they need to excel on certification exams and earn industry recognized credentials that prepare them for success in the 21st century workforce.

Will funding be required in future bienniums? No

Does the request require an FTE increase? No

Does the request conform with legislative intent? Yes

Provide explanation:

The Leveraging the Senior Year initiative by NDDPI is a strategic program aimed at enhancing college and career readiness. The Pathmaker funding is a one-time support to provide access for students to take courses that will support their efforts towards certification testing.

Other Information

Statutory provisions that relate to this request:
 15-19 Distance Education



Provide an explanation as to how the request supports state priorities, improves state efficiencies, and promotes effective state government:

The Leveraging the Senior Year initiative aligns with North Dakota's "Choice Ready" framework, which aims to ensure students graduate with the skills necessary for success in college, careers, or the military. By providing rigorous academic opportunities and reducing the need for college remediation, the program supports the state's broader educational objectives. NDCDE will provide access for students to the CTE Pathway courses to earn certifications.

Provide any other relevant information:

Seeking authority to expend an additional \$250,000 from NDCDE's special funds to support this initiative. The IT review process and curriculum purchase agreements were not approved for the courses until May 5, 2025

Signature

☒ I, the undersigned, have read this Request, know the contents, and believe the statements contained within to be true.

Rebecca Pollert

05/07/2025

Sign Here

Date

Purchase of educational courses and related material from Savvas

TOTAL COST AND REQUESTED AP EXPIRATION DATE

Total cost is based on the purchase description (e.g. Single item purchase of \$30,000 with 5 units this biennium, totaling \$150,000. Contract with 3 renewals at \$20,000 per year equals \$80,000 total cost). \$50/enrollment, not to exceed \$200k (up to 4,000 licenses)
Describe the proposed contract period and renewal/extension options. executed date - June 30, 2027
Requested AP Expiration Date (if applicable)

MARKET RESEARCH, JUSTIFICATION, AND SUPPORTING DOCUMENTATION

<p>Explain why a fully competitive procurement process is impracticable or not in the best interest of the state. Provide factual evidence such as written documents, reports, supporting data, affidavits, patent or copyright information, research, or other information that may be attached to this request. Attach any available draft contracts, vendor quotes, or proposals.</p> <p>CDE is purchasing licensed content from Savvas for CTE Pathway courses that will be accessed from the CDE LMS (Agilix IT Review completed Feb 2025). It is inert content grabbed as a static package through an FTP process. NDCDE re-packages modules or courses to align with state education standards/requirements before adding content to the LMS. Students log in through NDCDE system and the vendor will never have access to student data. The software does not contain a call back to their system or any other locations.</p> <p>IT Review submitted and legal reviewed license agreement.</p> <p>Attached is the prior letter with proposed changes to NDAC and HB 1269 which has been signed by the Governor and will go into effect 8/1/25.</p>

INFORMATION TECHNOLOGY AND THIRD-PARTY RISK MANAGEMENT (TPRM) QUESTIONS

An IT Review is mandatory for all new and existing IT solutions, services, or hardware at the time of acquisition or contract execution, unless explicitly excluded. See: <https://www.ndit.nd.gov/governance/it-review>


The following items do NOT require an IT Review:

- a. End-User Compute Devices via State Contract (Desktop, laptop, tablets, ...)
- b. End-User Device Peripherals (Monitors, keyboard, mouse, webcam, cables, ...)
- c. Printers and Scanners via State Contract
- d. Cellphones, not including hotspots or other cellular-connected devices

Does your IT purchase fall into any of the above categories?	
<input type="checkbox"/> Yes - Does Not Require IT Review <input checked="" type="checkbox"/> No - Submit Request (see below)	
If your IT purchase does not fall in the above list, a ServiceNow, IT Review Request must be submitted.	
<input checked="" type="checkbox"/> IT Review request submitted - List ServiceNow Request Item (RITM) number: <u>RITM0333072</u>	
Include the following documentation in the IT Review Request (if available):	
<ul style="list-style-type: none">a. Solution Documentationb. Statement of Workc. Contract	
The IT review process can take up to four (4) weeks dependent upon responsiveness of stakeholders.	
Have you submitted an IT Solution Questionnaire?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No - Go to IT Solutions Questionnaire and complete the questionnaire.	
Anticipated Purchase Date	
4/23/2025	

APPROVALS
(internal use only)

NDIT APPROVAL (if required)

Date Approved		
04/29/2025		
Conditional Right to Proceed	Date of Conditional Right to Proceed	
<input type="checkbox"/> Approval of any exemption(s) prior to contract execution identified by the IT review process.		
<input type="checkbox"/> Security/Third Party Review		
<input type="checkbox"/> Review of contract draft by IT Procurement prior to contract execution.		
Note: Agency can proceed with negotiations on the purchase but cannot purchase or execute a contract until final approval is received. Non-compliance shall be reported to the Office of the State Auditor.		
NDIT Comments		
NDIT Representative Name	Signature	Date
Brandy Bentley		04/29/2025

OMB STATE PROCUREMENT APPROVAL (\$10,000 and over)

Approved <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Expiration Date (if applicable) 6/30/2027
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AUTHORITY FOR LIMITED OR NONCOMPETITIVE PROCUREMENT

Competition can be limited under the following NDCC or NDAC provisions. Check the appropriate authority reference(s).

- ☐ The commodity or service is available from only one source. [NDCC § 54-44.4-05 (4)(a)]
 - ☐ The commodity or service is for experimentation or trial. [NDCC § 54-44.4-05 (4)(b)]
 - ☐ No acceptable bid or proposal was received pursuant to a competitive bidding or competitive proposal process. [NDCC § 54-44.4-05 (4)(c) and NDAC § 4-12-11-08]
 - ☐ Commodities are being purchased for over-the-counter resale. [NDCC § 54-44.4-05 (4)(d)]
 - ☐ A used commodity is advantageous to the state and the commodity is available on short notice. [NDCC § 54-44.4-05 (4)(g)]
 - ☐ The commodity is a component or replacement part for which there is not commercially available substitute and which can be obtained only from the manufacturer. [NDCC § 54-44.4-05 (4)(h)]
 - ☐ Compatibility with equipment currently owned by the state is essential to the proper functioning of that equipment. [NDCC § 54-44.4-05 (4)(i)]
 - ☒ The agency provides documentation indicating that the services or the circumstances are of such a nature that deviation from the procurement procedure is appropriate. [NDCC § 54-44.4-05 (4)(j)]
 - ☐ Recurring support costs associated with implemented information technology solutions, including licensing, service agreements, maintenance, and subscriptions for software as a service, platform as a service, and infrastructure as a service. [NDCC § 54-44.4-05 (4)(k)]
 - ☐ Contracts for specialized equipment, machinery, and materials required for manufacturing, production, and distribution by North Dakota Mill and Elevator Association under section 54-18-02. [NDCC § 54-44.4-05 (4)(l)]
 - ☐ Purchases of copyrighted printed and electronic books, periodicals, subscriptions to publications, subscriptions to information services, prerecorded audio and video materials, state library materials, and state library online resources. [NDCC § 54-44.4-05 (4)(m)]
 - ☐ Products or services exclusive to particular individuals or business entities are required, but competition for that proprietary product exists. [NDAC § 4-12-09-02 (1)(a)]
 - ☐ Circumstances require that commodities or services be provided by vendors within a specific geographic area, such as equipment requiring local service, on-site service within a specific time, or delivery of ready mix concrete. [NDAC § 4-12-09-02 (1)(b)]
 - ☒ It is determined that a competitive sealed bid or competitive sealed process is impracticable or not in the best interest of the state. [NDAC § 4-12-09-02 (1)(c)]
 - ☐ The commodity or service is available from another government entity's contract. [NDCC § 54-44.4-13]
- NOTE: Attach a copy of the contract. OMB State Procurement Office approval is required regardless of the dollar amount.

