



**State of Oklahoma**  
**Office of Management and Enterprise Services**

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**ADDENDUM 1 TO**  
**STATE OF OKLAHOMA CONTRACT WITH GLYNLYON INC. D/B/A**  
**ODYSSEYWARE**  
**RESULTING FROM SOLICITATION NO. 0900000281**

This Addendum 1 (“Addendum”) is an Amendment to the Contract awarded to Glynlyon Inc d/b/a Odysseyware (“Odysseyware”) in connection with Solicitation No. 0900000281 (“Solicitation”) and is effective February 5, 2018.

**Recitals**

Whereas, the State of Oklahoma by and through the Office of Management and Enterprise Services on behalf of the Statewide Virtual Charter School Board (“State”) issued a Solicitation for proposals to provide qualified vendors for providing online course curriculum for K-12 education, as more particularly described in the Solicitation;

Whereas, Odysseyware submitted a proposal which contained exceptions to the Solicitation terms and various other Contract Documents; and

Whereas, the State and Odysseyware have negotiated the final terms under which Odysseyware will provide the online course curriculum and related services under the Contract.

Now, therefore, in consideration of the foregoing and the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties agree as follows:

1. **Addendum Purpose.**

This Addendum memorializes the agreement of the parties with respect to negotiated terms of the Contract that is being awarded to Odysseyware as of even date with execution of this Addendum. The parties agree that Supplier has not yet begun performance of work contemplated by the Solicitation.

2. **Negotiated Terms of the Contract.**

2.1. The parties have negotiated certain terms of the Contract as follows:

- i. certain exceptions to the Solicitation as contained in Attachment A to this Addendum titled "Negotiated Exceptions and Additional Terms to the Solicitation";
- ii. revisions to Odysseyware and Odysseyware Academy Standard Terms and Conditions as contained in Attachment B to this Addendum, titled "Standard Terms and Conditions";
- iii. revisions to Odysseyware's Service Level Agreement as contained in Attachment C to this Addendum, titled "Service Level Agreement";
- iv. revisions to Odysseyware's Terms of Use as contained in Attachment D to this Addendum, titled "Odysseyware Terms of Use".

Contract Documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above.

- 2.2. Any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.

**State of Oklahoma**

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

Name: James L. Reese, II

Title: Chief Information Officer

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

3/02/18

**Glynlyon Inc. d/b/a/ Odysseyware**

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

Name: Charles Mallon

Title: Chief Financial Officer

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

2/13/2018

**Attachment A to  
Addendum 1 to  
State of Oklahoma Contract with GLYNLYON  
D/B/A ODYSSEYWARE  
Resulting from Solicitation Number 0900000281**

**Negotiated Exceptions and Additional Terms to the Solicitation**

The Solicitation is hereby amended as set forth below and supersedes all prior Exceptions and additional terms submitted by Glynlyon d/b/a Odysseyware or discussed by the parties.

**Solicitation, Section A General Provisions, Subsection A.45.1 through A.45.7 is hereby deleted in its entirety and replaced with the following:**

As between Supplier and the State, the Work Product and intellectual property rights therein are and shall be owned exclusively by the State, and not Supplier. Supplier specifically agrees that the Work Product shall be considered “works made for hire” and that the Work Product shall, upon creation, be owned exclusively by the state. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Supplier hereby agrees that the Contract effectively transfers, grants, conveys, assigns, and relinquishes exclusively to the State all right, title and interest in and to all ownership rights and all Intellectual Property Rights in the Work Product, without the necessity of any further consideration, and the State shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Supplier acknowledges that Supplier and the State do not intend Supplier to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. The State shall have access, during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.) and upon reasonable prior notice to Supplier, to all Supplier materials, premises and computer files containing the Work Product. Supplier and the State, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted under the Contract to any Third Party Intellectual Property, except as may be incorporated in the Work Product by Supplier.

For the avoidance of doubt, Odysseyware curriculum including all underlying software, supporting materials and methodologies are specifically excluded from being considered Work Product as that term is herein used. Further, any derivative services, supporting materials and methodologies are also specifically excluded from being considered Work Product and that term is herein used.

The term Work Product means any and all deliverables produced by Supplier solely for the State under a statement of work executed by the parties and issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived solely for such deliverables, including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source

code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, and (vii) all intellectual property rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use of benefit of the State in connection with the statement of work for the deliverables.

**Solicitation, Section B Special Provisions, Subsection B.5. is hereby deleted in its entirety and replaced with the following:**

The Supplier agrees to pay an administrative fee in the sum of one percent [1%] of the combined total quarterly expenditures, as evidenced by the aggregate amount of Acquisitions under this Contract. All products prices shall be inclusive of the administrative fee. The administrative fee amount shall be noted on the quarterly “Contract Usage Report” and paid by the Supplier to the Oklahoma Office of Management and Enterprise Services within thirty (30) calendar days of the quarterly reporting period stated under the section below titled “Contract Usage Reporting Requirements”. The Supplier shall list this Contract number and identify the reporting year and quarter (for example, ITSW1010 4th Qtr. 2014) on the check stub of each administrative fee paid hereunder.

The check shall be mailed to:

Oklahoma Office of Management and Enterprise Services

Accounts Receivable

5005 North Lincoln Boulevard

Oklahoma City, Oklahoma 73118-8500

Attention: CFO

**Solicitation, Section B Special Provisions, Subsection B.15. is hereby added:**

The State requires any entity hosting Oklahoma client data to submit to a State Certification and Accreditation Review process to assess initial security risk. Supplier submitted to the review and

met the State's minimum security standards at time the Contract was executed. Failure to maintain the State's minimum security standards during the term of the contract, including renewals, constitutes a material breach.

**Solicitation, Section B Special Provisions, Section B.16 is hereby added:**

Odysseyware does not accept purchase cards.

**ATTACHMENT B  
ADDENDUM 1 TO  
STATE OF OKLAHOMA CONTRACT WITH GLYNLYON INC. D/B/A ODYSSEYWARE  
RESULTING FROM SOLICITATION NO. 0900000281**

The Standard Terms and Conditions is hereby amended as set forth below and supersedes all prior documents submitted by Glynlyon Inc. d/b/a Odysseyware or discussed by the parties.

