

Keith Stewart, Director

Prince George's County Public Schools

Louis Wilson, Sr., Facilities Administration Building
13300 Old Marlboro Pike, Room 20
Upper Marlboro, MD 20772

NOTICE OF CONTRACT AWARD

December 20, 2022

Brightly Software, Inc.
11000 Regency Parkway, Suite 400
Cary, NC 27518
Phone: 919.624.3424
Email: matthew.lightner@brightlysoftware.com
Email: kevin.kemmerer@brightlysoftware.com

Eyvette L. Wright 
Telephone: 301.952.6571
Fax: 301.952.6605
Email: eyvette.wright@pgcps.com

SUBJECT: Rider KPN-A-201912-06, Equipment Inventory Data Gathering Services for Prince George's County Public School System

Brightly Software, Inc. has been selected as the vendor to provide services to Prince George's County Public Schools (PGCPS) in accordance with the above-mentioned **Rider KPN-A-201912-06 under PGCPS Contract DBS032-23** at one or more PGCPS Facilities. The vendor will provide on-site Equipment Inventory Barcoding Services in conjunction with Preventive Maintenance Schedule Creation.

This agreement is not for the purchase of software however, all the data collected will be imported into PGCPS Asset Essentials, Brightly's work and asset management software tool. (*See Attachment B, Master Agreement, Professional Services Addendum*). This contract sets-forth the terms and conditions for the Equipment Inventory Barcoding Services only and is provided for your review and acceptance. Any changes or additions made by your company must first be accepted by the Purchasing Division before the contract is valid.

The intent of this contract is to provide the Board with an expedited means of procuring supplies and/or services at the lowest responsible cost. This contract is for the convenience of the Board and is considered by the Board to be a "Non-Exclusive" use contract. The Board does not guarantee any usage. The Board will not be held to purchase any particular Brand, in any groups, prices or discount ranges, but reserves the right to purchase any item/items listed in the price schedule submitted.

Failure to sign the contract award via ADOBE and return all required documents within the specified time, shall rule your offer null and void and, therefore, award shall be made to the next low responsive bidder.

THIS NOTICE OF AWARD IS NOT AN ORDER TO COMMENCE SERVICE/WORK OR TO MAKE DELIVERIES at this time. Authorization for mobilization or commencement of work is forbidden unless a notice to proceed (NTP) has been issued. If a Notice to Proceed has not been issued, work shall not commence until vendor is in receipt of a Purchase Order signed by the Purchasing Agent.

iSUPPLIER REGISTRATION

All vendors must be registered in iSupplier in order to conduct business with PGCPS. To access iSupplier, please utilize the following link: <https://www.pgcps.org/offices/purchasing/isupplier>

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Vendors must provide their iSupplier Number at the time **Notice of Award is signed**

- If your company is not properly registered as a vendor, PGCPS will not sign the contract. Further, failure to register in iSupplier within the time period specified, shall rule your offer null and void. PGCPS reserves the right to rescind the award notice issued in favor of your company and award the contract to the next lowest responsive bidder.

PERFORMANCE/PAYMENT BOND – Not Applicable for This Notice of Award

A 100% Performance Bond and 100% Labor and Material Payment Bond or Certified Check in the amount of **\$0.00** made in favor of the **BOARD OF EDUCATION OF PRINCE GEORGE'S COUNTY, UPPER MARLBORO, MARYLAND 20772-9983**, must be submitted to the PURCHASING OFFICE with the returned signed NOTICE OF AWARD WITHIN TEN (10) DAYS.

The bond, cashiers or certified check must be made in favor of the **BOARD OF EDUCATION OF PRINCE GEORGE'S COUNTY, UPPER MARLBORO, MARYLAND 20772-9983.**

INSURANCE

A Certificate of Insurance, made in favor of the Board of Education of Prince George's County, Upper Marlboro, Maryland 20772-9983, must be submitted to the PURCHASING OFFICE within 5 (five) business days. The certificate should reference the Solicitation Number as shown herein. It will be the responsibility of the contractor to ensure that a current Certificate of Insurance is on file in the Purchasing Office during the entire period of the contract.

CONTRACT AWARD ESTIMATED AMOUNT

The amount of award is not to exceed

\$1,188,200.00

CONTRACT TERM

The term of the contract is **December 26, 2022 through June 30, 2023**. This is a completion contract. The term "completion" is defined as all work has been performed to the requirements quoted under Attachment A, Bid Price and accepted.

MILESTONE BILLING

Milestone Billing Schedule (in accordance with Brightly Professional Services Q-291334 (Attachment A)).
Changes to billing schedule will require an amendment to the notice of award:

<u>Data Gathering >2,500,000 GSF</u>	<u>Invoice Date</u>
Mobilization 20%	12/30/2022
On-Site Field Data Capture 60%	5/30/2023
Data Management 20%	6/30/2023

Equipment Inventory Data Gathering Milestones	DESCRIPTION	Billing %
Mobilization	Project acquisition template set up, Vendor kickoff call with client, Travel arrangement costs; other miscellaneous pre-visit preparation	20%
On-Site Field Data Capture	Project launch meeting with client first day of onsite, acquisition of data to Scope of Work at all locations included in project, and closing meeting at end of onsite activity to confirm completion and review next step actions.	60%
Data Management	Data activity, including quality assurance and control that occurs after field work is completed to produce the data file.	20%

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OPTION TO RENEW CONTRACT

Upon satisfactory service and by mutual agreement the BOARD OF EDUCATION OF PRINCE GEORGE'S COUNTY reserves the right to renew the contract. The term of renewal shall not exceed available renewal options under **Rider KPN A-201912-06**.

LIQUIDATED DAMAGES/FAILURE TO PERFORM WORK

The successful Awardee accepts this contract with the understanding that should they fail to complete the work in an acceptable manner and in the time stated, shall be subject to the payment of liquidated damages as stated in the proposal document(s).

AVAILABILITY OF FUNDS

The contract shall be deemed executory only to the extent of appropriations available to the BOARD for the purchase of such articles. The obligation of the BOARD on all contracts, including those which envision funding through current and successive fiscal years, shall be contingent upon actual Board appropriations for the fiscal year(s) involved.

FINGERPRINT CRIMINAL HISTORY BACKGROUND CHECKS, CHILD PROTECTIVE SERVICE CLEARANCES, AND SAFE SCHOOLS TRAINING REQUIREMENTS

- a. Pursuant to [Administrative Procedure 4215](#) - *Criminal History Checks, Employee Self-Reporting of Arrests, Criminal Charges, CPS Investigations and Findings & Incarceration*, any and all Vendors, which includes Independent Contractors, Subcontractors, Outsourced Agency Employees and Outsourced Temporary Staffing, who have uncontrolled access to students must complete a fingerprint criminal history background check, child protective service (CPS) clearance and required online Safe Schools training course(s).
- b. All fingerprint background checks and CPS clearances must be completed 15 business days prior to beginning work in and around PGCPS property or engaging in any authorized activities involving PGCPS students. The fingerprint background checks and CPS clearances must be completed through Prince George's County Public Schools at one of the authorized locations listed on the PGCPS website (<https://www.pgcps.org/fingerprinting/#service>). **No person may begin working in PGCPS until fingerprint background check results are received.**
- c. Required online Safe Schools training course(s) must be completed before providing contractual services in PGCPS schools and can be accessed through the PGCPS website (<https://www.pgcps.org/offices/compliance/student-safety/required-training-for-contractors>).
- d. Safety Management System (reserved).
- e. Pursuant to Md. Education Code Ann. §6-113.2 (Code), a contractor of a Board of Education who provides a service to a school or the students of a school shall meet the requirements set forth for screening its employees assigned to work at a school site to determine whether such employees have a history of child sexual abuse and/or sexual misconduct. The Vendor shall be solely responsible for completing the screening set forth in the Code, shall maintain records of employee screenings, and shall make such records available to PGCPS upon request.
- f. Prior to initiating any work at a school building, current and future employees of Vendor must sign in and sign out via the Raptor Visitor Management System, which requires a copy of their government issued identification.

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g. Prior to initiating any work at a school building, the Vendor agrees to provide the designated PGCPS representative and the PGCPS Purchasing Department with a list of all current employees and an immediate update of changes in personnel, employees, contractors, subcontractors, agents, volunteers, outsourced temporary staff and any instructors. It is the responsibility of the Vendor to make certain that its employees, contractors, subcontractors, agents, volunteers, outsourced temporary staff, consultants and any instructors meet the background check and training requirements specified.

All correspondence should include the following information as applicable:

- i. title of the project
- ii. school/office
- iii. solicitation number
- iv. contract number; and
- v. PGCPS representative/project manager

RESTRICTIONS ON EMPLOYEE ASSIGNMENTS

Vendors are prohibited from assigning the following persons from working at a PGCPS location:

- a. Registered sex offenders (Maryland Code, Criminal Procedure Article Section 11-722)
- b. Individuals convicted of a crime involving third- or fourth-degree sexual offense under sections 3-307 or 3-308 of the Criminal Law Article; child sexual abuse under Section 3-602 of the Criminal Law Article; a crime of violence as defined in Section 14-101 of the Criminal law Article; or comparable offenses in another state. (Annotated Code of Maryland, Education Article Section 6-113)
- c. Individuals identified as an alleged abuse or neglect or following completion of a Child Protective Services investigation with a finding of “indicated” child abuse or neglect.

PERSONALLY IDENTIFIABLE INFORMATION (PII)

Personally Identifiable Information includes any information that can be associated with or traced to any individual, including an individual’s name, address, telephone number, e-mail address, credit card information, social security number, or other similar specific factual information, regardless of the media on which such information is stored (e.g., on paper or electronically) and includes such information that is generated, collected, stored or obtained as part of this Agreement, including transactional and other data pertaining to users. The parties will comply with all applicable privacy and other laws and regulations relating to protection, collection, use, and distribution of Personally Identifiable Information. In no event may PII be sold to third parties. If there is a suspected or actual breach of security involving Personally Identifiable Information, the parties will notify each other within (72) hours of a management-level employee becoming aware of such occurrence.