Comments

Going forward this contract will be exempt from procurement because of house bill 1269. See below.

OMB Representative Name Chad Keech	Signature <i>Chad Keech</i>	Date 4/25/2025
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A Division of the
Office of Management
and Budget

STATE PROCUREMENT OFFICE

CENTRAL SERVICES DIVISION

Memo To: Steve Ring, ND Center for Distance Education
Alan Peterson, ND Center for Distance Education
Mike Ressler, ND Information Technology Department

From: Sherry Neas, Director, Central Services Division 

Date: November 14, 2013

Subject: Proposed changes to the N.D. Administrative Rules Chapter 4-12

Your agency recently contacted the State Procurement Office regarding procuring educational course work. The Office of Management and Budget (OMB) finds the course selection and development process established by your agency to purchase of educational courses and related educational materials is a circumstance of such a nature that deviation from the procurement process is appropriate.

This letter serves as OMB's prior written approval of the request to waive competition required by NDAC § 4-12-09-01(4).

Due to the reoccurring nature of this requirement, OMB will propose adding the following subsection under N.D.A.C. §4-12-09-01(3) to address this scenario:

"(g) Purchases of educational courses and related educational materials selected by the North Dakota Center for Distance Education."

OMB does not have immediate plans for rulemaking; therefore, this determination will remain in effect unless otherwise revoked by OMB or superseded by an administrative rule.

Please contact me at 701-328-1726 or sneas@nd.gov if you have any questions elated to this determination.

**Sixty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2025**

HOUSE BILL NO. 1269
(Representative Schreiber-Beck)

AN ACT to amend and reenact sections 54-44.4-02 and 54-44.6-02 of the North Dakota Century Code, relating to procurement exemptions and an exemption from forms management requirements for the North Dakota center for distance education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44.4-02 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-02. Office of management and budget purchasing services.

1. The office of management and budget shall purchase or lease or otherwise arrange for the procurement, for all state agencies and institutions in the executive branch of state government, all materials, furniture, fixtures, printing, insurance, services, and other commodities. The International Peace Garden may participate in the procurement authorized by this section. The following commodities and services, however, are not subject to the procurement requirements of this chapter:
 - 1.a. Land, buildings, space, or the rental thereof.
 - 2.b. Telephone and telegraph service and electrical light and power services.
 - 3.c. Public books, maps, periodicals, resource materials, and technical pamphlets.
 - 4.d. Department of transportation materials, equipment, and supplies in accordance with section 24-02-16.
 - 5.e. Procurements by the industrial commission for energy-related programs under chapters 17-05, 54-17.5, 54-17.6, 54-17.7, 54-63, and 54-63.1 and under those statutes in title 38 authorizing the industrial commission to perform well and hole pluggings, reclamation work, equipment removal, leak prevention, and similar work.
 - 6.f. Services for the maintenance or servicing of equipment by the manufacturer or authorized servicing agent of that equipment when the maintenance or servicing can best be performed by the manufacturer or authorized service agent, or when such a contract would otherwise be advantageous to the state.
 - 7.g. Emergency purchases the office of management and budget or a purchasing agency cannot make within the required time and which involve public health or public safety, or when immediate expenditures are necessary for repairs of state property to protect it against further loss or damage, or to prevent or minimize serious disruption in state services.
 - a.(1) Emergency purchases made under this subsection must treat all bidders fairly and promote competition as is practicable under the circumstances.
 - b.(2) The procurement file must contain a written determination of:
 - (1)a. The basis for the emergency; and
 - (2)b. The basis for the selection of the particular contractor.

- e-(3) If the emergency circumstances warrant a noncompetitive purchase, the office of management and budget or the purchasing agency shall document within the procurement file a written determination of the basis for the noncompetitive purchase, including the circumstances that justified the noncompetitive purchase.
 - d-(4) If the emergency purchase is subject to federal funding reimbursement, the office of management and budget or the purchasing agency shall ensure the procurement procedures and documentation are adequate to satisfy requirements for federal reimbursement.
 - e-(5) If time allows, emergency purchases for commodities under this subsection may require a sample for use in determining whether an offered product meets specifications.
 - 8-h. Commodities and services costing less than a specified amount as determined by written directive by the director of the office of management and budget.
 - 9-i. Specified commodities and services as determined by written directive by the director of the office of management and budget.
 - 10-j. Employee benefit services, trust-related services, and investment management services obtained by an agency with a fiduciary responsibility regarding those services. Nothing in this subsection may be construed to allow an agency to create or renew a contract perpetually and without limitation.
 - 11-k. Services to extract, tow, store, and dispose of abandoned or submerged vehicles as defined in chapter 23.1-15.
 - 12-l. Contracts by the agriculture commissioner for agricultural market news services under cooperative agreements with the United States department of agriculture, ombudsmen for pipeline restoration under section 4.1-01-17, environmental impact mitigation services under section 4.1-01-21.1, ombudsmen for wind property issues under section 4.1-01-23, weed control inspection agents under section 4.1-14-02, and hemp testing under section 4.1-18.1-04.2.
 - 13-m. Contracts by the state auditor for audits of computer systems under section 54-10-29.
 - 14-n. Contracts by the attorney general with experts under section 10-33-145.
 - 15-o. Contracts by the department of health and human services for online virtual mental health and suicide prevention simulation-based training programs under subsection 28 of section 50-06-05.1 and brain injury informal supports under section 50-06.4-07.
 - p. Contracts by the North Dakota center for distance education for educational content, educational technology tools, and related services for virtual delivery of education to students in kindergarten through grade twelve.
2. All purchases made by the office of management and budget or a state agency or institution to which authority to purchase has been delegated by the office of management and budget must be made in accordance with this chapter, rules adopted under this chapter, and written policies of the office of management and budget.