**ODYSSEYWARE AND ODYSSEYWARE ACADEMY STANDARD TERMS AND  
CONDITIONS**

These Standard Terms and Conditions ("Terms") is a Contract Document in connection with the Contract issued as a result of Solicitation No. 0900000281 (the "Contract"), the terms of which are incorporated herein, and is entered into between Glynlyon Inc. d/b/a Odysseyware ("Odysseyware" or "Company") and the State of Oklahoma by and through the Office of Management and Enterprise Services on behalf of the Statewide Virtual Charter School Board ("SVCSB"). Capitalized terms not otherwise defined in these Terms have the meaning assigned to them in the Contract. If the Contract indicates the Service includes Odysseyware, the Odysseyware Addendum attached hereto is incorporated hereby as Exhibit A. If the Contract indicates the Service includes Odysseyware Academy, the Odysseyware Academy Addendum attached hereto is incorporated hereby as Exhibit B. If the Contract indicates the inclusion of Products, the Odysseyware Curriculum Addendum attached hereto is incorporated hereby as Exhibit C.

These Terms apply to the Service and Products. The Agreement for the Service and Products consist of these Terms and the applicable Quote (which references the purchased services, term, pricing, and other terms of the order). These Terms are applicable to the Service and/or Products to be provided to a school, school district, or other education institution or organization ("Customer") by Odysseyware pursuant to an order under the Solicitation by Customer ("Quote").

1. **SERVICE.** The "Service" as indicated in the Contract is Odysseyware (Company's proprietary internet-based learning management system and curriculum including academic core curriculum content for grades 3-12 (Social Studies/History, Science, Math, Language Arts), electives, placement testing, CRx, prescriptive and GED prep course, and all of its components) and/or Odysseyware Academy (Company's proprietary internet-based educational, instructional, and support service, including curriculum, teacher grading services, academic support, technical support, and program support for School leadership). The Service expressly includes all data, software, technology, animation, photographs, graphic, audio and visual files, text, platforms, documentation, and other materials related thereto.
2. **PRODUCTS.** The "Products" are the Odysseyware courses indicated in the Contract including all curriculum and assessments thereof provided by Odysseyware. The Products expressly include all data, software, technology, animation, photographs, graphic, audio and visual files, text, documentation, and other materials related thereto.
3. **TERM.** The term of the Agreement is the time period in which the Customer is granted access to the Service and Products under the Quote ("Term"). Customer only has the right to use the Products and/or Service during the Term.

4. GRANT OF RIGHTS. Subject to the terms of the Contract and upon payment in full of all required fees:
  - a. Company grants Customer a limited, non-exclusive, non-transferable license to utilize the Service only with Customer's students, administrators, faculty, and staff (collectively, "Authorized Users"). Customer's rights are limited to accessing the Service via the internet for the number of fully paid Authorized Users hereunder.
  - b. Company grants Customer a limited, non-exclusive, non-transferable license to incorporate the Products in the learning management system selected by Customer and to grant access thereby only to Customer's Authorized Users. Customer's rights are limited to utilizing the Products via the internet solely with Company's Authorized Users.
  - c. Customer will not assign or sub-license any of its rights hereunder.
5. FEES. Customer will pay all amounts as stated in the Quote and in accordance with the Contract and Oklahoma law. Customer will pay in full any Company invoice according to the terms of the Contract and in accordance with Oklahoma law. Company may discontinue Customer's access to or use of the Products or Service, with prior notice and thirty (30) day period to cure, if Customer fails to make any payment due Company within forty-five (45) days of the applicable due date.
6. OWNERSHIP. The Products and Service and all associated materials are the solely-owned or legally licensed property of Company. The Products and Service are licensed, not sold, to Customer under the Contract. Remuneration paid for access to and use of the Products and/or Service is a license fee for use. Company does not sell any title, ownership right, or interest in or to the Products or Service. Customer's rights are limited to a non-exclusive, non-transferable, limited license to use the Products and/or Service according to the terms of the Contract. Company reserves and retains all right, title, and interest (including copyrights, patents, trademarks, service marks, and other intellectual property rights) in, to, and associated with the Products and Service including rights to any derivative works that result from Customer's use of the Products and/or Service.
7. CUSTOMER WARRANTIES AND REPRESENTATIONS. Customer hereby warrants and represents that:
  - a. Customer has the legal right and is duly authorized to enter into the Contract and no part of the Contract conflicts with any other agreements or obligations binding or applicable to Customer.
  - b. Customer will promptly and completely install, use, test, and inspect the Products and/or Service and advise Company in writing of any inadequacies or shortcomings within one hundred twenty (120) days from the date that access to the Products and/or Service is first provided.
  - c. Customer will utilize the Products and/or Service only as expressly permitted by the Contract.
  - d. Customer will not do any act or thing or fail to do any act or thing, or permit or allow any other party to do any act or thing or fail to do any act or thing, that could harm or diminish Company's rights in or to the Products and/or Service, including the copyrights, trademarks, and intellectual property therein.
  - e. Customer will not make copies of, distribute, or permit any use of the Products and/or Service, or any related intellectual property, other than as specifically authorized by the Contract
  - f. Customer acknowledges and agrees that there will be times when access to the Products and/or Service may be limited or interrupted in accordance with Attachment C, Service Level

Agreement. Any such lack of access, regardless of timing, is not a breach of the Agreement.

- g. Customer will not, nor permit or allow any other party to, reverse engineer or otherwise analyze, reconstruct, disassemble, or reproduce any portion of the Products and/or Service in any way.
- h. Customer will furnish, at its sole expense, all computer and network hardware and software with adequate system configuration and maintenance and adequate internet service to operate the Products and/or Service.

8. **COMPANY WARRANTIES AND REPRESENTATIONS.** Company hereby warrants and represents that:

- a. Customer's access to and use of the Services and Products as described in the Contract will not infringe any third party copyright;
- b. the Services and Products including with limitation any information delivered as part of the Services and Products and all content, will be delivered, provided, and performed in a professional and workmanlike manner;
- c. the Services and Products will perform and conform to the documentation specifications, and any other descriptions and warranties set forth herein;
- d. the Services, Products, and any information or content delivered or furnished by Odysseyware will be in compliance with all applicable laws, rules, regulations, and determinations of government agencies, judicial orders, and regulatory or administrative rules or orders having jurisdiction over the subject matter;
- e. there are no protections, encryption, security, or lock-out devices, whether triggered by the passage of time, the use or operation of the equipment, remotely or otherwise which might in any way interrupt, discontinue or otherwise adversely affect the equipment or use thereof.
- f. Customer has followed all applicable procurement and governance statutes, policies, procedures, and/or regulations necessary to enter into the Contract..
- g. As an educational service provider, Company is not subject to the Individuals with Disabilities Education Act ("IDEA") and will not be a party to any individualized education program (IBP) prepared by Customer. Customer is solely responsible for ensuring that any student with a disability receives appropriate education as required by IDEA and receives any and all accommodations, supports, and/or services necessary to utilize the Products and/or Service. Upon the mutual written agreement of the parties, Company will make reasonable efforts to facilitate students' with disabilities utilization of the Service, if not changing the fundamental nature of the Service or resulting in undue administrative hardships or costs.