LAWS AND PERMITS

The contractor shall, without additional cost to the BOARD, be responsible for paying for and obtaining any necessary licenses, inspections and permits for complying with any and all FEDERAL, STATE AND LOCAL LAWS, CODES AND REGULATIONS, in connection with the performance of the work. Laws of the STATE OF MARYLAND and PRINCE GEORGE’S COUNTY shall govern the contract.

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This notice of award, plus the solicitation, your offer and any pertinent documents will constitute the entire contract after acceptance by your firm and the BOARD. Please refer to Rider **KPN A-201912-06** for all applicable terms and conditions.

ACCEPTED BY:

FOR THE FIRM:

Melissa Buchanan

Melissa Buchanan (Dec 20, 2022 15:20 EST)

SIGNATURE1 DATE

Melissa Buchanan

NAME

Legal Operations Manager

TITLE

Brightly Software, Inc.

FIRM

FOR THE BOARD OF EDUCATION:

Keith Stewart

keith.stewart@pgcps.org keith.stewart@pgcps.org (Dec 21, 2022 11:10 EST)

SIGNATURE DATE

Keith Stewart

NAME:

Director, Purchasing & Supply Services

TITLE

FOR THE BOARD OF EDUCATION
OF PRINCE GEORGE'S COUNTY
UPPER MARLBORO, MARYLAND 20772

Kevin Kemmerer

Kevin Kemmerer (Dec 20, 2022 16:14 EST)

SIGNATURE2 DATE

Kevin Kemmerer

NAME

CEO

TITLE

Brightly Software, Inc.

FIRM

33171

iSUPPLIER ID # Melissa Buchanan

Melissa Buchanan (Dec 20, 2022 14:59 EST)

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ATTACHMENT A
VENDOR CONTRACT PRICING
****See attached****

Notice of Award
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ATTACHMENT B
MASTER AGREEMENT, PROFESSIONAL SERVICES ADDENDUM
****see attached****



ATTACHMENT A

PREPARED FOR

Prince George's County Public Schools - Professional Services

PREPARED BY

MB
MB

Brightly Software Inc ("Company")

11000 Regency Parkway, Suite 400

Cary, NC 27518

Dude Solutions is now Brightly. Same world-class software, new look and feel.

Meet Brightly at brightlysoftware.com

PUBLISHED ON

December 1, 2022



Q-291334

Sam Stefanelli
Director of Building Services
Prince George's County Public Schools

Dear Sam,

Thank you for your interest in our market leading solutions for improving educational operations. We at Brightly are excited about providing you with online tools that will help you save money, increase efficiency and improve services. Brightly is dedicated to providing best in class solutions that are built exclusively for the unique needs of educational institutions, including the following for Prince George's County Public Schools:

***Pricing includes KPN purchasing cooperative discounts - 1% Professional Services discount Contract #*KPN-A-201912-06**

Service Term: 7 months (12/01/2022 - 06/30/2023)

Professional Services	
Data Gathering for 20000000.0 Square Feet	653,400.00 USD
PM Schedule Creation for 20000000.0 Square Feet	208,000.00 USD
Equipment Barcode Tagging	326,800.00 USD
	Subtotal: 1,188,200.00 USD
Total Initial Investment	1,188,200.00 USD

In addition to the Total Initial Investment above, Brightly agrees to provide additional Professional Services at the rates described below for up to 20 million square feet or up to 2 years (whichever comes first) (the "Rate Expiration Date"). For the avoidance of doubt, pricing commitments under this Order Form expire on June 30, 2024.

Data Gathering: 0.033 USD per square foot

PM Schedule Creation: 0.0105 USD per square foot

Equipment Barcode Tagging: 0.0165 USD per square foot



For additional Professional Services, Brightly agrees to accept purchase orders issued by Subscriber in accordance with the Terms of this Agreement until the Rate Expiration Date. Additional Professional Services are subject to a 7500 sq ft minimum order. Subscriber's purchase orders must reference Agreement #Q-291334.

Milestone Billing Schedule (in accordance with Professional Services Draft Schedule)

Data Gathering >2,500,000 GSF		Invoice Date
Mobilization	20%	12/30/2022
On-Site Field Data Capture	60%	5/30/2023
Data Management	20%	6/30/2023
Total	100%	



Equipment Inventory Data Gathering Scope of Work

Purpose

Equipment Inventory Data Gathering is performed through the conduction of staff interviews and physical onsite data gathering. The following is meant to establish details of the deliverable that Brightly (Company) will provide on "Equipment Inventory" (Data Gathering) assignments. These onsite activities are done in conjunction with a Certified Brightly Provider (Company Service Provider).

Value

By leveraging Company's Equipment Inventory Data Gathering service, Company clients are able to track work related to individual assets and make better data driven decisions related to those items.

Deliverables

All Equipment Inventory Data Gathering services include the following deliverables:

- Collection of major equipment items for populating your Brightly Work & Asset Management solution.
- Import major Equipment Items into client's Brightly Work & Asset Management solution.
- No report will be provided.

Methodology and Approach

The collection and documentation of equipment inventory data is conducted onsite by a Brightly Service Provider (Company Service Provider). Inventory of all major building equipment will be performed capturing quantity & size along with the following attributes:

- Equipment Item Number (will be created if not existing)
- Site/Location/Building Name
- Description
- Classification/Type
- Manufacturer (where available)
- Model (where available)
- Serial Number (where available)
- Barcode (where available)

Asset Inventory and Systems Table

The following table defines the standard SOW that will be followed to capture the equipment data used to build the Equipment Inventory, which will be imported into the Work & Asset Management Solution.

Table Column Header Descriptions



Individual or System Level Capture

- Individual = Item will be collected individually
- System = Item will be grouped by system or sub-system, location will correspond to the associated building structure

Included in Equipment Inventory? Y/N

- No = Item will not be setup in the work & asset management solution

*Items captured as a system will be setup as a single equipment inventory item so that work can be tracked against it.

Sub-System	Individual or System Level Capture	Included in Equipment Inventory (Y/N)	Comments
Electrical			
Automatic Transfer Switch	Individual	Yes	Make/Model/Serial number will be captured when available
Electric Door Systems	Individual	Yes	Exterior Doors Only
Emergency Generators	Individual	Yes	Must be Permanently Installed, does not include mobile units
Main Distribution Panels	Individual	Yes	Primary panel bringing utility into building only
Motor Control Centers	Individual	Yes	
Switchgear	Individual	Yes	
Transformers	Individual	Yes	Primary Service to Building (Must be Client Owned)
Breakers, switches or starters	Not Included in Service		
Individual light fixtures (emergency, exterior, etc.)	Not Included in Service		



Sub-System	Individual or System Level Capture	Included in Equipment Inventory (Y/N)	Comments
Motors	Not Included in Service		
Portable Generators	Not Included in Service		
Secondary Electrical Panels	Not Included in Service		
VFDs	Not Included in Service		
Emergency Back Up Lights	System Level	Yes	
Lighted Exit Signs	System Level	Yes	
Equipment			
Commercial Laundry (washers, dryers)	Individual	Yes	
Commercial Trash Compactors	Individual	Yes	Client-Owned, Permanently-installed facility infrastructure units only
Residential Type Appliances, Shop Tools and Equipment	Not Included in Service		Residential Washer/Dryers, Refrigerators, Microwaves and Ranges Not Included
Exterior Enclosure			
Garage Door & Garage Door Opener	Individual	Yes	Commercial Type Garage Openers Only (Excludes Residential single care garage doors)
Fire Protection			
Eyewash / Safety Showers	Individual	Yes	Permanently Installed Items
Fire Pump	Individual	Yes	Main Fire Pump and Jockey Pumps greater than 1 HP
Main Fire Panel	Individual	Yes	
Fire valves, hydrants	Not Included in Service		



Sub-System	Individual or System Level Capture	Included in Equipment Inventory (Y/N)	Comments
Smoke detectors, horn strobes	Not Included in Service		
AEDs	System Level	Yes	
Exhaust Hood Suppression System	System Level	Yes	
Fire Alarm System	System Level	Yes	Barcode applied to Main Fire Panel
Fire Extinguishers	System Level	Yes	
Specialty Fire Suppression System	System Level	Yes	Kitchen-Style Suppression System
Sprinkler System	System Level	Yes	
HVAC			
Air Handling Units	Individual	Yes	Includes Rooftop and Ground
Boilers	Individual	Yes	
Building Automation System	Individual	Yes	
Chilled Water pumps	Individual	Yes	
Chillers	Individual	Yes	
Cooling Tower pumps	Individual	Yes	
Cooling Towers	Individual	Yes	
Deaerators	Individual	Yes	
Energy Recovery Units	Individual	Yes	
Exhaust Fans	Individual	Yes	Rooftop Only
Furnaces	Individual	Yes	Non-Residential



Sub-System	Individual or System Level Capture	Included in Equipment Inventory (Y/N)	Comments
Heat Pumps	Individual	Yes	Make/Model/Serial number will be captured for both interior and exterior when accessible; otherwise it will be captured as one single cost and item
Hot Water pumps	Individual	Yes	
Make Up Air Units	Individual	Yes	
Package AC Units	Individual	Yes	Includes Rooftop and Ground
Split Systems	Individual	Yes	Ductless Split Systems will be captured as one single item. The barcode will be located on the exterior unit
Unit Heaters	Individual	Yes	
Fan Coil Units*	Individual	Yes	Included in the service and quantified based on client supplied data and/or drawings only. *No visual capture.
Unit Ventilators*	Individual	Yes	Included in the service and quantified based on client supplied data and/or drawings only. *No visual capture.
VAV Boxes*	Individual	Yes	Included in the service and quantified based on client supplied data and/or drawings only. *No visual capture.
Window Units	Not Included in Service		
Radiators	Not Included in Service		
Thermostatic Controls	Not Included in Service		
Kitchen			
Dishwashers	Individual	Yes	Commercial-Style, non-residential
Exhaust Hoods	Individual	Yes	Commercial-Style, non-residential
Freezer (Walk In, Reach In)	Individual	Yes	