SECTION 2. AMENDMENT. Section 54-44.6-02 of the North Dakota Century Code is amended and reenacted as follows:

54-44.6-02. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Agency" means any department, office, commission, board, or other unit, however designated, of the executive branch of state government. The term does not include the North Dakota center for distance education.
2. "Form" means any document designed to record information and containing blank spaces and which may contain headings, captions, boxes, or other printed or written devices to guide the entry and interpretation of the information.


Speaker of the House


President of the Senate


Chief Clerk of the House


Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1269.

House Vote: Yeas 89 Nays 0 Absent 5

Senate Vote: Yeas 46 Nays 1 Absent 0


Chief Clerk of the House

Received by the Governor at 10:25 A.M. on April 1st, 2025.

Approved at 1:14 P.M. on April 2nd, 2025.


Governor

Filed in this office this 3rd day of April, 2025,
at 10:44 o'clock A.M.


Secretary of State

From: [Pollert, Rebecca](#)
To: [Pollert, Rebecca](#)
Subject: File: IT Review Request Request Completed for Rebecca Pollert
Date: Monday, May 5, 2025 2:24:27 PM
Attachments: [image](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

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Catalog Task

SCTASK0336718

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Discuss

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Number

SCTASK0336718

Priority

4 - Low

Assignment group

NDIT-Cyber Governance and Risk Management

State

Closed Skipped

Assigned to

Closed

2025-04-24 10:39:58

Configuration item

Business duration

19 Hours 15 Minutes

Active

Request item

RITM0333072

Approval

Not Yet Requested

Requested for

Rebecca Pollert

Short description

Third-Party Risk Assessment | CDE | CTE Curriculum

Description

Close notes

Watch list

Activities: 3

DB, Dylan C Bader

Work notes • 2025-04-24 10:40:45

TPRM out of scope. Directly hosted by Agency with no vendor access

DB, Dylan C Bader

Field changes • 2025-04-24 10:39:58

State Closed Skipped was Open

RP, Rebecca Pollert

Field changes • 2025-04-23 15:24:50

Impact 3 - Low

Opened by Rebecca Pollert

Priority 4 - Low

State Open

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Catalog Task

SCTASK0336719

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Discuss

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Number

SCTASK0336719

Priority

4 - Low

Assignment group

NDIT-Architecture

State

Closed Complete

Assigned to

Kevin L Backman

Closed

2025-04-25 13:54:23

Configuration item

Business duration

1 Day 22 Hours 29 Minutes

Active

Request item

RITM0333072

Approval

Not Yet Requested

Requested for

Rebecca Pollert

Short description

Architecture Review | CDE | CTE Curriculum

Description

Close notes

EA Review complete. No waiver required.

Watch list

Activities: 4

KB, Kevin L Backman

Field changes • 2025-04-25 13:54:23

State Closed Complete was Work in Progress

KB, Kevin L Backman

Field changes • 2025-04-25 13:44:18

State Work in Progress was Open

MB, Michael A Benz

Field changes • 2025-04-24 08:17:13

Assigned to Kevin L Backman

RP, Rebecca Pollert

Field changes • 2025-04-23 15:24:50

Impact 3 - Low

Opened by Rebecca Pollert

Priority 4 - Low

State Open

Catalog Task
SCTASK0336774

NumberSCTASK0336774

Assignment groupNDIT-Cyber Governance and Risk Management

Assigned toNaphtali Abang

Configuration item

Active

ApprovalNot Yet Requested

Short descriptionSystem Risk Assessment | CDE | CTE Curriculum

Description

Close notesThe risk of configuring and using this solution is Low even though the system has never been breached. There's no information on patching cadence. There exists information on data protection, on encryption for both at-rest and in-transit, policy regarding acceptable use, available terms of use, and no information on the employment of Single-Sign-On (SSO). Given that this solution is a low baseline system, CDE should ensure that the common weaknesses found in the solution should be remediated and reduced to a minimal level to enhance security, and the continuous monitoring of the system. The use of the communication protocol, File Transfer Protocol, FTP, should be forbidden in favor of the use of a more secure version, Secure File Transfer Protocol, SFTP.

Watch list

Priority4 - Low

StateClosed Complete

Closed2025-05-05 10:01:50

Business duration11 Days 2 Hours 40 Minutes

Request itemRITM0333072

Requested forRebecca Pollert

Activities: 4

NA Naphtali Abang
Task has been completed.
Work notes • 2025-05-05 10:01:50

NA Naphtali Abang
State Closed Complete was Open
Field changes • 2025-05-05 10:01:50

KP Kathleen M Peery
Assigning a mini risk assessment to Naphtali.
Work notes • 2025-04-24 07:20:52

KP Kathleen M Peery
Assigned to Naphtali Abang
Impact 3 - Low
Opened by Kathleen M Peery
Priority 4 - Low
State Open
Field changes • 2025-04-24 07:20:52

Requested Item
RITM0333072

Additional actions

NP Natasha M Peterson
IT Review complete and approved.
Additional comments • 2025-05-05 13:27:20

KL Kevin L Backman
EA Review complete. No waiver required.
Work notes • 2025-04-25 13:54:07

KL Kevin L Backman
State Work in Progress was Open
Field changes • 2025-04-25 13:44:19

KP Rebecca Pollert
Impact 3 - Low
Opened by Rebecca Pollert
Priority 4 - Low
Received false
State Open
Field changes • 2025-04-23 15:34:50

Cancel Reason -- None --

UpdateSave

Catalog Tasks (5)ApproversGroup approvalsChange RequestsRelated Project Planning AnalysisStoriesTask SLAsRelated Attachments

NumberSearch

Actions on selected rows...