9. **TECHNICAL SUPPORT AND OPERABILITY.** Company will provide Customer with technical support in accordance with the Contract for the proper and intended use of the Products and/or Services. The following issues are not covered by Company technical support and Customer will not rely on any statements made on the following technical support matters or any other matter other than proper and intended use of the Products and/or Service:

- a. Network issues including internet connectivity or speed, internet service providers, online service providers, spyware, viruses, malware, faulty communications, etc
- b. Hardware issues including switches, hubs, modems, routers, firewalls, computers, etc.

- c. Infrastructure issues including power, electrical, cable, internet connection, etc.
- d. Issues related to Customer's use of third party software that are not caused by or related to the Services or Products.

#### 10. DISCLAIMER.

- a. Company makes no representation or warranty express or implied concerning the compatibility or operability of the Products or Service with any particular operating system or software. Company is not responsible or liable for any hardware failure, operating system or software conflict, server or security issue, or any other condition compromising or interfering with the operability or functioning of the Products or Service outside of its control.
- b. **COMPANY DISCLAIMS ALL OTHER WARRANTIES NOT SET FORTH WITHIN THE CONTRACT WITH RESPECT TO THE PRODUCTS AND/OR SERVICE, EITHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. ,**
- c. The disclaimers set forth in these Terms supersede any and all statements, information, or demonstrations, oral or written, by Company, its representatives, dealers, distributors, agents, or employees. No statements that are not set forth expressly and specifically in the Contract will create a warranty or in any way increase the scope of this Agreement and Customer may not rely on any such information, advice, suggestions, or recommendations.

#### 11. HOSTING; DATA SECURITY; AND BREACH OBLIGATIONS

##### a. **Security.**

- i. Generally. Company will implement and use commercially reasonable security measures, consistent with industry standards, to provide security for the Services, Products, and Customer Data and to protect against both unauthorized access to the hosting environment, and unauthorized communication between the hosting environment and Customer's browser. Customer Data shall mean all data supplied by or on behalf of the Customer in connection with Customer's use of the Services and Products.
- ii. Viruses. Company represents and warrants to the Customer that the Services and hosting equipment will be routinely checked with a commercially available, industry standard software application with up-to-date virus definitions. The first check will take place before first use by the Customer. Company will regularly update the virus definitions to ensure that the definitions are as up-to-date as is commercially reasonable. Company will promptly purge all viruses discovered during virus checks. If there is a reasonable basis to believe that a virus may have been transmitted to the Customer by Company, Company will promptly notify the Customer of such possibility in a writing that states the nature of the virus, the date on which transmission may have occurred, and the means Company has used to remediate the virus. Should the virus propagate to State asset IT infrastructure, Company is responsible for costs incurred by State for State to remediate the virus.
- iii. Company acknowledges that it is liable to maintain the security and privacy of Customer Data and may be held liable for a breach of its of its security which results in the improper or unauthorized release of protected information

- b. **Incident Response.** Company may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. Discussing security incidents with Customer should be handled on an urgent as-needed basis, as part of Company communication and mitigation **processes** and mutually agreed upon, defined by law or contained in the Contract.
- c. **Security Incident Reporting Requirements.** Company shall inform Customer of any security incident or data breach. Company shall report a security incident to the Customer identified contact set forth herein immediately as defined in this Agreement.
- d. **Breach Reporting Requirements.** If Company has actual knowledge of a confirmed data breach that affects the security of any of Customer's content that is subject to applicable data breach notification law, Company shall (1) promptly notify the appropriate Customer identified contact set forth herein within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the data breach in a timely manner.
- e. **Breach Responsibilities:** This section only applies when a data breach occurs with respect to Customer Data within the possession or control of Company.
  - i. Company, unless stipulated otherwise, shall immediately notify the Customer identified contact set forth herein by telephone in accordance with the agreed upon security plan or procedures if it reasonably believes there has been a security incident.
  - ii. Company, unless stipulated otherwise, shall promptly notify Customer identified contact within two (2) hours or sooner by telephone, unless shorter time is required by applicable law, if it conforms that there is, or reasonably believes that there has been a data breach. Company shall (1) cooperate with Customer as reasonably requested by Customer to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
  - iii. Unless otherwise stipulated, if a data breach is a direct result of Company's breach of its obligation to encrypt personal data and Customer Data or otherwise prevent its release, Company shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state law; (3) credit monitoring services required by state or federal law; (4) a website or toll-free numbers and call center for affected individuals required by state law – all not to exceed the per record per person cost calculated for data breaches in the United States on the most recent Cost of Data breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by Odysseyware based on root cause.

## 12. CONFIDENTIALITY

- a. Company agrees it will not disclose to any third party any Confidential Information of Customer except to the extent required by law or as otherwise expressly authorized herein. The term "Confidential Information" means all non-public information that Customer designates as being confidential. Customer's confidential information includes all Customer Data. Confidential Information does not include information that was known to the receiving party or in receiving party's possession prior to the disclosing party's disclosure to the receiving party; information that becomes publicly available

through no fault of the receiving party; is lawfully obtained from a third party who has the right to make such disclosure; or has been independently developed by one party without reference to any Confidential Information of the other party. Nothing in this Section 9 precludes either party from disclosing Confidential Information when and as required by law.