Sub-System	Individual or System Level Capture	Included in Equipment Inventory (Y/N)	Comments
Grease Traps	Individual	Yes	Will not receive a barcode if barcoding services is included
Large Kitchen Equipment	Individual	Yes	Valued above \$2,000
Oven, Stoves	Individual	Yes	
Refrigerator (Walk In, Reach In)	Individual	Yes	Commercial-Style, non-residential
Broilers, Grills, Fryers	Individual	Yes	Valued above \$2,000
Counter Top Appliances	Not Included in Service		
Cutlery	Not Included in Service		
Tables, Racks	Not Included in Service		
Plumbing			
Domestic Hot Water Heaters	Individual	Yes	80 Gallons and Above. Does not include Instant Hot Water Heaters
Domestic Water Booster Pumps	Individual	Yes	1 HP and above
Hot Water Storage Tank	Individual	Yes	
Main Backflow Preventer	Individual	Yes	Includes Domestic and Fire Suppression
Sump Pumps	Individual	Yes	
Filters	Not Included in Service		
Fixtures	Not Included in Service		
Strainers	Not Included in Service		
Valves	Not Included in Service		



Sub-System	Individual or System Level Capture	Included in Equipment Inventory (Y/N)	Comments
Vertical Transportation			
Dumb Waiter	Individual	Yes	
Elevators	Individual	Yes	
Escalators	Individual	Yes	

Assumptions

- Average building square footage is greater than 10,000 sq. feet. If average square footage of all buildings to be included to receive the service is less than 10,000 sq. feet, custom pricing is needed.
- All buildings are located within one primary geographic zone/region (Example – School District, Higher Education, Main Campus, and Town). If multiple or scattered locations across the state are to receive the service a custom quote must be obtained. (Example – Multiple Higher Education Satellite Campuses locations, State Department Agencies)
- Residence Halls –Individual in-room collection of assets would not be provided, if desired a custom quote would be needed.
- Reconciliation of existing equipment in Company work & asset management solutions and updating of historical records will not be performed. If reconciliation is required this is subject to additional costs depending upon the amount of changes requested.
- Capture of Data plate information is subject to readily accessible, legible information plate.
- Company team members make final determination of whether areas housing assets are safely accessible for data collection.
- Company team members will not move assets or interfere with asset functionality to collect nameplate information.
- All Data on SOW is captured at the asset level – subcomponents of assets listed on the SOW will not be captured.
- Equipment not in service or identified as "Run-to-Fail" are excluded from data gathering service unless inventory is required for compliance purposes.

Client Responsibility

1. Client will provide the needed input, resources, and documentation to support the tasks of the service and associated timelines for delivery of the service.
2. Any data to be migrated from client drawings or spreadsheets has to be provided to the Company Service Provider within 15 business days of completion of onsite activity.
3. Client will review and provide any feedback related to data sent to them for review by Company Service Provider or Company within 15 business days or unless otherwise determined.
4. If Data is not reviewed within the 15 business day time period Company will assume that the Data



- provided by the Company Service Provider is approved and will load into the client's software.
5. Client will be responsible for scheduling and coordinating all meetings and interviews involving other teams, departments, management teams or other necessary resources required for the success of this project.
 6. Client will provide adequate access to working facilities (i.e., access badge, parking pass), if specific authorization or clearance is required client will notify Company and/or Company Service Provider in advance of onsite.
 7. Client will ensure that the Company Service Provider is granted accessibility to the facilities and/or systems required to conduct the necessary work defined in this SOW. If Company Service Provider is not granted access to all areas, this could result in missed information gathering and/or delays in implementation timelines.
 8. Client will ensure that the Company Service Provider is granted accessibility to Company Software, for Clients with Connect Authenticate/Single Sign On this may require your Technology Team to setup the Company Service Provider in your organizations Identity Provider service.
 9. Client will provide a knowledgeable escort for work defined in this SOW and access to personnel as necessary.
 10. Reconciliation of existing equipment in Company work & asset management solutions and updating of historical records is subject to additional costs depending upon the amount of changes requested.
 11. Addition of Equipment Barcode Tagging services must be purchased prior to onsite activity by the Company Service Provider and is not included in the Standard Equipment Inventory Data Gathering SOW.



Milestone Billing - Invoice Schedule

Invoicing for the Equipment Inventory Data Gathering service will be provided as delivery milestones are completed for projects equal to or greater than 500,000 square feet. Below is the schedule for the billing milestones and the related percentage.

Equipment Inventory Data Gathering Milestones	Description	Percentage
Mobilization	Project acquisition template set up, Vendor kickoff call with client, Travel arrangement costs; other miscellaneous pre-visit preparation	20%
On-Site Field Data Capture	Project launch meeting with client first day of onsite, acquisition of data to Scope of Work at all locations included in project, and closing meeting at end of onsite activity to confirm completion and review next step actions.	60%
Data Management	Data activity, including quality assurance and control that occurs after field work is completed to produce the data file.	20%

*If project is greater than 1.5M Square feet additional milestones will be leveraged.



Equipment Inventory Barcoding Service

Purpose

The Equipment Inventory Barcoding Service works with your Brightly Work & Asset Management solution in conjunction with an "Equipment Inventory" (Data Gathering) or a Facility Condition Assessment (FCA) service offering.

Value

Barcoding identifies equipment by assigning a unique number to that equipment item which will then serve as an identifier in your Brightly Work & Asset Management system database allowing for easier identification and tracking of the item. The barcoding of equipment inventory occurs during the onsite equipment data gathering/ collection process.

Deliverables by Brightly to the Client include the following:

- Commercially produced weather resistant barcodes will be applied to the major pieces of equipment covered in the scope of work provided in the Data Gathering or Facility Condition Assessment services.
- Barcode numbers will be available for use at the time equipment inventory data is imported into your Brightly Work & Asset Management solution.

The Brightly Service Provider will make an effort to apply barcodes in a convenient location so the facility's maintenance staff can easily identify them. Based upon our professional expertise, we recommend the following:

- Application of the barcode shall be placed **next to the Data Plate of an Asset**. Placing barcodes in this location ensures that the barcode can be easily identified and associated to the asset in a CMMS software.
- If data plate is not present, or is inaccessible, the barcode will be placed in an accessible area that is easily seen by maintenance technicians, does not detract from the appearance of the equipment, isn't in danger of being tampered with, or will be otherwise destroyed through normal use and cleaning of the asset.

Assumptions

- Purchase of service is made prior to onsite activity. If onsite activity has been completed, custom pricing would be required as a revisit would be needed for the placement of the barcodes.
- For Asset Essentials Clients, determination of 1D (Standard) vs 2D (QR Codes) is required prior to onsite activity. URL creation along with QR code purchase and encoding is needed prior to onsite activity. If determination is not provided prior to onsite activity, 1D (Standard) barcodes will be used.

Invoice Schedule

Invoicing for the Barcoding Service will be provided upon completion of onsite activity at 100%



Preventive Maintenance Schedule Creation

Purpose

Preventive Maintenance (PM) Schedule creation is a service offering provided in conjunction with an "Equipment Inventory" (Data Gathering) service or Facility Condition Assessment (FCA). PM Schedules will be generated off the equipment inventory collected by the Company Service Provider during either the Data Gathering or FCA service. The intent of this service is to identify needed procedures and inspections required to maintain facilities systems in safe, reliable and efficient condition.

Value

By leveraging Company's PM Schedule Creation service, Company clients are able to leverage and incorporate regular preventive maintenance best practices of their equipment. By performing regular or routine maintenance best practices, you ensure that your equipment is operating under safe and optimal conditions thus preventing the potential for downtime and shorter life expectancy.

Deliverables

All Preventive Maintenance Schedule Creation services include the following deliverables:

- Creation of PM Schedules for populating your Brightly Work & Asset Management solution
- Data population within Company Software. No report will be provided.

Methodology and Approach

Company Service Providers leverage multiple libraries of PM standards to create PM schedules. These standards are based upon prevailing national codes and standards such as ASTM, ASHRAE, NFPA and BOMA. Procedures related to performing the tasks within the schedule will include:

- Safety Points
- Tools Required
- Estimated Time to Complete Maintenance
- Step-by-step procedure to complete maintenance work order

Prior to the import or population within the Company Software, the Company Service Provider will:

- Review of PM Task Check-off Lists with Client
- Setup baseline PM schedules for the equipment inventory collected
- Work with the Client to determine PM Schedule assignment. Assignment includes setting up the appropriate Technician or contractor who will be performing the related PM tasks into the master import template to ensure that the routing of work flows accordingly in the Work & Asset Management



Solution. Assignment will be made at the location or craft level. Anything above and beyond this level of assignment will be managed and maintained by the client within the software or require a custom scope of work for the Company Service Provider to deliver. For assignment to occur, the client must have the Technician or contractor created in the software prior to onsite activity.

- Work with the Client to determine the start date, frequency and load balancing based upon client staffing. If start dates cannot be determined or agreed upon within a timely manner, the PM Schedules will be loaded into the Client's Work & Asset Management solution as "Inactive".