Request item = RITM0333072

	Number	State	Created	Item	Assignment group	Assigned to	Department	ID	Requested for	Due date	Additional comments	Asset tag	Asset	S
<input type="checkbox"/>	SCTASK0336774	Closed Complete	2025-04-24 07:20:52	IT Review Request	NDIT-Cyber Governance and Risk Management	Naphtali Abang	DPI-Center for Distance Education	204.0	Rebecca Pollert	2025-04-26 15:24:50	2025-05-05 13:27:19 - Natasha M Peterson		(empty)	
<input type="checkbox"/>	SCTASK0336721	Closed Complete	2025-04-23 15:24:51	IT Review Request	NDIT-Cyber Governance and Risk Management	Natasha M Peterson	DPI-Center for Distance Education	204.0	Rebecca Pollert	2025-04-26 15:24:50	2025-05-05 13:27:19 - Natasha M Peterson		(empty)	
<input type="checkbox"/>	SCTASK0336720	Closed Complete	2025-04-23 15:24:51	IT Review Request	NDIT-Procurement	Brandy L Bentley	DPI-Center for Distance Education	204.0	Rebecca Pollert	2025-04-26 15:24:50	2025-05-05 13:27:19 - Natasha M Peterson		(empty)	
<input type="checkbox"/>	SCTASK0336719	Closed Complete	2025-04-23 15:24:50	IT Review Request	NDIT-Architecture	Kevin L Backman	DPI-Center for Distance Education	204.0	Rebecca Pollert	2025-04-26 15:24:50	2025-05-05 13:27:19 - Natasha M Peterson		(empty)	
<input type="checkbox"/>	SCTASK0336718	Closed Skipped	2025-04-23 15:24:50	IT Review Request	NDIT-Cyber Governance and Risk Management	(empty)	DPI-Center for Distance Education	204.0	Rebecca Pollert	2025-04-26 15:24:50	2025-05-05 13:27:19 - Natasha M Peterson		(empty)	

1 to 5 of 5

From: IT ServiceNow <itservicenow@messages.nd.gov>
Sent: Monday, May 5, 2025 1:28 PM
To: Pollert, Rebecca <rpollert@nd.gov>
Subject: IT Review Request Request Completed for Rebecca Pollert



IT Review Request Request Completed for Rebecca Pollert

IT Review Request Request for Rebecca Pollert has been completed with the following status:
Closed Complete

Click [here](#) to see more information about request item: RITM0333072

Thank you,
NDIT Service Desk
State of North Dakota
701-328-4470 / 877-328-4470
[NDIT Support Portal](#)

Request Information:

Item: IT Review Request
Opened: 2025-04-23 15:24:50 CDT
Short Description: Request an information technology review.
Status: Closed Complete
Department: DPI-Center for Distance Education
Division:
Charge Code:
Select Approving Manager: Alyssa R Martin

Requester Details Provided:

Requested For: Rebecca Pollert
Email: rpollert@nd.gov
Department: DPI-Center for Distance Education

Comments

2025-05-05 13:27:19 CDT - Natasha M Peterson (Additional comments) IT Review complete and approved.

Ref:MSG18063513_jhUWwFxtPIK53NWFvp



GRANT AWARD

NORTH DAKOTA DEPARTMENT OF PUBLIC INSTRUCTION

OFFICE OF FISCAL MANAGEMENT

SFN 14658 (08-2016)

Basic Information and Signatory Sheet

Program Title Pathmaker Program/Leveraging the Senior Year	Program Number S0109
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Grantor

Grantor Name and Address North Dakota Department of Public Instruction 600 E Boulevard Avenue, Bismarck ND 58505-0440	Grantor Contact Person Jamie Mertz
Grantor Telephone Number 701-328-2176	Grantor Email Address jdmertz@nd.gov

Grantee

Grantee Name North Dakota Center for Distance Education		Grantee Contact Person Alyssa Martin	
Grantee Telephone Number 701-630-1234		Grantee Email Address Alyssa.martin@k12.nd.us	
Grantee Address	Grantee City and State	Grantee ZIP Code +4	Grantee DUNS Number N/A

Grant Award Information

Type of Award X New <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment Number	Project Period (MM/DD/YYYY) From 07/01/2023 To 06/30/2025	Basis for Award <input type="checkbox"/> Proposal <input type="checkbox"/> Formula X Other
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Funding Source

<input type="checkbox"/> Federal Award	FAIN Number	CFDA Number
	Federal Awarding Agency	CFDA Project Name/Description
X State Award	Program Name Leveraging the Senior Year	
<input type="checkbox"/> Other Award	Program Name	

Financial Information

1. Amount of Grant Award \$ 250,000.00	2. Previous Funds Awarded for Project \$	Total Funds Awarded (Box 1 plus Box 2) \$ 250,000.00
Remarks Funds to be used for turn-key digital courses and student scholarships through a partnership with NDCDE and Savvas. NDCDE will offer Savvas Pathmaker courses to provide students with course curriculum aligned to certification objectives, ensuring students get everything they need to excel on certification exams and earn industry recognized credentials that prepare them for success in the 21st century workforce.		

Evidence of Grantee's Acceptance By signing this agreement, I agree to conduct this grant award within the guidelines issued by NDDPI and to abide by the requirements listed in the "Fiscal Requirements for Federal Programs" published by NDDPI and obtained on their website. A final invoice and performance report will be submitted within 30 days after project's end date.

Signature of Authorized Representative <i>Alyssa Martin, Ph.D.</i>	Date 04/23/2025
Typed Name of Authorized Representative Alyssa Martin	

Evidence of Grantor's Acceptance

Signature of DPI Chief Financial Officer <i>Jamie Mertz</i>	Date 4/24/2025
Typed Name of DPI Chief Financial Officer Jamie Mertz	
Signature of DPI Deputy Superintendent	Date
Typed Name of DPI Deputy Superintendent Donna Fishbeck	
Signature of DPI Grant Manager N/A	Date

APPROVED

By dfishbeck at 12:26 pm, Apr 24, 2025

Speed Chart	Year 2025	Class 20165	Dept.ID 1000	Fund 391	Project S0106	Activity 0600	Account 712274	Category
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AGREEMENT

THIS AGREEMENT (“Agreement”) is made and entered into by and between Savvas Learning Company LLC (“Savvas”), having offices at 15 E. Midland Ave., Suite 502, Paramus, NJ 07652, and the North Dakota Center for Distance Education (the “Customer”), having its principal offices at 3435 56th St. S. #200 Fargo, ND 58104, and is effective as of the date last signed by the parties below (“Effective Date”).

1. **Definitions.** For purposes of this Agreement, the following definitions shall apply:

- 1.1 “Blended Product” means a product offered by Savvas that consists of a combination of materials delivered in tangible form (such as printed textbooks and workbooks or other tangible learning materials) and content delivered digitally through online services or platforms.
- 1.2 “Digital Product” means a product offered by Savvas that consists solely of content or courseware delivered digitally through online services or platforms.
- 1.3 “Documentation” means all instruction manuals, user guides and other information which Savvas generally makes available to users of its Products, whether in printed or electronic form, to aid in the use of such Products.
- 1.4 “Intellectual Property Rights” means all current and future worldwide patents and other patent rights, copyrights, mask work rights, trade secrets, trademarks, and all other intellectual property rights and the related documentation or other tangible expression thereof, applicable to the Products which are owned by or licensed to Savvas.
- 1.5 “Scope of Work” means the price quotations or other documents attached to this Agreement as Exhibit A, which identify the specific Products and Services being purchased by Customer.
- 1.6 “Print Product” means a product offered by Savvas that consists of tangible, printed products such as textbooks and workbooks, and associated materials delivered therewith.
- 1.7 “Product” means a Blended Product, Digital Product or Print Product.
- 1.8 “Services” means training, professional development, consulting, or other professional services offered by Savvas. Services are often, but not always, tied to the delivery of particular Products.