- b. The parties acknowledge that Customer is subject to certain laws governing the disclosure of public records.
- c. **FERPA and Confidentiality.**
  - i. Company's ability to provide services under the Contract requires Customer to share student data containing confidential personally identifiable information ("PII") from education records maintained by Customer with Company. Company agrees to comply with all state and federal laws relating to student data and privacy, including the Family Educational Rights and Privacy Act, (20 U.S.C § 1232g; 34 CFR Part 99).
  - ii. Student data released to Company will be limited to data points specifically listed in these Terms. If Company determines that there is a legitimate need to receive or access additional student data and that such data is necessary to perform required duties, Company shall submit a written request to Customer detailing the data needed and state the purpose of the disclosure. If Customer determines that access is necessary and appropriate, these Terms may be modified in accordance with the request. No additional data shall be provided until these Terms are modified to reflect the additional data disclosures.
  - iii. Company will safeguard the confidentiality and integrity of all data received pursuant to the Contract, place limitations on its use, and maintain compliance with all applicable privacy laws. Company shall establish appropriate administrative, technical and physical safeguards to ensure the security and confidentiality of all student data.
  - iv. Student information from education records cannot be published in a way that would allow individual students or their parents to be identified. Any reports or published information that is a result of or derived from confidential student data containing PII provided by Customer shall not allow individuals to be directly or indirectly identified and shall contain no individual student level data. Company may use student data from education records to perform contractual duties as required by the Contract, but any published results must be presented in a manner which protects the privacy and confidentiality of students. Customer shall be provided the opportunity to review all results prior to publication.
  - v. Company shall require all staff to comply with the data security and confidentiality provisions set forth herein. Only those employees that are directly involved in performing tasks outlined herein and who have a legitimate interest in providing services according to the terms of this Agreement shall be entitled to access student data. Company shall take steps to maintain the confidentiality of student information from education records.
  - vi. These Terms does not constitute a release of student-level data for the Company's discretionary use. Access to (or disclosure of) confidential student information contained from education records pursuant to the terms of these Terms shall not constitute an assignment of ownership of the information provided. Customer retains all ownership rights to the data transferred pursuant to this Agreement, and Company shall not obtain any right, title, or interest in any of the data furnished by Customer.
  - vii. Data transferred pursuant to this agreement may only be used to carry out the responsibilities

throughout the duration of the projects, task and assignments specified herein. Any unauthorized use of the data files beyond the terms specified in the Agreement is not permitted. Company shall not use the data for purposes other than the projects, task and assignments identified herein.

- viii. Company shall immediately notify Customer if there is any unauthorized access or breach to the data provided by Customer and take reasonable steps to mitigate any breach. In the event a breach occurs, Company will take reasonable steps and implement corrective procedures to ensure that further breaches do not occur.
- ix. Customer shall be notified immediately if Company receives a request for the student data containing PII provided by Customer. If Company becomes legally compelled to disclose any confidential PII (whether by judicial or administrative order, applicable law, rule or regulation, or otherwise), then Company shall use all reasonable efforts to provide Customer with prior notice before disclosure so that Customer may seek a protective order or other appropriate remedy to prevent the disclosure. If a protective order or other remedy is not obtained prior to when any legally compelled disclosure is required, Customer shall only disclose that portion of the confidential PII that it is legally required to disclose.
- x. Company may determine that it is necessary to employ a contractor or subcontractor to fulfill contractual obligations under the Contract. Company shall ensure, by written agreement, that any contractor or subcontractor employed by Company remains in compliance with FERPA.
- xi. Customer will immediately terminate this agreement and this agreement shall not be renewed due to the intentional breach of any of the terms and conditions of the data security and confidentiality provisions set forth herein b Company and Customer, OMES, and/or SVCSB may revoke any other existing RFP's or contract with Company.
- xii. Customer may seek monetary, restitutive and punitive damages against Company for a breach of any of the terms and conditions of the data security and confidentiality provisions set forth herein as allowed by law.
- xiii. Upon notification of a breach in the terms and conditions of the data security and confidentiality provisions set forth herein, Customer will not release any additional confidential personally identifiable information ("PII") from education records maintained by Customer to Company until corrective procedures have been implemented to ensure further breaches do not occur.
- xiv. Upon completion of the services detailed in these Terms or upon termination of this agreement, Company shall delete all PII that was disclosed by Customer and provided to Company for the purposes detailed in these Terms from its active database. Within ten (10) days of deletion, Odysseyware shall provide written notification to Customer of the date of deletion of these records. OMES acknowledges Odysseyware maintains full system backups for a period of 30 days, which include student PII, and these full system backups are not able to be separately purged of specific student PII. These full system backups are permanently deleted 30 days following the date of their creation. Full system backups are maintained in a secure location, and are only accessible following a complete system restore.

### 13. LIMITATION OF LIABILITY

- a. Except for amounts payable with respect to the indemnification obligations set forth in the Contract, the confidentiality obligations set forth in Section 12 of these Terms; and the hosting, data security and breach obligations set forth in Section 11 of these Terms, in no event shall either party have liability with respect to its obligations under the Contract for special, consequential, exemplary,

incidental or indirect damages for or loss of business profits. Odysseyware sole liability, including liability arising out of contract, negligence, and strict liability in tort, shall not exceed One Million Dollars for each occurrence. The parties agree that the foregoing limitations of liability are a condition and material consideration for their entry into the Contract.

- b. With respect to the indemnification obligations set forth in the Contract; confidentiality obligations set forth in Section 12 of these Terms; and the hosting, data security and breach obligations set forth in in Section 11 of these Terms, neither party shall be liable to the other for lost profits or for any special, punitive or exemplary damages in connection with the Contract including these Terms, the services or the systems, however caused, under any theory of liability.
- c. Notwithstanding anything to the contrary in the Contract, the foregoing provisions of the Section shall not apply to or limit damages, expenses, costs, actions, claims and liabilities arising from or related to property damage, bodily injury or death caused by Odysseyware; the bad faith, gross negligence or intentional misconduct of Odysseyware or its employees agents and subcontractors; or other acts for which applicable law does not allow exemption from liability.

#### 14. TERMINATION.

- a. The Agreement and any and all rights to access or use the Products and/or Service will terminate upon: (i) expiration of the Term; (ii) mutual written agreement of the parties; or (iii) notice of termination to a breaching party following a material, uncured breach hereof.
- b. Upon termination, Customer will pay Company any and all amounts due in accordance with the Contract and Oklahoma law. No refunds, whether prorated or otherwise, will be due Customer hereunder unless specifically agreed upon by the parties in writing.
- c. Upon termination, Customer and all Authorized Users will discontinue access to and use of the Products and/or Service and all rights granted to Customer and Authorized Users under the Agreement will revert to Company.
- d. Within thirty (30) days of termination, at Customer's sole cost and expense, Customer will irrevocably and entirely delete and ensure the deletion of all Product and Service components and materials, and any and all copies thereof, within the possession or control of Customer or Authorized Users, in whatever form then existing, including translations or compilations, whether partial or complete, and whether or not modified or merged into other software.