Assumptions

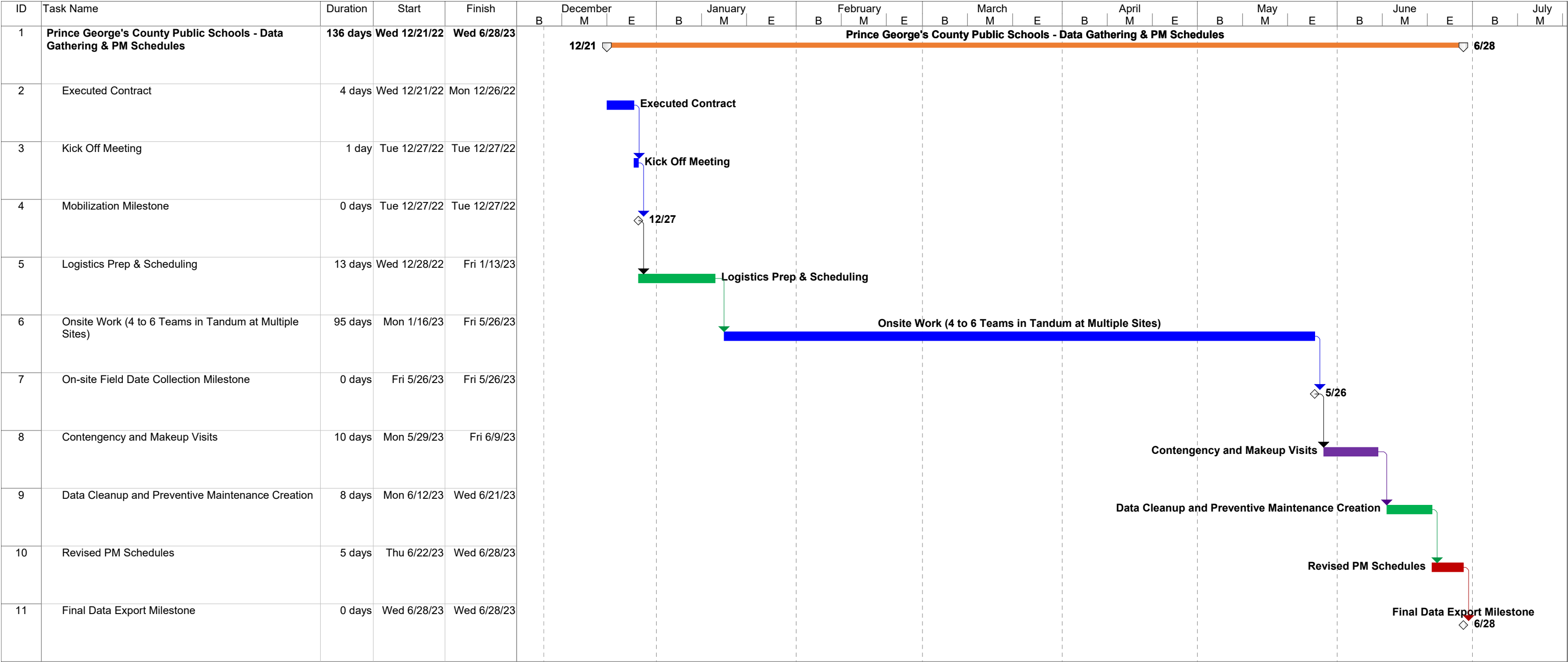
- Client will provide feedback/review of PM Schedules within 15 business days of delivery from the Company Service Provider. If feedback/review of PM Schedules exceeds 30 business days, Company will provide a Deliverable Acceptance Form to the client to complete review within 30 days. If feedback is not provided during this time period, DSI will assume delivery of the service and import the PM schedules as "inactive" in the system. DSI will provide training on how updates can be made within the software or perform mass updates if needed for a fee.
- Once PM Schedules are imported into the DSI Work and Asset Management applications, any updates and/or alterations of those schedules need to be communicated to DSI within 30 days. DSI will only make updates related to the below items:
 - Discontinuation of PM Schedules created with the service
 - Alteration of frequency on existing schedules created with the service
 - Alteration of start dates for the schedules created with the service

Otherwise, any revisions beyond this 30 day period will be the responsibility of the client to perform within the software or DSI to perform at an additional fee.

- Reconciliation of existing PM Schedules in the client's account is subject to additional costs depending upon the number of active PM's and is not a part of the standard SOW.

Invoice Schedule

Invoicing for the PM Schedule Creation Service will be provided upon receipt of PM Schedule drafts at 100%







Order Form terms

- By accepting this Order Form, and notwithstanding anything to the contrary in any other purchasing agreement, Subscriber agrees to pay all relevant Fees for the Professional Services authorized by the Subscriber and performed under the Terms of this Agreement.
- The "Effective Date" of the Agreement between Subscriber and Company is the date Subscriber accepts this Order Form.
- This Order Form and its Services are governed by the terms of the Brightly Software, Inc. Master Subscription Agreement found at <http://brightlysoftware.com/terms> (<http://brightlysoftware.com/terms>) ("Terms"), unless Subscriber has a separate written agreement executed by Brightly Software, Inc. ("Company") for the Services, in which case the separate written agreement will govern. Acceptance is expressly limited to these Terms. Any additional or different terms proposed by Subscriber (including, without limitation, any terms contained in any Subscriber purchase order) are objected to and rejected and will be deemed a material alteration hereof.
- To the extent professional services are included in the Professional Services section of this Order Form, the Professional Services Addendum found at <http://brightlysoftware.com/terms> (<http://brightlysoftware.com/terms>) is expressly incorporated into the Terms by reference.
- Acceptance of this Order Form on behalf of a company or legal entity represents that you have authority to bind such entity and its affiliates to the order, terms and conditions herein. If you do not have such authority, or you do not agree with the Terms set forth herein, you must not accept this Order Form and may not use the Service.
- Proposal expires in sixty (60) days.

Additional information

- Prices shown above do not include any taxes that may apply. Any such taxes are the responsibility of Subscriber. This is not an invoice. For customers based in the United States, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Subscriber. Tax exemption certifications can be sent to accountsreceivable@brightlysoftware.com (<mailto:accountsreceivable@brightlysoftware.com>).
- Please reference Q-291334 on any applicable purchase order and email to accountsreceivable@brightlysoftware.com (<mailto:accountsreceivable@brightlysoftware.com>)
- Brightly Software, Inc. maintains the necessary liability coverage for its products and professional services. Proof of insurance can be provided upon request.



At Brightly, we understand the yearly budgeting cycle of educational institutions. If you need us to pro-rate the annual fee based on your budget cycle, please let me know. I will provide you with the pro-rated cost based on the number of months remaining in your fiscal year.

Thanks again for your interest in utilizing our web-native solutions to integrate and more efficiently manage your operations. Please feel free to contact me with any questions at (919) 624-3424 or by email at matthew.lightner@brightlysoftware.com.

Sincerely,
Matt Lightner
Brightly

Please address the purchase order to:

Brightly Software, Inc
11000 Regency Parkway, Suite 400
Cary, NC 27518

***** Please mail or email the purchase order to matthew.lightner@brightlysoftware.com.**



Signature

Presented to:

Q-291334

Accepted by:

Printed Name

Signed Name

Title

Date

MASTER SUBSCRIPTION AGREEMENT

This Master Subscription Agreement (this “Agreement”) shall govern Subscriber’s (as defined below) access and use of the Services (as defined below) provided by Brightly Software (“Company”). BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING ACCEPTANCE, BY RESELLER PURCHASE, BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT OR BY OTHERWISE ACCESSING AND USING THE SERVICES, SUBSCRIBER AGREES TO THE TERMS OF THIS AGREEMENT. AS A RESULT, PLEASE READ ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY.

IF THE INDIVIDUAL ENTERING INTO THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, THE INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, IN WHICH CASE THE TERMS “ACCOUNT” OR “SUBSCRIBER” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THE TERMS AND CONDITIONS SET FORTH HEREIN, THE INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

Section 1.0 Ordering and Use of the Service

1.1 Company Cloud Service; Subscriber-Hosted Software.

(a) *Company Cloud Service.* Unless otherwise specified on an applicable Order Form, Company Service shall be provided as Company-hosted, cloud Service. Company grants Subscriber a non-exclusive and non-transferable right to access and use the Service for the Term.

(b) *Subscriber-Hosted Software.* Where an applicable Order Form sets forth Subscriber-Hosted Software, subject to the provisions of this Agreement, Company grants Subscriber a non-exclusive and non-transferable license (with no right to sublicense) to install and use the software for the Term. In respect of such Subscriber-Hosted Software:

1. Subscriber is responsible for installing and implementing the Subscriber-Hosted Software and any updates, enhancements or modifications, except for any Professional Services set forth on an applicable Order Form (i.e., implementation).
2. Subscriber may create copies of the Subscriber-Hosted Software to the extent strictly necessary to install and operate the Subscriber-Hosted Software for use in accordance with this Agreement, and to create backup and archival copies to the extent reasonably required in the normal operation of Subscriber systems. All such copies must include a reproduction of all copyright, trademarks or other proprietary notices contained in the original copy of the Subscriber-Hosted Software.
3. Subscriber is responsible for providing the Environment and ensuring the Environment functions properly, and for implementing appropriate data backup and security measures. “Environment” means the systems, networks, servers, equipment, hardware, software and other material specified in Documentation or an Order Form on which, or in connection with which, the Subscriber-Hosted Service will be used.

1.2 Ordering.

(a) *Ordering.* For the Company Services purchased, Company shall grant Subscriber Account Users access or use of the Service(s) and Professional Service(s) during their associated Term, including access and use of all of the Content contained in or made available through the Service(s), Subscriber agrees that its purchase is not contingent on the delivery of any future functionality or features, or dependent upon any oral or written public comments regarding future functionality or features. Subscriber agrees that it shall use the Service(s) solely for internal business purposes, and access and use of the Service(s) shall be limited to Account Users. Affiliates of either party may conduct business under this Agreement by executing an Order Form or other document that references this Agreement’s terms.

(b) *Account Setup.* To subscribe to the Service, Subscriber must establish its Account, which may only be accessed and used by its Account Users. To setup an Account User, Subscriber agrees to provide true and accurate information for such Account Users. Each Account User must establish and maintain personal, non-transferable Access Credentials, which shall not be shared with, or used by, any other individual. Subscriber must not create Account User(s) in a manner that intends to or has the effect of avoiding Fees, circumvents thresholds with the Account, or intends to violate the Agreement.