2. **Purchase of Products and Services.** Customer agrees to purchase, and Savvas agrees to provide, the Products and/or Services set forth in Exhibit A Scope of Work, all in accordance with the terms of this Agreement.

3. **Payment Terms.** Customer agrees to pay Savvas all fees charged for the Products and/or Services set forth on the Scope of Work, , in accordance with Savvas’ invoice terms which are net 30 days from the invoice date. Customer will provide Savvas with proof of any claimed tax exemption. Customer will pay a monthly charge of 1% on all amounts not paid when due, or, if a lower maximum rate is established by law, then such lower rate.

4. **Intellectual Property.**

- a. The Products, as well as any Documentation and any materials supplied by Savvas to Customer in connection with the delivery of Services (such Products, Documentation and other materials

being collectively referred to herein as the “Materials”), are proprietary to Savvas and/or its licensors, and are protected by copyright and other Intellectual Property Rights. While title to Print Products, and to the print component of Blended Products, will pass to Customer, such title passes only with respect to the specific physical copies of such Products purchased by Customer and not to the underlying Intellectual Property Rights inherent in such Products. It is acknowledged that for Digital Products, or for the digital component of Blended Products, any reference to the Customer “purchasing” or Savvas “selling” such Products is understood to mean that the Customer is purchasing and Savvas is selling a license to use such Products for a specific term as set forth on the Scope of Work. Title to Digital Products or to the digital component of Blended Products never passes to Customer. Savvas and its licensors retain all Intellectual Property Rights in and to the Materials, and any enhancements, derivatives, updates or other modifications thereto.

- b. Notwithstanding the foregoing, Savvas acknowledges that it obtains no ownership rights to any personally identifiable data regarding students or Customer’s employees. As an example, if Savvas prepares a Customer-specific report as part of a consulting service for Customer, Savvas retains all Intellectual Property Rights in the report template, but does not have any ownership rights with respect to any Customer-specific data included in the report. In addition, Savvas will not use any Customer data in a manner in which such data is attributable to Customer or political subdivisions of North Dakota without Customer’s permission. Savvas does, however, reserve the right to use de-identified data collected regarding users’ use of its Products, in a form that is no longer attributable to Customer or political subdivisions of North Dakota and aggregated with similar de-identified data collected from Savvas’ other customers, for the purposes of improving existing products, developing new products, evaluating and communicating product effectiveness and outcomes, and other related purposes.
5. **Damaged and Defective Products.** If a Print Product, or the print component of a Blended Product, is received in damaged or defective condition, Savvas will issue a credit or replacement at no charge to Customer if Customer promptly (but no later than 120 days after the date of purchase) returns the damaged or defective product. Customer must report missing product immediately upon receipt.
6. **Returns of Print Materials.** Returns of Print Products (other than damaged or defective products) are subject to the following conditions: (a) materials must be returned to Savvas at Customer’s expense in new, unused condition, suitable for resale by Savvas (note that any barcoding, stickering, stamping, or similar marking on any print materials renders them unsuitable for resale); (b) materials must be returned within six (6) months from the date of purchase; (c) Customer must obtain a Return Materials Authorization (“RMA”) from Savvas prior to returning the materials, and must ship the materials back to Savvas within thirty (30) days of receiving the RMA; (d) all materials sold in a set or package must be returned complete as originally sold; and (e) any materials provided by Savvas to Customer on a no-charge basis in consideration of Customer’s purchase must be returned in proportion to the purchased materials that are being returned for a credit. A restocking fee of 3% may be applied to credits over \$1,000. Savvas’ return policy does not apply to science lab kits or trade publication novels, which are sold on a non-returnable basis.
7. **Terms Applicable to Digital Materials.** For Digital Products, or the digital component of Blended Products, the following terms shall apply:
 - 7.1 Savvas is committed to maintaining data privacy and security practices that are consistent with applicable law and industry standards. Savvas will maintain all personally identifiable information regarding the users of its Products in accordance with Exhibit B, attached hereto.

- 7.2 Customer will not, and will not knowingly permit its end users to, (i) attempt to decompile, disassemble, or reverse engineer any such Products; (ii) frame or utilize framing techniques to enclose any part of the Products; (iii) gather, obtain, use, access or otherwise copy any materials delivered through the Products by using any bot, spider, crawler, spyware, engine, device, software or any other automatic device, utility or manual process of any kind; (iv) allow third parties (i.e., individuals who are not students, instructors, or others in an educational relationship with Customer's students) to access such Products; or (v) attempt to interrupt, disable, damage or otherwise impair any such Products.
- 7.3 Savvas cannot assure that the performance of the digital component of any Product will be uninterrupted or error-free, or that all Product problems will be corrected, despite Savvas' reasonable efforts to do so. Savvas does, however, warrant that, throughout Customer's license term, the digital component of any Product will substantially conform to the applicable description and specifications contained in the Documentation delivered with such Product. The foregoing warranty shall not apply to any Product that has been modified in any way by Customer, damaged, or used in a manner that does not conform to the instructions and specifications contained in the Documentation for such Product (including any recommended system requirements published by Savvas for such Product, which are available upon request). In the event that the digital component of any Product does not meet the requirements of this warranty, Customer shall be responsible to notify Savvas in writing and provide Savvas with sufficient detail to allow Savvas to reproduce the problem. After receiving such notification, Savvas will undertake to correct the problem by programming corrections, reasonable "work-around" solutions and/or Documentation corrections. If Savvas is unable to correct the problem after a reasonable opportunity, then, at Customer's option, Customer may elect to terminate its license to such Product upon written notice to Savvas, and Savvas will refund a prorated portion of the license fees paid for such Product, computed from the date of termination through the end date of Customer's subscription. The foregoing states the complete and entire remedies that Customer has under this warranty.

8. **Services.** For Services, the following terms shall apply:

- 8.1 Savvas warrants that the Services will be performed by qualified personnel in a good and workmanlike manner consistent with industry standards.
- 8.2 Services are scheduled at mutually agreed upon times. Services should ordinarily be scheduled at least thirty (30) days in advance to ensure availability of Savvas personnel.