15. **SUSPENSION.** If Customer is in breach of any term of the Agreement, Company may elect to suspend Customer's access to the Products and/or Service until such breach is cured or the Agreement is terminated according to its terms. Such right to suspension is only available to Company after Company has notified Customer in writing of such breach and given Customer the opportunity to cure the breach within thirty (30) days of the written notification.

16. **FORCE MAJEURE.** If either party's failure to perform under the Agreement is caused by the unavailability of services or materials, labor disputes, governmental restrictions, or any other circumstances beyond such party's control, the failure to perform will not terminate this Agreement unless such failure continues for a period of more than six (6) months, following which either party, at its option, may terminate the Agreement by written notice to the other party.

17. **ASSIGNMENT.** Neither party may assign the Agreement, or any part thereof, without written permission from the other party,

18. REIMBURSEMENT RIGHTS. To the extent that Company breaches or allegedly breaches an obligation, covenant, representation, or warranty to Customer and such breach gives rise to a claim by a third-party against the Customer, the parties agree that Company will reimburse and be financially responsible to the Customer for any and all liabilities, damages, costs, expenses (including reasonable attorneys' fees and court costs) demanded, claimed, or obtained by a third-party against the Customer. This contractual right of reimbursement will be cumulative and will not be exclusive of any other right or remedy which may be available.
19. SEVERABILITY. If any provision of the Agreement is found to be void, invalid, or unenforceable, such provision will be reformed so as to be enforceable or severed and the Agreement with such provision reformed or severed will remain in full force and effect to the extent permitted by law.
20. WAIVER. No term or provision hereof will be deemed waived and no breach excused unless such waiver or consent is in writing signed by the party claimed to have waived or consented. A waiver of any term or condition will not be deemed a waiver of such term or condition for the future, or of any subsequent breach thereof, nor a permanent modification of such provision or of the Agreement.
21. NOTICE. Any notice hereunder other than regular statements, invoices, or payments will be sent prepaid to the applicable address stated below via certified or registered mail, return receipt requested, or overnight traceable courier (e.g. FedEx, UPS) and will be deemed delivered upon proof of receipt.

**Notices to Company must be copied as follows:**

Glynlyon Inc., DBA Odysseyware  
Attn: Legal Department  
300 N. McKemy Ave.  
Chandler, AZ 85226

with a copy via email to: [legal@glynlyon.com](mailto:legal@glynlyon.com).

**Notice to State of Oklahoma must be copied as set forth below: Notice to the State of Oklahoma is required for the hosting; data security; and breach obligations set forth in Section 12 of this Agreement and the confidentiality obligations set forth in Section 13 of these Terms.**

Chief Information Officer  
3115 North Lincoln Blvd.  
Oklahoma City, Oklahoma 73105  
Telephone No. 405-522-8855

And

Chief Information Security Officer  
3115 North Lincoln Blvd.  
Oklahoma City, Oklahoma 73105  
Telephone No. 405-522-4531

And

Information Services Deputy General Counsel  
3115 North Lincoln Blvd.  
Oklahoma City, Oklahoma 73105

**Notice to Statewide Virtual Charter School Board must be copied as follows:**

OSOCP Specialist  
2115 North Lincoln Blvd., Suite 4-37  
Oklahoma City, Oklahoma 73105

**Notice to Customer must be copied as follows:**

Name and Title of Customer Contact specified on Quote  
Organization specified on Quote  
Address specified on Quote

**EXHIBIT A TO  
ATTACHMENT B  
ODYSSEYWARE ADDENDUM**

1. GRANT OF RIGHTS.

- a. The quantity of Concurrent Licenses, User Licenses, and/or Single Course Student licenses granted hereunder is set forth in the Quote.
- b. A "Concurrent License" means an individual license to access the Service via the internet as follows: A Concurrent License may be used by any number of Authorized Users but each Concurrent License may not be used by more than one (1) Authorized User at the same time. Authorized User shall mean each Customer student, Customer teacher, administrator, or staff member who registers with Odysseyware and establishes a password to access the Services and Procedures made available under the Contract. The maximum number of Authorized Users that may access and use the Service at the same time shall be no more than the number of Concurrent Licenses specified in the Agreement or any fully-paid invoice for an extension of the Term.
- c. A "User License" shall mean a license to access the Service via the internet as follows: A User License is issued to a single and identified Authorized User and only that Authorized User shall be permitted to access or use the Service via that User License. Once a User License is assigned to an Authorized User, it may not be transferred to or used by another Authorized User except if the Authorized User to whom the User License was initially assigned graduates from, drops out of, transfers out of, or dis-enrolls from Customer's facility or institution. A User License can be transferred to another Authorized User as permitted herein no more than once.
- d. In addition to and independent of the Concurrent Licenses and User Licenses granted hereunder, if so indicated in the Contract, Customer may license individual courses for an Authorized User not utilizing a Concurrent License or User License ("Single Course Student") upon payment of the per-course fee specified in the Contract. Customer may purchase only one (1) course for any Single Course Student and shall pay the per-course fee in full in advance of Company granting access to the Single Course Student.

2. CUSTOMIZATION TOOL.

- a. Company may provide Customer with access to an application allowing for the creation, modification, and deletion of portions of Service curriculum ("Customization Tool"). Customer acknowledges and agrees that any and all content or material Customer modifies with the Customization Tool ("OW Content") shall be the sole and exclusive property of Company. Customer, for itself and its Authorized Users, hereby assigns, quit-claims, and waives any and all rights to any OW Content.
- b. Company acknowledges and agrees that any and all original content created by Customer with the Customization Tool ("Customer Content") shall be the sole and exclusive property of Customer. Customer hereby grants Company a non-exclusive, perpetual, worldwide, irrevocable, royalty-free license to use and exploit all Custom Content in connection with the Service.
- c. Customer and its Authorized Users shall not use the Customization Tool in any manner that could infringe upon any proprietary rights of any party or that could defame, slander, or libel any party, or to add or provide access to any content that Company deems in its sole discretion to be harmful,

threatening, unlawful, defamatory, infringing, harassing, vulgar, obscene, fraudulent, invasive of privacy or publicity rights, hateful, or racially, ethnically, or otherwise objectionable, as determined by Company in its sole discretion. Company hereby disclaims for all purposes and circumstances any responsibility or liability arising from customized content created by Customer's use of this Customization Tool.