(c) *Subscriber Responsibilities.* With full responsibility for its Account Users, Subscriber shall: (i) take appropriate action to ensure that non-Account Users do not access or use the Service; (ii) ensure that all Account Users comply with all of the terms and conditions of this Agreement; (iii) be solely responsible for the accuracy, and appropriateness of all Subscriber Data created by Account Users using the Service; (iv) access and use the Service solely in compliance with the Documentation and all applicable laws, rules, directives and regulations (including those relating to export, homeland security, anti-terrorism, data protection and privacy); (v) allow e-mail notifications generated by the Service on behalf of Subscriber’s Account Users to be delivered to Subscriber’s Account Users; and (vi) promptly notify Company if Subscriber becomes aware of any unauthorized use of its Account.



(d) *Usage Restrictions.* Subscriber agrees that it shall not, and shall not permit any Third Party to, directly or indirectly: (i) modify, copy, create derivative works or attempt to derive the source code of the Service; (ii) assign, sublicense, distribute or otherwise make available the Service, to any Third Party, including on a timesharing, software-as-a-service or other similar basis; (iii) share Access Credentials or otherwise allow access or use the Service to provide any service bureau services or any services on a similar basis; (iv) use the Service in a way not authorized in writing by Company or for any unlawful purpose; (v) use the Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of Third Party privacy rights; (vi) attempt to tamper with, alter, disable, override, or circumvent any security, reliability, integrity, accounting or other mechanism, restriction or requirement of the Service; (vii) remove, obscure or alter any copyright, trademark, patent or proprietary notice affixed or displayed by or in the Service; (viii) perform load tests, network scans, penetration tests, ethical hacks or any other security auditing procedures on the Service; (ix) interfere with or disrupt the integrity or performance of the Service or the data contained therein; (x) access or use the Service in order to replicate applications, products or services offered by Company and/or otherwise build a competitive product or service, copy any features, functions or graphics of the Service or monitor the availability and/or functionality of the Service for any benchmarking or competitive purposes; (xi) under any circumstances, through a Third Party application, a Subscriber Application or otherwise, repackage or resell the Service, or any Company data; (xii) store, manipulate, analyze, reformat, print, and display the Content for personal use; and (xiii) upload or insert code, scripts, batch files or any other form of scripting or coding into the Service. Notwithstanding the foregoing restrictions, in the event Subscriber has purchased a Subscription for Commercial Use (as such term is defined below), Subscriber shall be permitted to use the Service to provide Third Party services in cases where such Third Parties access the Subscriber provided applications or services, but where such Third Parties do not have the ability to install, configure, manage or have direct access to the Services. Company hereby agrees, subject to payment of the applicable fees, to permit such use and the terms of this Agreement, including references to “internal use” and/or “internal business operations” shall be deemed to include and permit such use (hereafter referred to as “Commercial Use”).

(e) *Additional Guidelines.* Company reserves the right to establish or modify its Service offerings, general practices and limits concerning use of the Service, and if applicable provide alternative Service offerings and practices, with approximately thirty (30) days’ prior notice. Company also reserves the right to block IP addresses originating a Denial of Service (DoS) attack. Company shall notify Subscriber should this condition exist and inform Subscriber of its action. Once blocked, an IP address shall not be able to access the Service and the block may be removed once Company is satisfied corrective action has taken place to resolve the issue.

(f) *Links to Third Party Websites.* To the extent that the Service links to any Third Party website, application or service, the terms and conditions thereof shall govern Subscriber’s rights with respect to such website, application or service, unless otherwise expressly provided Company. Company shall have no obligations or liability arising from Subscriber’s access and use of such linked Third Party websites, applications and services.

(g) *Beta Service.* From time to time, Company may make Beta Service available to Subscribers at no charge. Subscriber may choose to try such Beta Service or not in its sole discretion. Use of Beta Service is at Subscriber’s sole risk and may contain bugs or errors. Subscriber may discontinue use of the Beta Service at any time, in its sole discretion. Further, Company may discontinue any and all Beta Service availability at any time in its sole discretion without notice. NOTWITHSTANDING THE REPRESENTATIONS, WARRANTIES AND DISCLAIMERS IN SECTION 6, BETA SERVICE AND DOCUMENTATION, ARE PROVIDED ON AN “AS-IS” AND “AS AVAILABLE” BASIS, WITHOUT ANY WARRANTIES OF ANY KIND. COMPANY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. COMPANY SHALL HAVE NO INDEMNIFICATION OBLIGATIONS AND NO LIABILITY OF ANY TYPE WITH RESPECT TO THE BETA SERVICE UNLESS SUCH EXCLUSION IS UNENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE COMPANY’S LIABILITY WITH RESPECT TO THE BETA SERVICE PROVIDED SHALL NOT EXCEED \$500.00.

1.3 **Proprietary Rights.**

(a) Subscriber acknowledges and agrees that Company retains all ownership right, title, and interest in and to the Service, the Documentation and the Content, including without limitation all corrections, enhancements, improvements to, or derivative works thereof (collectively, “Derivative Works”), and in all Intellectual Property Rights therein or thereto. To the extent any Derivative Work is developed by Company based upon ideas or suggestions submitted by Subscriber to Company, Subscriber hereby irrevocably assigns all rights to use and incorporate Subscriber’s feedback, including but not limited to suggestions, enhancement requests, recommendations and corrections (the “Feedback”) relating to the Service, together with all Intellectual Property Rights related to such Derivative Works. Nothing contained in this Agreement shall be construed to convey to Subscriber (or to any party claiming through Subscriber) any Intellectual Property Rights in or to the Service, the Documentation and the Content, other than the rights expressly set forth in this Agreement

(b) Company acknowledges and agrees that Subscriber retains all ownership right, title, and interest in and to the Subscriber Data, including all Intellectual Property Rights therein or thereto. Notwithstanding the foregoing, Subscriber hereby grants Company and its Affiliates a non-exclusive, royalty-free license to: (i) access, display, copy, distribute, transmit, publish, disclose and otherwise use all or any portion of the Subscriber Data to fulfill its obligations under this Agreement. In addition, Subscriber hereby grants Company a non-exclusive, royalty-free right to use aggregated and de-identified data generated and/or derived by Company from the Subscriber Data (the “De-Identified Data”) in order to improve the Service and Company’s performance hereunder, including without limitation, submitting and sublicensing such De-Identified Data to Third Parties for analytical



purposes, provided that Company shall take commercially reasonable efforts to conduct such de-identification in a manner that ensures that such De-Identification cannot be traced back to Subscriber or natural persons.

(c) Subscriber acknowledges the Services may utilize, embed or incorporate Third Party software and/or tools (each, a “Third-Party Tool”) under a license granted to Company by one or more applicable Third Parties (each, a “Third-Party Licensor”), which licenses Company the right to sublicense the use of the Third-Party Tool solely as part of the Services. Each such sublicense is nonexclusive and solely for Subscriber’s internal use and Subscriber shall not further resell, re-license, or grant any other rights to use such sublicense to any Third Party. Subscriber further acknowledges that each Third-Party Licensor retains all right, title, and interest to its applicable Third-Party Tool and all documentation related to such Third-Party Tool. All confidential or proprietary information of each Third-Party Licensor is Confidential Information of Company under the terms of this Agreement and shall be protected in accordance with the terms of Section 7.

Section 2.0 Company Responsibilities

2.1 Professional Services. To the extent Professional Services are included in the applicable Order Form and/or described in one or more statements of work, Subscriber agrees to abide by Company’s Professional Services Addendum. Each statement of work shall be effective, incorporated into and form a part of this Agreement when duly executed by an authorized representative of each of the parties. Each statement of work shall (i) describe the fees and payment terms with respect to the Professional Services being provided pursuant to such statement of work, (ii) identify any work product that will be developed pursuant to such statement of work, and (iii) if applicable, sets forth each party’s respective ownership and proprietary rights with respect to any work product developed pursuant to such statement of work.

2.2 Service Levels. Company shall use commercially reasonable efforts to make the Service available 99.9% of the time for each full calendar month during the Term, determined on a twenty-four (24) hours a day, seven (7) days a week basis (the “Service Standard”). Service availability for access and use by Subscriber(s) excludes unavailability when due to: (a) any access to or use of the Service by Subscriber or any Account User that does not strictly comply with the terms of the Agreement or the Documentation; (b) any failure of performance caused in whole or in part by Subscriber’s delay in performing, or failure to perform, any of its obligations under the Agreement; (c) Subscriber’s or its Account User’s Internet connectivity; (d) any Force Majeure Event; (e) any failure, interruption, outage, or other problem with Internet service or Non-Company Service; (f) Scheduled Downtime; or (g) any disabling, suspension, or termination of the Service by Company pursuant to the terms of the Agreement. “Scheduled Downtime” means, with respect to any applicable Service, the total amount of time (measured in minutes) during an applicable calendar month when such Service is unavailable for the majority of Subscribers’ Account Users due to planned Service maintenance. To the extent reasonably practicable, Company shall use reasonable efforts to provide eight (8) hours prior electronic notice of Service maintenance events and schedule such Service maintenance events outside the applicable business hours.

2.3 Protection of Subscriber Data. Company shall maintain commercially reasonable administrative, physical, and technical safeguards for protection of the security, unauthorized access or disclosure of Subscriber Data. All data and information provided by Subscriber through its use of the Service is subject to Company’s Privacy Policy, which can be viewed by clicking the “Privacy” hypertext link located within the Service. By using the Service, Subscriber accepts and agrees to be bound and abide by such Privacy Policy. At all times during the Subscription term and upon written request of Subscriber within thirty (30) days after the effective date of termination or expiration of this Agreement, Subscriber data shall be available for Subscriber’s export and download. Following the thirty (30) days after termination or expiration, Company shall not be obligated to maintain Subscriber Data and may delete or destroy what remains in its possession or control unless prohibited by law.