9. **Term.**

- 9.1 This Agreement will commence on the Effective Date and ends June 30, 2027.
- 9.2 **No Automatic Renewal.** The Agreement will not automatically renew.
- 9.3 **Renewal Options.** The Agreement may be renewed upon satisfactory completion of the Initial Term, upon mutual agreement and with a signed amendment. Customer reserves the right to execute up to two (2) options to renew the Agreement under the same terms and conditions for a period of twelve (12) months each.
- 9.4 **Renegotiation Option.** Because it is unknown how long the solution and services will be used by Customer and ongoing maintenance and support are required for as long as the system is operational, the Parties may renegotiate this Agreement. After completion of the Initial Term, renewals, and extensions, the Parties may renegotiate the pricing and Term of this

Agreement. New pricing and Term shall be mutually agreed upon by the Parties and executed in writing.

If, during the Initial Term, any renewal, or extension the Parties determine a realignment of the Term is needed (e.g., to align with State's fiscal biennium, SaaS period, etc.), the Parties may mutually agree, in writing, to a new Term with a termination date not to exceed the total available length of Agreement including its Initial Term, renewals, and extensions.

10. TERMINATION.

10.1 Termination for Convenience or by Mutual Agreement.

Either party may terminate this Agreement in whole or in part upon thirty (30) days' written notice to the other party. This Agreement may be terminated by mutual consent of both parties executed in writing.

10.2 Early Termination in the Public Interest. Customer is entering the Agreement for the purpose of carrying out the public policy of the State of North Dakota, as determined by its Governor, Legislative Assembly, Agencies, and Courts. If the Agreement ceases to further the public policy of the State of North Dakota, Customer, in its sole discretion, by written notice to Savvas, may terminate this Agreement in whole or in part. Customer shall pay Savvas a pro rata amount for Products delivered to the date of such termination.

10.3 Termination for Lack of Funding or Authority. Customer, by written notice to Savvas, may terminate the whole or any part of this Agreement under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained or continued at levels sufficient to allow for purchase of the services or goods in the indicated quantities or term.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services or goods are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Agreement, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Agreement under this subsection is without prejudice to any obligations or liabilities of either Party already accrued prior to termination.

10.4 Termination for Cause. Customer may terminate this Agreement for material breach effective upon delivery of written notice to Savvas, or any later date stated in the notice:

- 1) If Savvas fails to provide services or goods required by this Agreement within the time specified or any extension agreed to in writing by Customer; or
- 2) If Savvas fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms.

THE RIGHTS AND REMEDIES OF CUSTOMER PROVIDED IN THIS SUBSECTION ARE NOT EXCLUSIVE AND ARE IN ADDITION TO ANY OTHER RIGHTS AND REMEDIES PROVIDED BY LAW OR UNDER THIS AGREEMENT. 11. FORCE MAJEURE

Neither Party shall be held responsible for delay or default caused by fire, riot, terrorism, pandemic (excluding COVID-19), acts of God, or war if the event was not foreseeable through the exercise of reasonable diligence by the affected Party, the event is beyond the Party's reasonable control, and the affected Party gives notice to the other Party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default. If Savvas is the affected Party and

does not resume performance within fifteen (15) days or another period agreed between the Parties, then Customer may seek all available remedies, up to and including termination of this Agreement pursuant to its Termination Section, and Customer shall be entitled to a pro-rata refund of any amounts paid for which the full value has not been realized, including amounts paid toward software subscriptions, maintenance, or licenses.

11. INJUNCTIVE RELIEF

Savvas shall immediately report to Customer any and all unauthorized disclosures or uses of Customer's confidential information or proprietary information of which Savvas or its staff is aware or has knowledge. Savvas acknowledges that any unauthorized publication or disclosure of Customer's confidential information or proprietary information to others may cause immediate and irreparable harm to Customer. If Savvas should publish or disclose such confidential information or proprietary information without authorization, Customer shall immediately be entitled to seek injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period. Savvas shall indemnify, defend, and hold harmless Customer from all damages, costs, liabilities, and expenses (including without limitation reasonable attorneys' fees) caused by or arising from Savvas' unauthorized use or disclosure of Customer's confidential information or proprietary information. As a condition to these indemnity obligations, Customer will provide Savvas with prompt notice of any claim of which Customer is aware and for which indemnification shall be sought under this Agreement and shall cooperate in all reasonable respects with Savvas in connection with any such claim.

12. Representations and Warranties

Savvas represents and warrants to Customer that neither Savvas, in connection with performing the services in performance of this Agreement, nor the completed product delivered by Savvas, will infringe any patent, copyright, trademark, trade secret or other proprietary right of any person. Savvas further represents and warrants to Customer that it will not use any trade secrets or confidential or proprietary information owned by any third party in performing the services related to this Agreement or in delivery of the completed product unless Savvas has the authority to license, use or provide those trade secrets or confidential or proprietary information to Customer. Savvas further represents and warrants to Customer that neither Savvas nor any other company or individual performing services pursuant to this Agreement is under any obligation to assign or give any work done under this Agreement to any third party

13. **DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE ARE NO WARRANTIES IN RELATION TO THE PRODUCTS OR SERVICES THAT ARE THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHER IMPLIED WARRANTIES OR CONDITIONS OTHERWISE ARISING BY STATUTE OR FROM A COURSE OF DEALING OR USAGE OF TRADE.**

14.. **LIMITATION OF LIABILITY. In no event shall either party's direct damages exceed twice the value of the agreement paid by Customer to Savvas during the twelve-month period preceding the event or occurrence giving rise to such liability, as required by N.D.C.C. §32-12.2-15.**

15. INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION

15.1 Savvas, at its own expense, shall defend and indemnify Customer against third-party claims that products furnished under this Agreement infringe a United States patent or copyright or misappropriate trade secrets protected under United States law.

Savvas's obligation shall not extend to a claim based on any alleged infringement arising from any: (a) additions, changes, or modifications to the services by or on behalf of Customer; (b) incorporation of the services or any component thereof into any other product or process; or (c) use of the services other than as permitted by this Agreement.

- 15.2 As to any product which is subject to a claim of infringement or misappropriation, Savvas may (a) obtain the right of continued use of the product for Customer or (b) replace or modify the product to avoid the claim. If neither alternative is available on commercially reasonable terms, then, at the request of Savvas, any applicable license and its charges will end, Customer will stop using the product, and will return the product to Savvas. Upon return of the product, Savvas will give Customer a credit for the price paid to Savvas, less a reasonable offset for use and obsolescence.

16. CYBER LIABILITY AND SECURITY INSURANCE.

In the event Savvas will host data, or provide for the hosting of data through a third-party entity, Savvas shall secure and maintain Cyber Liability and Security Insurance or equivalent insurance product(s), with minimum liability limits of not less than \$5,000,000 and first party limits of not less than \$1,000,000, that will provide, without cost to the Savvas or Customer, an immediate response in the event of a data breach, including meeting all notification obligations of Savvas and Customer and in the event the data breach involves personal information as defined by N.D.C.C. § 51-30-1(4), the insurance policy shall also make available free credit monitoring for any affected individual for a minimum period of one year. Savvas shall defend, indemnify, save and hold harmless, the Customer, its officers, agents and employees from liability of any nature or kind, including costs and expenses, on account of a data breach arising from Savvas hosting, transmission, or control of data, any and all suits, claims, or damages of any character whatsoever, resulting from injuries or damages sustained by any person or persons or property by virtue of performance of this Agreement.