**EXHIBIT B TO  
ATTACHMENT B**

**ODYSSEYWARE ACADEMY ADDENDUM**

1. GRANT OF RIGHTS. Rights are granted to Authorized Users on a "per student, per course" basis. An Authorized User may only utilize the Service for the courses in which the Authorized User is enrolled. Company will grade all assignments not automatically graded via the Service; provide Customer with access to Company teachers via the Service; and document Authorized Users' performance with grade reports. If an Authorized User does not use the Service for any course(s) within twenty-four (24) months of Company receiving Customer's purchase order for such course(s) ("Forfeit Date"), access to such purchased course(s) will be forfeited on the Forfeit Date.

**EXHIBIT C TO  
ATTACHMENT B**

**ODYSSEYWARE CURRICULUM ADDENDUM**

1. CUSTOMIZATION OF CONTENT.

- a. Customer acknowledges and agrees that any and all content or material used, added, modified, or created through or in connection with the Products ("Custom Content") shall be the sole and exclusive property of Company. Customer, for itself and its Authorized Users, hereby assigns, quit-claims, and waives any and all rights to any Custom Content.
- b. Customer and its Authorized Users shall not use the Products in any manner that could infringe upon any proprietary rights of any party or that could defame, slander, or libel any party, or to add or provide access to any content that Company deems in its sole discretion to be harmful, threatening, unlawful, defamatory, infringing, harassing, vulgar, obscene, fraudulent, invasive of privacy or publicity rights, hateful, or racially, ethnically, or otherwise objectionable, as determined by Company in its sole discretion. Company hereby disclaims for all purposes and circumstances any responsibility or liability arising from customized content created by Customer's use of this Customization Tool.

**ATTACHMENT C  
ADDENDUM 1 TO  
STATE OF OKLAHOMA CONTRACT WITH GLYNLYON INC. D/B/A ODYSSEYWARE  
RESULTING FROM SOLICITATION NO. 0900000281**

**SERVICE LEVELS**

I. **Service Level Commitment:** Except as provided herein, the annual service level for site access to the Application by licensed and authorized end users is 99.9 % over any 30 day rolling period. This service level provides that outside of normal maintenance windows, major functionality of the application will be available 99.9% of the time. At any given time, one or more components or features of the Application may be unavailable for a limited duration.

2. **Exceptions to Service Level Commitment:** The service level commitment for access to the Application does not apply and expressly excludes any inability to access the Application:

- (a) during the designated outage period of all Saturdays from approximately 9:00 p.m. through 12:00 a.m. (MST), which is the time reserved for maintenance, support and releases ("Designated Outage Period") and during which Company may, but is not required to, make access to the Application unavailable;
- (b) during any other scheduled outage in addition to the Designated Outage Period that is communicated no less than ten (10) days in advance by Company to Customer for necessary maintenance, upgrades or releases, which shall not occur more than twice in any twelve (12) month period;
- (c) that is due to a *force majeure*; act of god; war; the illegal or prohibited act of any third party; a terrorist act; or a power outage; or,

(d) that is resulting from or caused by, in whole or part, Customer's hardware, software, technology, or that of any of Customer's Authorized Users or an act or omission of Customer.

3. Upon a site outage reported to Company that is not due to one or more of the events identified in paragraph 2, Company typically responds within 90 minutes of the reported outage with an estimate of the time by which a resolution of the outage will be achieved.

4. If Customer's access to the Application is unavailable for a period of more than three (3) hours after Customer's report of the outage to Company for reasons other than those set for in paragraph 2 above ("Outage Event"), and if Customer experiences three Outage Events occur during any twelve (12) month period, each of which was reported by Customer to Company within twenty-four (24) hours of the Outage Event, Customer may apply for a one month extension of the Term of Customer's license of the Application for each Outage Event that occurs thereafter within the same twelve (12) month period by submitting such request for extension of the Term within ten (10) business days after each subsequent Outage Event to [Legal@glynlvon.com](mailto:Legal@glynlvon.com) and include in the request the name, address and contact individual of Customer; the date and time of the Outage Event for which the extension is being requested and date and time of the three prior Outage Events. Company shall grant Customer a one month extension at no additional charge to Customer so long as Customer has provided Company with the above-listed information.

**ATTACHMENT D**  
**ADDENDUM 1 TO**  
**STATE OF OKLAHOMA CONTRACT WITH GLYNLYON INC. D/B/A**  
**ODYSSEYWARE**  
**RESULTING FROM SOLICITATION NO. 0900000281**

The Odysseyware Terms of Use are hereby amended as set forth below and supersedes all prior documents submitted by Glynlyon Inc. d/b/a Odysseyware or discussed by the parties.

## **Odysseyware® Terms of Use**

These Odysseyware Terms of Use (“Terms of Use”) is a Contract Document in connection with the Contract issued as a result of Solicitation No. 0900000281 (the “Contract”), the terms of which are incorporated herein, and is entered into between Glynlyon Inc. d/b/a Odysseyware (“Odysseyware” or “Company”) and the State of Oklahoma by and through the Office of Management and Enterprise Services on behalf of the Statewide Virtual Charter School Board (“SVCSB”).

These Terms of Use apply to the use of the Service and Products, including the use of the software, materials, interactive features, and website associated with the Odysseyware website (“Website”). These Terms of Use are applicable to the Service and/or Products to be provided to a school, school district, or other education institution or organization (“Customer”) by Odysseyware pursuant to an order under the Solicitation by Customer (“Quote”).

These Terms of Use apply to Customer’s Authorized Users which shall mean each Customer student, Customer teacher, administrator, or staff member you registers with Odysseyware and establishes a password to access the Website made available under the Contract

### **A. General Provisions**

**3. Updates.** At its option, from time to time, Glynlyon may create updated versions of the Website and may make such updates available to you for free. Unless explicitly stated otherwise, any such updates will be subject to the terms of the Contract including any amendments to the Contract.,

**4. Proprietary Materials.** All content available through the Website, including designs, text, graphics, pictures, video, information, applications, software, music, sound, and other files, and their selection and arrangement ("Site Content"), as well as all software and materials contained in or related to the Website are protected by copyrights, trademarks, service marks, patents, trade secrets, or other proprietary rights and laws. Customer and Customer's Authorized Users agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit, or create derivative works from such content or materials. Systematic retrieval of data or other content from the Website to create or compile, directly or indirectly, a collection, compilation, recreation, database, or directory of Website materials is prohibited except as provided for herein. Use of Website content or materials for any purpose not expressly provided for in the Contract. is prohibited.