Section 3.0 Third Party Interactions

3.1 Relationship to Third Parties. In connection with Subscriber’s use of the Service, at Subscriber’s discretion, Subscriber may: (i) participate in Third Party promotions through the Service; (ii) purchase Third Party goods and/or services, including implementation, customization, content, forms, schedules, integration and other services; (iii) exchange data, integrate, or interact between Subscriber’s Account, the Service, its application programming interface (“API”) and a Third Party provider; (iv) receive additional functionality within the user interface of the Service through use of the API; and/or (v) receive content, knowledge, subject matter expertise in the creation of forms, content and schedules. Any such activity, and any terms, conditions, warranties or representations associated with such Third Party activity, shall be solely between Subscriber and the applicable Third Party. Company shall have no liability, obligation or responsibility for any such Third Party correspondence, purchase, promotion, data exchange, integration or interaction. Company does not warrant any Third Party providers or any of their products or services, whether or not such products or services are designated by Company as “certified,” “validated,” “premier” and/or any other designation. Company does not endorse any sites on the Internet that are linked through the Service.



3.2 **Ownership.** Subscriber is the owner of all Third Party content and data loaded into the Subscriber Account. As the owner, it is Subscriber's responsibility to make sure it meets its particular needs. Company shall not comment, edit or advise Subscriber with respect to such Third Party content and data in any manner.

Section 4.0 Fees and Payment

4.1 **Fees.** Subscriber shall pay to Company all fees specified in Order Forms. Except as otherwise stated on the Order Form: (i) Subscription Fees are based on Services and subscriptions purchased, (ii) all Subscription Fee payment obligations are non-refundable and non-cancelable, and (iii) quantities purchased cannot be decreased during the relevant Services Term. The Subscription Fee for such Service subscription shall be invoiced upon commencement of the Services Term. Thereafter, Company shall make reasonable efforts to invoice Subscriber for each applicable Subscription Fee sixty (60) days prior to its commencement. Unless Subscriber provides written notice of termination in accordance with Section 5.1, Subscriber agrees to pay all fees no later than thirty (30) days after the receipt of Company's applicable invoice. Subscriber is responsible for providing complete and accurate billing and contact information to Company and notifying Company promptly of any changes to such information.

4.2 **Automatic Payments.** If Subscriber is paying by credit card or Automated Clearing House ("ACH"), Subscriber shall establish and maintain valid and updated credit card information or a valid ACH auto debit account (in each case, the "Automatic Payment Method"). Upon establishment of such Automatic Payment Method, Company is hereby authorized to charge any applicable Subscription Fee using such Automatic Payment Method.

4.3 **Overdue Charges.** If any invoiced amount is not received by Company by the due date, without limiting Company's rights or remedies, those overdue charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum amount permitted by law, whichever is lower. Company reserves the right to condition an overdue Account's future subscription renewals and Order Forms on shorter payment terms than those stated herein.

4.4 **Taxes.** Company's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). Subscriber is responsible for paying all Taxes associated with its purchases hereunder. If Company has the legal obligation to pay or collect Taxes for which Subscriber is responsible under this Section 4.5, Company shall invoice Subscriber and Subscriber shall pay that amount unless Subscriber provides Company with a valid tax exemption certificate authorized by the appropriate taxing authority. To the extent permitted by law, Subscriber agrees to indemnify and hold Company harmless from any encumbrance, fine, penalty or other expense which Company may incur as a result of Subscriber's failure to pay any Taxes required hereunder. For clarity, Company is solely responsible for taxes assessable against Company based on its income, property and employees.

4.5 **Purchases through Resellers.** In the event Subscriber purchases the Services (including any renewals thereof) through an authorized reseller of Company, the terms and conditions of this Agreement shall apply and supersede any other agreement except for any terms and conditions related to fees, payment or Taxes. Such terms and conditions shall be negotiated solely by and between Subscriber and such authorized reseller. In the event Subscriber ceases to pay the reseller, or terminates its agreement with the reseller, Company shall have the right to terminate Subscriber's access to the Service at any time upon thirty (30) days' prior written notice to Subscriber unless Subscriber and Company have agreed otherwise in writing.

Section 5.0 Services Term and Termination

5.1 **Services Term.** This Agreement will commence on the Effective Date set forth on the Order Form and continues until all Service subscriptions hereunder have expired or have been terminated (the "Services Term"). Thereafter, except as stated on an applicable Order Form, the Services Term shall automatically renew for additional periods equal to the expiring subscription term or one year, whichever is longer, unless either party has provided written notice of its intent to terminate the Service subscription not less than forty-five (45) days prior to the expiration of the then-current Services Term applicable to the Service subscription.

5.2 **Termination for Cause.** Either party may terminate this Agreement (in whole or with respect to an Order Form or purchased from a reseller) by notice to the other party if (i) the other party commits a material breach of this Agreement and fails to cure such breach within thirty (30) days (except in the case of a breach of Section 7 in which case no cure period will apply) or (ii) the other party becomes the subject of a petition in bankruptcy or other similar proceeding. Company may, at its option, and without limiting its other remedies, suspend (rather than terminate) any Services if Subscriber breaches the Agreement (including with respect to payment of Fees) until the breach is remedied.

5.3 **Effect of Termination.** Termination or suspension of an individual Order Form or reseller purchase, will not terminate or suspend any other Order Form, reseller purchase or the remainder of the Agreement unless specified in the notice of termination or suspension. If the Agreement is



terminated in whole, all outstanding Order Form(s) and reseller purchases will terminate. If this Agreement, any Order Form or reseller purchase is terminated, Subscriber agrees to pay all Fees owed up to the effective date of termination.

5.4 **Survival.** The following portions of this Agreement shall survive termination of this Agreement and continue in full force and effect: Sections 1, 2.3, 5.3, 6, 7 and 8.

Section 6.0 Representations, Warranties and Disclaimers

6.1 **Representations.** Each party represents that: (i) it has full right, title and authority to enter into this Agreement; and (ii) this Agreement constitutes a legal, valid and binding obligation of Subscriber, enforceable against it in accordance with its terms.

6.2 Warranties.

(a) Company represents and warrants that during the applicable Subscription Term that Service will perform materially in accordance with the applicable Documentation. For any breach of this warranty in Section 6.2(a), Subscriber's exclusive remedy and Company's entire liability shall be as described in Section 5.2.

(b) Company represents and warrants that all such Professional Services shall be performed in a professional and workmanlike manner in accordance with generally accepted industry standards. For any breach of this warranty in Section 6.2(b), Subscriber's exclusive remedy and Company's entire liability shall be the re-performance of the applicable Professional Services.

(c) SERVICE, CONTENT, DOCUMENTATION, STORED DATA AND BETA SERVICE ARE PROVIDED "AS-IS" AND AS AVAILABLE EXCLUSIVE OF ANY WARRANTY. EXCEPT AS EXPRESSLY STATED HEREIN, THE PARTIES MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICES OR ANY CONTENT, DOCUMENTATION, STORED DATA OR BETA SERVICES. PARTIES SPECIFICALLY DISCLAIM ALL REPRESENTATIONS OR WARRANTIES WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

(d) Company's Services have not been tested in all situations under which they may be used. Subscriber is solely responsible for determining the appropriate uses for the Services and the results of such use; Company will not be liable for the results obtained through Subscriber's use of the Services. Company's Services are not specifically designed or intended for use in (i) storage of sensitive, personal information, (ii) direct life support systems, (iii) nuclear facility operations, or (iv) any other similar hazardous environment.

6.3 Indemnification.

(a) *Indemnity by Company.* Company shall defend and indemnify Subscriber from any loss, damage or expense (including reasonable attorneys' fees) awarded by a court of competent jurisdiction, or paid in accordance with a settlement agreement signed by Subscriber, in connection with any Third Party claim (each, a "Claim") alleging that Subscriber's use of the Service as expressly permitted hereunder infringes upon any intellectual property rights, patent, copyright or trademark of such Third Party, or misappropriates the trade secret of such Third Party; provided that Subscriber (x) promptly gives Company written notice of the Claim; (y) gives Company sole control of the defense and settlement of the Claim; and (z) provides to Company all reasonable assistance, at Company's expense. If Company receives information about an infringement or misappropriation claim related to the Service, Company may in its sole discretion and at no cost to Subscriber: (i) modify the Service so that it no longer infringes or misappropriates, (ii) obtain a license for Subscriber's continued use of the Service, or (iii) terminate this Agreement (including Subscriber's Service subscriptions and Account) upon prior written notice and refund to Subscriber any prepaid Subscription Fee covering the remainder of the Term of the terminated Service subscriptions. Notwithstanding the foregoing, Company shall have no liability or obligation with respect to any Claim that is based upon or arises out of (A) use of the Service in combination with any software or hardware not expressly authorized by Company, (B) any modifications or configurations made to the Service by Subscriber without the prior written consent of Company, and/or (C) any action taken by Subscriber relating to use of the Service that is not permitted under the terms of this Agreement. This Section 6.3(a) states Subscriber's exclusive remedy against Company for any Claim of infringement or misappropriation of a Third Party's Intellectual Property Rights related to or arising from Subscriber's use of the Service.

(b) To the extent permitted by law, Subscriber shall defend and indemnify Company from any loss, damage or expense (including reasonable attorneys' fees) awarded by a court of competent jurisdiction, or paid in accordance with a settlement agreement signed by Company, in connection with any Claim alleging that the Subscriber Data, or Subscriber's use of the Service in breach of this Agreement, infringes upon any patent, copyright or trademark of such Third Party, or misappropriates the trade secret of such Third Party; unless applicable laws prohibit public entities from such indemnification and provided that Company (x) promptly gives Subscriber written notice of the Claim; (y) gives Subscriber sole control of the defense and settlement of the Claim; and (z) provides to Subscriber all reasonable assistance, at Subscriber's expense. This Section 6.3(b) states



Company's exclusive remedy against Subscriber for any Claim of infringement of misappropriation of a Third Party's Intellectual Property Rights related to or arising from the Subscriber Data or Subscriber's use of the Service.