17. Applicable Law and Venue

This Agreement is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Agreement must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each Party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

18. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

By entering this Agreement, Customer does not agree to binding arbitration, mediation, or any other form of mandatory Alternative Dispute Resolution. The Parties may enforce the rights and remedies in judicial proceedings. Customer does not waive any right to a jury trial.

- 19. Attorney Fees and Costs.** In the event a lawsuit is instituted by Customer to obtain performance under this Agreement, and Customer is the prevailing Party, Savvas shall, except when prohibited by N.D.C.C. § 28-26-04, pay Customer's reasonable attorney fees and costs in connection with the lawsuit.

20. NONDISCRIMINATION - COMPLIANCE WITH LAWS

Savvas agrees to comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights. (See [N.D.C.C. Title 34 – Labor and Employment](#), specifically [N.D.C.C. ch. 34-06.1](#) Equal Pay for Men and Women.)

Savvas agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation and workers' compensation premiums. Savvas shall have and keep current all licenses and permits required by law during the Term of this Agreement.

Savvas is prohibited from boycotting Israel for the duration of this Agreement. (See [N.D.C.C § 54-44.4-15](#).) Savvas represents that it does not and will not engage in a boycotting Israel during the term of this Agreement. If Customer receives evidence that Savvas boycotts Israel, Customer shall determine whether the company boycotts Israel. The foregoing does not apply to contracts with a total value of less than \$100,000 or if a contractor has fewer than ten (10) full-time employees.

Savvas's failure to comply with this section may be deemed a material breach by Savvas entitling Customer to terminate in accordance with the Termination for Cause section of this Agreement.

21. STATE AUDIT

Pursuant to N.D.C.C. § 54-10-19, all records, regardless of physical form, and the accounting practices and procedures of Savvas relevant to this Agreement are subject to examination by the North Dakota State Auditor, the Auditor's designee, or Federal auditors, if required. Savvas shall maintain these records for at least three (3) years following completion of this Agreement and be able to provide them upon reasonable notice. Customer, State Auditor, or Auditor's designee shall provide reasonable notice to Savvas prior to conducting examination.

22. SEVERABILITY

If any term of this Agreement is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the Parties are to be construed and enforced as if this Agreement did not contain that term.

23. General.

This Agreement is the complete agreement between Customer and Savvas with respect to its subject matter, and supersedes all prior discussions, understandings, arrangements and negotiations between the parties with respect thereto. This Agreement cannot be amended without the written agreement of both parties. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but which all together shall be deemed to constitute one and the same instrument. Transmission and receipt of this Agreement via facsimile, digital signature, or other electronic means shall be treated as original signatures for all purposes hereof and shall have the same legal effect as receipt of the original executed document by mail or any other acceptable means of delivery.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives below.

NORTH DAKOTA CENTER FOR
DISTANCE EDUCATION

By: Alyssa Martin, Ph.D.

Printed Name: Dr. Alyssa Martin_____

Title: State Director_____

Date: 04/23/2025

SAVVAS LEARNING COMPANY LLC

By: _____

Printed Name: _____

Title: _____

Date: _____

Savvas is prohibited from boycotting Israel for the duration of this Agreement. (See [N.D.C.C § 54-44.4-15](#).) Savvas represents that it does not and will not engage in a boycotting Israel during the term of this Agreement. If Customer receives evidence that Savvas boycotts Israel, Customer shall determine whether the company boycotts Israel. The foregoing does not apply to contracts with a total value of less than \$100,000 or if a contractor has fewer than ten (10) full-time employees.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives below.

NORTH DAKOTA CENTER FOR
DISTANCE EDUCATION

By: _____

Printed Name: Dr. Alyssa Martin _____

Title: State Director _____

Date: _____

SAVVAS LEARNING COMPANY LLC

By: Matt Stricker
Matt Stricker (Apr 23, 2025 13:28 CDT)

Printed Name: **Matt Stricker** _____

Title: **VP Operations** _____

Date: **04/23/2025** _____

EXHIBIT A

Scope of Work

Project Overview:

- Savvas will provide up to 2,000 student licenses per year for the Savvas CTE Career and Technical Education suite of courses and Driver's Education courses, if available in a digital format during the term of the contract, (the "Courses") for the 2025-2026 school year and the 2026-2027 school year. Licenses will not be rolled over beyond the 2026-2027 school year.
- Access to the Courses will be available through NDCDE's Learning Management System ("LMS"). Students will utilize current enrollment methods to select course(s) from NDCDE. All course materials (including lecture videos, interactive textbook, and assessments) will be provided by Savvas through its learning platform. Savvas may include additional tools via its learning platform.
- Student licenses are NDCDE hosted per Enrollment. An "enrollment" is defined as a student who has been enrolled in a single course for 14 days. Example: A student who is enrolled in 3 courses would be considered 3 enrollments.
- Students may be enrolled across multiple districts, days, and times with no minimum number of students in a course.
- NDCDE is responsible for providing a teacher of record to facilitate delivery of the content, administer the courses, and grade student assignments.
- *Content Modifications:* NDCDE is permitted to make additions or supplements to the course content hosted on NDCDE's LMS and may also be allowed to combine other content. Revisions made will be NDCDE's sole responsibility. As a clarification, NDCDE does not have a license to create derivative works of the Courses. Savvas will not have responsibility or liability for any reason with respect to NDCDE's revisions. Savvas retains ownership of any revised content.
- Savvas will provide marketing support and collaborate with NDCDE to build awareness and generate demand for student enrollment.
- Savvas will work with NDCDE to develop and distribute project announcements and enrollment marketing materials.
- *Installation and Integration Support.* NDCDE has or shall otherwise obtain the expertise necessary to install and integrate Savvas's Courses into NDCDE's LMS, and Savvas shall not be responsible for any costs associated therewith. Savvas will provide reasonable technical support to NDCDE. Savvas shall have no obligation to provide any support related to the Customer's installation, integration or use of Courses. Savvas will assign an account manager to NDCDE, at no charge, to serve as a primary in-office contact and oversee NDCDE's usage of Courses.
- *System Requirements.* Savvas will assist with installation and integration of Courses as set forth above. As between NDCDE and Savvas, NDCDE shall be solely responsible for ensuring that End Users have any and all tools and resources necessary or useful for the use of the Courses as permitted herein. Without limiting the foregoing, NDCDE acknowledges and agrees that Savvas is not able to, and does not, provide support to End Users with respect to their Internet connection, computer hardware, computer software, or personal email accounts.
- *Payment Schedule and Terms.* In consideration for 4,000 licenses, NDCDE will pay to Savvas \$200,000 within thirty (30) days of receipt of Savvas' invoice.
- *Pricing.* NDCDE may set the retail price for redistribution of the Courses at its sole discretion. Redistribution by NDCDE is limited to the benefit of Authorized Users. "Authorized Users" are (i) North Dakota school districts, tribal schools, nonpublic schools, homeschools, and diploma programs; and (ii) students, parents and guardians, teachers, and faculty associated with such entities.