**5. Disclaimer of Warranty** No oral or written information, advice, suggestions, or recommendations given by Glynlyon, its representatives, dealers, distributors, agents, or employees shall create a warranty or in any way increase the scope of the Contract and Customer or Customer's Authorized Users may not rely on any such information, advice, suggestions, or recommendations. Some jurisdictions do not allow the exclusion or limitation of certain warranties or consumer rights so some exclusions and limitations may not apply..

**7. Severability.** If any provision of these Terms of Use is held to be ineffective, unenforceable, or illegal for any reason, Glynlyon may reform such provision to the extent necessary to make it effective, enforceable, and legal or such provision may be deemed severed and in either case these Terms of Use with such provision reformed or severed shall remain in full force and effect to the fullest extent permitted by law. The parties' failure to enforce any part or portion of this Agreement shall not be considered a waiver by either party.

**10. Export Prohibitions.** Any export or attempt to export the software either partially or in its entirety, related to the Website is governed by United States law and the laws of the jurisdiction in which Customer or Customer's Authorized Users reside. Any export of software related to the Website or any portion thereof in any way prohibited by law or regulations issued by agencies of the United States federal government is hereby prohibited. Portions of the Website may include restricted computer software. Neither the Website nor any portion thereof nor the underlying information or technology may be downloaded or otherwise exported or re-exported: (a) into (or to a national or resident of) any U.S. embargoed country; (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals; or (c) to the U.S. Commerce Department's Denied Persons or Entities List or Table of Denial Orders. Customer hereby represents and warrants that Customer and Customer's Authorized Users are not located in or the resident of any such country or on any such list.

## **B. End User Terms and Conditions**

**1. Ownership.** This Website and all associated materials provided by Glynlyon are the solely owned or appropriately licensed property of Glynlyon. The Website is licensed, not sold, to Customer under the terms of the Contract. Glynlyon does not sell any title, ownership right, or

interest in or to the Website. By using this Website, Customer is agreeing only to a non-exclusive, nontransferable license to use, according to the terms of the Contract, the Website and any software programs or other proprietary material of third parties that are incorporated into the Website. Glynlyon reserves and retains all applicable right, title, and interest (including but not limited to copyrights, patents, trademarks, and service marks and other intellectual property rights) in and to the Website and all associated materials. Any remuneration paid for this product constitutes a license fee for the use of the Website.

## **2. Use.**

(a) The copying, reproduction, duplication, translation, reverse engineering, adaptation, decompilation, disassembly, reverse assembly, modification, or alteration of the Website or any portion thereof is expressly prohibited without the prior written consent of Glynlyon except as provided for herein. The merger or inclusion of the Website or any portion thereof with any computer program, and the creation of derivative works or programs from the Website or any portion thereof, is also expressly prohibited without the prior written consent of Glynlyon.

(b) Requests for permission to reproduce, duplicate, adapt, or otherwise exploit any portion of the Website should be submitted in writing to the Glynlyon address listed at the bottom of this Agreement. Any permissions granted shall be in the sole and exclusive discretion of Glynlyon.

(c) Neither the Website nor any part thereof may be rented, leased, sold, assigned, transferred, re-licensed, sub-licensed, or conveyed for any purpose. Any attempted rental, lease, sale, assignment, transfer, re-license, sub-license, conveyance, gift, or other disposition of the Website in violation of this Agreement is null and void. Any act or failure to prevent an act in violation of this Agreement may result in civil and/or criminal prosecution.

(d) Programs or software developed and/or owned by entities other than Glynlyon and included with or incorporated into the Website (“Third Party Software”) is subject to and its use is governed by these Terms of Use. The use of Third Party Software except as for any purpose other than its intended use in conjunction with the Website is prohibited.

**3. Registration and Identifying Information.** Customer hereby represents and warrants that any and all information provided by Customer or Customer’s Authorized Users to Glynlyon shall be complete, true, accurate, and current in all respects and that Customer or Customer’s Authorized Users shall update any changes to information as soon as such changes occur. As related to Customer or Customer’s Authorized Users use of the Website, Customer and Customer’s Authorized Users are responsible for maintaining the confidentiality of their account and password and for restricting access to their computer. Customer and Customer’s Authorized Users agree to accept responsibility for all activities that occur under their account and password. When providing any identifying information about students or minors, Customer or Customer’s Authorized Users hereby represent and warrant that they are authorized to provide such information.

## **4. Hosting Policy.**

(a) Hosting Services provided by Glynlyon in connection with the purchase and use of the Website are included in any price paid for the Website and Glynlyon is not responsible nor will Glynlyon provide or offer any discounts or credits if Customer does not have adequate facilities or equipment to utilize the Hosting Services.

(b) Customer and Customer's Authorized Users agree to exercise the utmost vigilance and care in protecting all information to be transmitted via Glynlyon's Hosting Services. Glynlyon shall be responsible for all data transmitted pursuant to these Terms of Use in accordance with the Contract.

**5. Third Party Sites and Content.** The Website may contain (or may send you through or to) links to other websites ("Third Party Sites") as well as articles, photographs, text, graphics, pictures, designs, music, sound, video, information, applications, software, and other content or items belonging to or originating from third parties ("Third Party Content"). Glynlyon does not check such Third Party Sites and Third Party Content for accuracy, appropriateness, or completeness and Glynlyon is not responsible for any Third Party Sites accessed through use of the Website or for any Third Party Content posted on, available through, or installed from the Website, including the content, accuracy, offensiveness, opinions, reliability, privacy practices, or other policies of or contained in the Third Party Sites or the Third Party Content. Inclusion of, linking to, or permitting the use or installation of any Third Party Site or any Third Party Content does not imply approval or endorsement thereof by Glynlyon. Although some computers may employ filtering software to prevent access to certain Third Party Sites, Glynlyon shall have no responsibility or liability whatsoever for any Third Party Sites or Third Party Content accessed through use of the Website.