6.4 Limitation of Liability. IN NO EVENT SHALL COMPANY, IN THE AGGREGATE, BE LIABLE FOR DAMAGES TO SUBSCRIBER IN EXCESS OF THE AMOUNT OF SUBSCRIPTION FEES PAID BY SUBSCRIBER TO COMPANY PURSUANT TO THIS AGREEMENT DURING THE TWELVE MONTHS PRIOR TO THE FIRST ACT OR OMISSION GIVING RISE TO THE LIABILITY. UNDER NO CIRCUMSTANCES SHALL COMPANY HAVE ANY LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR LOSS OF PROFITS, OR CONSEQUENTIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING, AND WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR PRODUCTS LIABILITY. NOTHING IN THIS SECTION SHALL LIMIT SUBSCRIBER'S PAYMENT OBLIGATIONS UNDER SECTION 4.

Section 7.0 Confidentiality

7.1 Definition of Confidential Information. "Confidential Information" means any non-public information and/or materials maintained in confidence and disclosed in any form or medium by a party under this Agreement (the "Disclosing Party") to the other party (the "Receiving Party"), that is identified as confidential, proprietary or that a reasonable person should have known, was the Confidential Information of the other party given the nature of the circumstances or disclosure, or as otherwise defined as Confidential Information, trade secrets, and proprietary business information as provided under applicable state law and exempted from disclosure by the applicable statute. Confidential Information may include without limitation: information about clients, services, products, software, data, technologies, formulas, processes, know-how, plans, operations, research, personnel, suppliers, finances, pricing, marketing, strategies, opportunities and all other aspects of business operations and any copies or derivatives thereof. Confidential Information includes information belonging to a Third Party that may be disclosed only under obligations of confidentiality. Notwithstanding the foregoing, Confidential Information shall not include information that Receiving Party can demonstrate: (a) is or becomes generally known to the public without breach of any obligation by Receiving Party; (b) is received from a Third Party without breach of any obligation owed to Disclosing Party; or (c) is or has been independently developed by Receiving Party without the benefit of Confidential Information.

7.2 Protection of Confidential Information. The Receiving Party agrees that it shall: (i) use the Confidential Information solely for a purpose permitted by this Agreement, (ii) use the same degree of care as Receiving Party uses with its own Confidential Information, but no less than reasonable care, to protect Confidential Information and to prevent any unauthorized access, reproduction, disclosure, or use of any of Confidential Information; and (iii) restrict access to the Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who are prohibited from disclosing the information by a contractual, legal or fiduciary obligation no less restrictive than this Agreement. Receiving Party shall not use, reproduce, or directly or indirectly allow access to the Confidential Information except as herein provided or export Confidential Information to any country prohibited from obtaining such information under any applicable laws or regulations.

7.3 Compelled Disclosure. If Receiving Party is required to disclose any Confidential Information to comply with law, to the extent legally permitted, Receiving Party shall: (a) give the Disclosing Party reasonable prior written notice to permit Disclosing Party to challenge or limit any such legally required disclosure; (b) disclose only that portion of the Confidential Information as legally required to disclose; and (c) reasonably cooperate with Disclosing Party, at Disclosing Party's request and expense, to prevent or limit such disclosure.

7.4 Records Requests. To the extent permitted by law, Subscriber shall treat as exempt from treatment as a public record, and shall not unlawfully disclose in response to a request made pursuant to any applicable public records law, any of Company's Confidential Information. Upon receiving a request to produce records under any applicable public records or similar law, Subscriber shall immediately notify Company and provide such reasonable cooperation as requested by Company and permitted by law to oppose production or release of such Company Confidential Information.

7.5 Remedies. Receiving Party shall promptly notify Disclosing Party if it becomes aware of any unauthorized use or disclosure of Disclosing Party's Confidential Information and agrees to reasonably cooperate with Disclosing Party in its efforts to mitigate any resulting harm. Receiving Party acknowledges that Disclosing Party would have no adequate remedy at law should Receiving Party breach its obligations relating to Confidential Information and agrees that Disclosing Party shall be entitled to enforce its rights by obtaining appropriate equitable relief, including without limitation a temporary restraining order and an injunction.



Section 8.0 Miscellaneous

8.1 **Compliance with Laws.** Each party will comply with all laws and applicable government rules and regulations insofar as they apply to such party in its performance of this Agreement's rights and obligations.

8.2 **Publicity.** Company is permitted to: (i) include Subscriber's name and logo in accordance with Subscriber's trademark guidelines; and (ii) list the Services selected by Subscriber, in public statements and client lists. Subscriber agrees to participate in press releases, case studies and other collateral using quotes or requiring active participation, the specific details of which shall be subject to mutual consent.

8.3 **Relationship of the Parties.** Company is performing pursuant to this Agreement only as an independent contractor. Company has the sole obligation to supervise, manage, contract, direct, procure, perform or cause to be performed its obligations set forth in this Agreement, except as otherwise agreed upon by the parties. Nothing set forth in this Agreement shall be construed to create the relationship of principal and agent between Company and Subscriber. Company shall not act or attempt to act or represent itself, directly or by implication, as an agent of Subscriber or its affiliates or in any manner assume or create, or attempt to assume or create, any obligation on behalf of, or in the name of, Subscriber or its affiliates.

8.4 **Waiver.** No failure or delay by either party in enforcing any of its rights under this Agreement shall be construed as a waiver of the right to subsequently enforce any of its rights, whether relating to the same or a subsequent matter.

8.5 **Assignment.** Subscriber shall have no right to transfer, assign or sublicense this Agreement or any of its rights, interests or obligations under this Agreement to any Third Party and any attempt to do so shall be null and void. Company shall have the full ability to transfer, assign or sublicense this Agreement or any of its rights, interests or obligations under this Agreement.

8.6 **Force Majeure.** Subject to the limitations set forth below and except for fees due for Service rendered, neither party shall be held responsible for any delay or default, including any damages arising therefrom, due to any act of God, act of governmental entity or military authority, explosion, epidemic casualty, flood, riot or civil disturbance, war, sabotage, unavailability of or interruption or delay in telecommunications or Third Party services, failure of Third Party software, insurrections, any general slowdown or inoperability of the Internet (whether from a virus or other cause), or any other similar event that is beyond the reasonable control of such party (each, a "**Force Majeure Event**"). The occurrence of a Force Majeure Event shall not excuse the performance by a party unless that party promptly notifies the other party of the Force Majeure Event and promptly uses its best efforts to provide substitute performance or otherwise mitigate the force majeure condition.

8.7 **Entity, Governing Law, Notices and Venue.** All notices, instructions, requests, authorizations, consents, demands and other communications hereunder shall be in writing and shall be delivered by one of the following means, with notice deemed given as indicated in parentheses: (a) by personal delivery (when actually delivered); (b) by overnight courier (upon written verification of receipt); (c) by business mail (upon written verification of receipt); or (d) except for notice of indemnification claims, via electronic mail to Subscriber at the e-mail address maintained on Subscriber's Account and to Company at notice@brightlysoftware.com. The Company entity entering into this Agreement, the address to which notices shall be directed under this Agreement and the law that will apply in any dispute or lawsuit arising out of or in connection with this Agreement shall depend upon where Subscriber is domiciled:

(a) In the United States and all other domiciles not otherwise mentioned, the Company entity is Brightly Software, Inc., a Delaware corporation, notices shall be addressed to 11000 Regency Parkway, Suite 400, Cary, NC 27518, Attn: General Counsel, governing law shall be Delaware and the courts with exclusive jurisdiction shall be Delaware without regard to the principles of conflicts of laws, unless Subscriber is a public entity in which case this Agreement shall be governed by the state law where it is domiciled.

(b) In Canada, the Company entity is Brightly Software Canada, Inc., an Ontario corporation, notices shall be addressed to Bay Adelaide Centre, 333 Bay Street, Suite 2400, PO Box 20, Toronto, ON, M5H 2T6 Attn: Brightly Software General Counsel, governing law shall be Ontario and the courts with exclusive jurisdiction shall be Toronto, Ontario, Canada without regard to the principles of conflicts of laws.

(c) In the United Kingdom or a country in Europe, the Company entity is Brightly Software Limited, a limited company in England, notices shall be addressed to Central House Unit C Compass Centre North, Chatham Maritime, Chatham, England, ME4 4YG, Attn: General Counsel, governing law shall be England and the courts with exclusive jurisdiction shall be London, England without regard to the principles of conflicts of laws.

(d) In Australia, New Zealand, a country in Asia or the Pacific region, the Company entity is Brightly Software Australia Pty Ltd, a proprietary limited company in Australia, notices shall be addressed to Level 9, 257 Collins Street, Melbourne, VIC 3000 Australia, Attn: General Counsel, governing law shall be Australia and the courts with exclusive jurisdiction shall be New South Wales, Australia without regard to the principles of conflicts of laws.



8.8 Interpretation of Agreement. The Section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties, and shall not affect in any way the meaning or interpretation of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

8.9 No Third Party Beneficiaries. No person or entity not a party to the Agreement shall be deemed to be a Third Party beneficiary of this Agreement or any provision hereof.

8.10 Severability. The invalidity of any portion of this Agreement shall not invalidate any other portion of this Agreement and, except for such invalid portion, this Agreement shall remain in full force and effect.

8.11 Entire Agreement. This Agreement, including any applicable Order Form, is the entire agreement between Subscriber and Company regarding Subscriber's use of the Service and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. The parties agree that any term or condition stated in any purchase order or in any other order documentation is void. In the event of any conflict or inconsistency between the documents, the order of precedence shall be (1) the applicable Order Form, (2) any schedule or addendum to this Agreement, and (3) the content of this Agreement.

8.12 Export Compliance. The Service, Professional Service, Content or other technology Company may make available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. Subscriber shall not permit any Account User to access or use any Service, Content or other Company technology in a U.S.-embargoed country or region or in violation of any U.S. export law or regulation.

8.13 Anti-Corruption. Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If Subscriber learns of any violation of the above restriction, Subscriber shall immediately notify Company.

8.14 Cooperative Use. With Subscriber's approval, the market research conducted by Subscriber during its selection process for the Services may be extended for use by other jurisdictions, municipalities, and government agencies of Subscriber's state. Any such usage by other entities must be in accordance with ordinance, charter, and/or procurement rules and regulations of the respective political entity.