EXHIBIT B

Data Privacy Agreement

This Data Privacy Agreement (the “DPA”) is made and entered into as of the date of the last executing signature of the accompanying agreement (the “Effective Date”) by and Savvas and the Customer. Each of Savvas and the Customer may be referred to herein as a “Party” or collectively as the “Parties.”

Savvas and the Customer are executing this DPA in conjunction with the Customer’s purchase of a license to educational product(s) that are delivered to the Customer via a hosted environment and for which Savvas therefore possesses data regarding the Customer’s students and teachers. In consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **CUSTOMER DATA.** For purposes of this DPA, “Customer Data” means any data, whether gathered by Savvas or provided by the Customer or its users, that is descriptive of a student or Customer staff. This includes user identification information and metadata which may contain Data or from which Customer’s Data may be ascertainable..
2. **USE OF CUSTOMER DATA.** Savvas acknowledges that, subject to the terms of this DPA, (a) Customer Data is owned by the Customer and/or its users, and Savvas does not have any ownership interest in such Customer Data, and (b) Savvas is entitled to use Customer Data solely for the purpose of providing the educational products that the Customer has licensed, along with any associated support or services.
3. **DATA SECURITY**
 - a) Remote access to Data from outside the United States, including remote access to Data by authorized support staff, is prohibited.
 - b) Savvas shall transmit, process, and store Customer Data within the continental United States.
 - c) Savvas shall notify Customer at least 90 days prior to any relocation of Customer’s Data to a different hosting facility. Customer reserves the right to terminate the Contract without penalty if Customer does not approve of the new hosting facility.
4. **CONFIDENTIALITY.** Savvas shall not use or disclose any information it receives from Customer under this Agreement that Customer has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Agreement or as authorized in advance by Customer. Customer shall not disclose any information it receives from Savvas that Savvas has previously identified as confidential and that Customer determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, [N.D.C.C. ch. 44-04](#). The duty of Customer and Savvas to maintain confidentiality of information under this section continues beyond the Term of this Agreement.
5. **MAINTENANCE OF CONFIDENTIALITY.** Savvas will maintain the confidentiality of all Customer Data as required by the Family Educational Rights and Privacy Act and all other applicable laws and regulations. Savvas will not use, or disclose to any third party, any Customer Data except as authorized in writing by the Customer. Savvas will employ reasonable and appropriate administrative, organizational, and technical safeguards to ensure the confidentiality of Customer Data and protect against the unauthorized disclosure thereof.
6. **SUBCONTRACTORS.** Savvas may provide Customer Data to subcontractors, solely for the purposes of facilitating the provision of the educational products licensed to the Customer. Savvas

will ensure that any such subcontractor is subject to a written agreement that includes confidentiality obligations consistent with those imposed on Savvas by this DPA. Savvas acknowledges and agrees that it is responsible for such subcontractors' compliance with the terms of this DPA.

23.2

7. **DELETION OF RECORDS.** Savvas will, upon reasonable notice and the request of the Customer, delete Customer Data from Savvas' systems. Savvas will also delete Customer Data from Savvas' systems in accordance with Savvas' record retention policy. Upon request, Savvas will provide a certification to the Customer that it has deleted any data in accordance with this Section. The Customer acknowledges that Savvas is not obligated to delete any data that may be contained in backup tapes or similar media designed for disaster recover purposes; provided, however, that if the underlying purpose for which Savvas originally retained such data has ended, then in no event will Savvas make any further production use of the data that is stored for disaster recovery purposes.
8. **TRAINING.** For those employees who handle Customer Data, Savvas provides training regarding their responsibilities under applicable law, and acceptable uses of Customer Data. Savvas also requires its subcontractors to provide training to their employees who handle Customer Data.
9. **ENCRYPTION:**

Information designated as sensitive, including PII, shall be encrypted end-to-end while it is in transit and at rest. Data must be encrypted using the most current Federal Information Processing Standard (FIPS) 140-2 validated cryptographic modules and the current Advanced Encryption Standard algorithm.

10. DATA BREACH:

- a) Upon discovery or reasonable belief of any Data Breach, Savvas shall provide notice, by phone and through electronic mail. Savvas shall provide such notification within twelve (12) hours or the timeframe required by applicable laws and regulations after Savvas reasonably believes there has been such a Data Breach. To the extent known at the time of notification, Savvas's notice shall include:
 - 1) The nature of the Data Breach;
 - 2) The Data accessed, used or disclosed;
 - 3) The person(s) who accessed, used, disclosed and/or received Data (if known);
 - 4) What Savvas has done or will do to quarantine and mitigate the Data Breach; and
 - 5) What corrective action Savvas has taken or will take to prevent future Data Breaches.
- b) Savvas will provide daily updates, or more frequently if required by Customer, regarding findings and actions performed by Savvas until the Data Breach has been effectively resolved to the Customer's satisfaction.
- c) Savvas shall quarantine the Data Breach, ensure secure access to Data, and repair SaaS as needed. Failure to do so may result in Customer exercising its options for assessing damages or other remedies under this Agreement.
- d) Savvas shall conduct an investigation of the Data Breach and shall share the report of the investigation with Customer. Customer and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Savvas shall cooperate fully with Customer, its agents and law enforcement.

11. **TERMINATION.** This Agreement will remain in effect for the length of the Customer's license to any of Savvas' hosted educational products. In addition, the obligations contained in this DPA will survive termination of this DPA or the underlying contract for as long as Savvas remains in possession of any Customer Data.

23.3

12. **ENTIRE AGREEMENT.** This DPA is the entire agreement between the parties with respect to its subject matter and supersedes all earlier oral or written agreements concerning the subject matter of this DPA. This DPA shall be governed by and construed in accordance with the laws of the State of North Dakota and shall not be amended except by a written agreement between the Parties. Failure of a Party to enforce its rights on one occasion will not result in a waiver of those rights on any other occasion. Savvas may not assign this DPA except to an entity that succeeds to the applicable portion of its business by way of a sale, merger or similar corporate transaction. This DPA will be binding upon the Parties' respective successors and assigns.