**6. User Conduct.** Customer and Customer's Authorized Users represent, warrant, and agree that no materials of any kind submitted through Customer's and Customer's Authorized User's account or otherwise created, used, posted, transmitted, or shared by Customer or Customer's Authorized Users on or through the Website will violate or infringe upon the rights of any third party, including copyright, trademark, privacy, publicity, or other personal or proprietary rights; or contain libelous, defamatory, or otherwise unlawful material. Customer and Customer's Authorized Users further agree not to use the Website to:

(a) collect email addresses or other contact information of other users from the Website;

(b) send unsolicited communications to other users of the Website;

(c) (a) take any unlawful or unauthorized actions or in any way damage, disable, overburden, or impair the Website or the intellectual property rights owned or licensed by Glynlyon as described elsewhere herein;

(d) upload, post, transmit, share, store, or otherwise make available any content that Glynlyon deems harmful, threatening, unlawful, defamatory, infringing, abusive, inflammatory, harassing, vulgar, obscene, fraudulent, invasive of privacy or publicity rights, hateful, or racially, ethnically, or otherwise objectionable in Glynlyon's sole discretion;

- (e) misrepresent yourself, your age, or your affiliation with any person or entity;
- (f) upload, post, transmit, share, or otherwise make available any unsolicited or unauthorized advertising, solicitations, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
- (g) (a) upload, post, transmit, share, store, or otherwise make publicly available through the Website any private information of any third party;
- (h) solicit personal information from anyone under 18 or solicit passwords or personally identifying information for commercial, unauthorized, or unlawful purposes;
- (i) upload, post, transmit, share, or otherwise make available any material that contains software viruses or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment;
- (j) intimidate or harass another;
- (k) upload, post, transmit, share, store, or otherwise make available content that would constitute, encourage, or provide instructions for a criminal offense, violate the rights of any party, or that would otherwise create liability or violate any local, state, national, or international law;
- (l) use or attempt to use another's account, service, or system or create a false identity on the Website;
- (m) interfere with or disrupt the Website or servers or networks connected to the Website, or disobey any requirements, procedures, policies, or regulations of networks connected to the Website;
- (n) upload, post, transmit, share, store, or otherwise make available content that infringes any proprietary rights of any party or defames, slanders, or libels any party, or otherwise violates any law of the United States or the jurisdiction in which you reside;
- (o) upload, post, transmit, share, store, or otherwise make available content that, in the sole judgment of Glynlyon, is objectionable or which restricts or inhibits any other person from using or enjoying the Website, or which may expose Glynlyon or its users to any harm or liability of any type;
- (p) facilitate or encourage any violations of this Agreement.

**7. User Content.** Customer or Customer's Authorized Users are solely responsible for the profiles (including any name, image, or likeness), messages, notes, text, information, listings, and other content that Customer or Customer's Authorized Users upload, publish, or display on or through the Website ("User Content"). Posting, transmitting, or sharing User Content through the Website that Customer or Customer's Authorized Users did not create, that they do not have the rights to, or that they do not have permission to post is prohibited. Customer and Customer's

Authorized Users understand and agree that Glynlyon may, but is not obligated to, review and may delete or remove (without notice) any User Content in its sole discretion, for any reason or no reason, including User Content that in Glynlyon's sole judgment violates this Agreement or which might be offensive, illegal, or that might violate the rights, harm, or threaten the safety of users or others. Customer and Customer's Authorized Users are solely responsible at their sole cost and expense for creating backup copies and replacing any User Content they post or store on the Site or provide to Glynlyon. When you post User Content, you authorize and direct Glynlyon to make such copies thereof as Glynlyon deems necessary in order to facilitate the posting, storage, and use of the User Content. By posting User Content through any part of the Website, you automatically grant, and you represent and warrant that you have the right to grant, to Glynlyon an irrevocable, perpetual, non-exclusive, transferable, fully paid, worldwide license (with the right to sublicense) to use, copy, publicly perform, publicly display, reformat, translate, excerpt (in whole or in part), and distribute such User Content for any purpose, commercial, advertising, or otherwise, on or in connection with the Website or the promotion thereof, to prepare derivative works of, or incorporate into other works, such User Content, and to grant and authorize sublicenses of the foregoing.

**8. Customization Tool.** Through Customer's use of the Website, Glynlyon may provide Customer access to an application allowing for the creation, modification, and deletion of portions of the Website and its related curriculum ("Customization Tool"). Customer's use of the Customization Tool is wholly governed by the Contract. Customer shall not use the Customization Tool to create any materials which infringe any proprietary rights of any party or defames, slanders, or libels any party, or any content that Glynlyon deems in its sole discretion to be harmful, threatening, unlawful, defamatory, infringing, abusive, inflammatory, harassing, vulgar, obscene, fraudulent, invasive of privacy or publicity rights, hateful, or racially, ethnically, or otherwise objectionable, or otherwise violates any law of the United States or the jurisdiction in which Customer reside. Glynlyon shall retain all right, title, and interest in and to all materials originally provided as part of the Website. Customer shall not own any right, title, or interest in or to any material created through the use of the Customization Tool nor may Customer rent, lease, sell, assign, transfer, re-license, sub-license, convey, gift, or otherwise dispose of any material created through the use of the Customization Tool. Glynlyon shall own all right, title, and interest in and to any material created through the use of the Customization Tool unless such materials defame, libel, slander, or infringe or otherwise violate the rights of any third party or are unauthorized in Glynlyon's sole discretion. Glynlyon hereby disclaims for all purposes and in all circumstances any responsibility or liability for any materials created through the use of the Customization Tool.

**9. Technical Support.** Glynlyon may provide technical support to Customer and Customer's Authorized Users in accordance with the Contract. Customer and Customer's Authorized Users must have uninterrupted Internet access in order to receive technical support. Under no circumstances is Glynlyon obligated to provide technical support for the following issues:

- (a) Network issues such as Internet Service Providers, spy ware, viruses, loss of communication on the network and similar issues outside of Glynlyon's control
- (b) Hardware issues such as switches, hubs, modems, routers, firewalls and similar items.

(c) Infrastructure issues such as power, electrical, or other instances beyond Glynlyon 's reasonable control.

### **C. Third Party Notices**

The Website may incorporate or have been created with the use of and in conjunction with Third Party Software. This Third Party Software may only be used in conjunction with the Website and Customer and Customer's Authorized Users may not use this Third Party Software for any other purpose or with any other product or service at any time or for any reason.

#### **Glynlyon Contact Information**

Glynlyon, Inc.  
Attn: Legal Department  
300 North McKemy Ave.  
Chandler, AZ 85226

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