8.15 RESERVED.

8.16 Exclusions/Suspensions. Company confirms that it has not been excluded, debarred or suspended from participation in any governmental program, including but not limited to Medicare, Medicaid, or Medi-Cal payor programs, and is not the subject of any investigation regarding participation in such programs, and has not been convicted of any crime relating to any governmental program. Company agrees to notify Subscriber immediately if Company becomes aware of any adverse action related to Company's eligibility to participate in a governmental program.

8.17 USA Government Subscribers. The Service and its Documentation and Content are "Commercial Items," "Commercial computer software" and "Computer software documentation" as defined in the Federal Acquisition Regulations ("FAR") and Defense Federal Acquisition Regulations Supplement ("DFARS"). Pursuant to FAR 12.211, FAR 12.212, DFARS 227.7202, as revised, the U.S. Government acquires the Service and its Documentation and Content subject to the terms of this Agreement.

Section 9.0 Definitions

As used in this Agreement, the following terms shall have the meanings set forth below:

9.1 "Access Credentials" means any user name, identification number, password, license or security key, security token, PIN or other security code, method, technology or device used, alone or in combination, to verify an individual's identity and authorization to access and use the Service.

9.2 "Account" means Subscriber's specific account where Subscriber subscribes to access and use Service(s).

9.3 "Account User" means each employee, consultant and contractor of Subscriber that has been granted Access Credentials.

9.4 "Affiliate" means, with respect to any legal entity, any other legal entity that (i) controls, (ii) is controlled by or (iii) is under common control of such legal entity. A legal entity shall be deemed to "control" another legal entity if it has the power to direct or cause the direction of the management



or policies of such legal entity, whether through the ownership of voting securities, by contract, or otherwise.

9.5 “Beta Service” means Company Service or functionality that may be made available to Subscriber to try at its option at no additional charge that is clearly designated as beta, pilot, limited release, early adoption, non-production, sandbox, evaluation or a similar description.

9.6 “Content” means all of the Company audio and visual information, documents, content, materials, products and/or software contained in, or made available through, the Service.

9.7 “Documentation” means the user documentation relating to the Service provided to Subscriber by Company, including but not limited to descriptions of the functional, operational and design characteristics of the Service.

9.8 “Brightly Software” or “Company” means Brightly Software, Inc., Brightly Software Canada, Inc., Assetic Australia Pty Ltd, Confirm Solutions Limited, Facility Health, Inc. and Energy Profiles Limited together with their affiliates, successors and assigns.

9.9 “Company Data” means all data, information, Documentation and other Content provided by or on behalf of Company to any of the Company Services.

9.10 “Intellectual Property Rights” means all ideas, concepts, designs, drawings, packages, works of authorship, processes, methodologies, information, developments, materials, inventions, improvements, software, and all intellectual property rights worldwide arising under statutory or common law, including without limitation, all (i) patents and patent applications owned or licensable by a party hereto; (ii) rights associated with works of authorship, including copyrights, copyright applications, copyright registrations, mask work rights, mask work applications and mask work registrations; (iii) rights related to protection of trade secrets and Confidential Information; (iv) trademarks, trade names, service marks and logos; (v) any right analogous to those set forth in clauses (i) through (iv); and (vi) divisions, continuations, renewals, reissues and extensions of the foregoing (as and to the extent applicable) now existing, hereafter filed, issued or acquired.a

9.11 “Order Form” means Company’s ordering document or online purchasing form used to order Company Services. By entering into an Order Form, Affiliate(s) agree to be bound by the terms of this Agreement as if an original party.
Company

9.12 “Professional Service” means the professional, technical, consulting and/or other services, excluding support services, to be performed by Company that are ordered by Subscriber on an Order Form or provided without charge (if applicable).

9.13 “Service” or “Services” means Company’s branded offerings of Software-as-a-Service (SaaS) applications, products and services made available by Company, as updated, enhanced or otherwise modified from time-to-time. Company

9.14 “Subscriber” means the legal entity identified on the Account, on behalf of itself and its Affiliates, employees and subcontractors.

9.15 “Subscriber Data” means all data, information and other content provided by or on behalf of Subscriber to the Service, including that which the Account Users input or upload to the Service.

9.16 “Subscriber-Hosted Software” means Company’s suite of Software-as-a-Service (SaaS) software applications, as updated, enhanced or otherwise modified from time-to-time that are: (i) ordered by Subscriber on an Order Form or provided without charge (if applicable) and made available by Company, including mobile components, and (ii) granted a non-exclusive and non-transferable license (with no right to sublicense) to install and use software for the Term.

9.17 “Subscription Fee” means the fee invoiced to Subscriber by Company prior to the Services Term, which is required to be paid in order for Subscriber to be permitted to access and use the Service.

9.18 “Third Party” means a party other than Subscriber or Company.

[Remainder of page intentionally left blank; signature page to follow]



IN WITNESS WHEREOF, the undersigned have executed this Agreement.

Brightly Software, Inc.

Prince George’s County Public Schools

By: _____
[signature]

By: _____
[signature]

Name: _____
[printed or typed]

Name: _____
[printed or typed]

Title: _____

Title: _____

Date: _____

Date: _____

By: _____
[signature]

Name: _____
[printed or typed]

Title: _____

Date: _____



PROFESSIONAL SERVICES ADDENDUM

THIS PROFESSIONAL SERVICES ADDENDUM ("Addendum") is an addendum to the Master Subscription Agreement (the "Agreement") between Brightly Software ("Company") and Subscriber, as defined in the Agreement. This Addendum applies to the extent that Subscriber and Company execute an Order Form that includes a Statement of Work ("SOW") for the provision of Professional Services to be provided by Company for Subscriber.

BY ACCEPTING THIS ADDENDUM, EITHER BY CLICKING A BOX INDICATING ACCEPTANCE, BY RESELLER PURCHASE, BY EXECUTING AN ORDER FORM THAT REFERENCES THIS ADDENDUM OR BY OTHERWISE ACCESSING AND USING THE PROFESSIONAL SERVICES, SUBSCRIBER AGREES TO THE TERMS OF THIS AGREEMENT. AS A RESULT, PLEASE READ ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY.

1. PROFESSIONAL SERVICES.

1.1 Scope. Company will provide such Professional Services and supply Deliverables to Subscriber in accordance with the terms of the Agreement and all applicable SOWs or Order Forms. Unless otherwise specified in an applicable SOW or Order Form: (i) Company will perform the Professional Services during workdays, Monday through Friday, up to 8 hours a day; (ii) any estimate of hours or costs are reasonable, good faith estimates only; and (iii) each task is performed as firm fixed price work or time and materials. Company is only obliged to supply Professional Services as expressly stated in the SOW and shall not be obliged to supply any Professional Services and/or Deliverables until both Parties have approved the applicable SOW.

1.2 Scheduling. Company requires at least 6 weeks advanced notice from the acceptance of an Order Form or reseller purchase to schedule Professional Services delivery dates when travel is required. Onsite Professional Services shall be delivered consecutively in a single onsite visit unless the applicable Order Form or reseller purchase includes the additional fees and incidental expenses associated with multiple visits.

1.3 Unused Professional Services. Unless otherwise specified in the applicable SOW, any unused order for Professional Services will expire 6 months from the date of order, and Subscriber will not be entitled to receive a refund for any fees prepaid for such expired Professional Services.

1.4 Relationship to Other Services. The Addendum is limited to Professional Services and does not convey any right to use any other Company Services. Subscriber agrees that Professional Services is not contingent on the delivery of any future Service functionality or features other than Deliverables, or on any oral or written public comments by Company regarding future Service functionality or features.

1.5 Subscriber Cooperation. Subscriber will cooperate reasonably and in good faith with Company in its performance of Professional Services by: (i) providing access to Subscriber Data, (ii) allocating sufficient resources and timely performing any tasks reasonably necessary to enable Company to perform its obligations under the SOW or Order Form, and (iii) actively participate in scheduled project meetings. Any delays in the performance of Professional Services or delivery of Deliverables caused by Subscriber may result in additional applicable charges for resource time.

1.6 Acceptance. Any Deliverables are stated in the SOW or Order Form. Unless otherwise specified in the applicable SOW, Deliverables will be considered accepted upon Subscriber's written notice thereof (e-mail is sufficient) or two (2) business days from delivery whichever is sooner, provided Subscriber's rejection is limited to failure to materially conform to the SOW's specifications. An effective notice of rejection must specifically disclose the material failure to conform to its specifications. In response to rejection, Company may revise and redeliver the Deliverable, and thereafter the procedures of this Section will repeat.

1.7 Change Order. Changes to Professional Service defined in an Order Form, SOW or reseller purchase, shall require a written Change Order signed by the parties prior to implementation of such change(s). Changes may include, for example, alterations to the Professional Service scope of work, Deliverables or changes to fees or schedule.

2. FEES & PAYMENT TERMS.

2.1 Payment. Subscriber will pay Company the fees specified in each SOW or Order Form contained therein. Unless the SOW or Order Form provides otherwise, Subscriber will pay Company within thirty (30) calendar days from the date of invoice. Where multiple onsite visits are scheduled, the Professional Services, fees and incidental expenses shall be invoiced upon the completion of each visit.

2.2 Incidental Expenses. Subscriber will reimburse Company for travel and related business expenses incurred in connection with Professional Services. If an estimate of incidental expenses is included in the applicable SOW or Order Form, Company will not exceed a 5% inflation such estimate without the written consent of Subscriber.

3. TERM AND TERMINATION.

3.1 Term. Each SOW term shall begin on the effective date specified in the applicable SOW or Order Form and end on the date that the Professional Services are completed. Unless earlier terminated as set forth below, the terms of this Addendum will continue until termination or expiration of the applicable SOW. Termination shall be in accordance with the Agreement.

3.2 Termination. Either party may terminate a SOW or this Addendum for the other's material breach of such SOW or this Addendum, as applicable, on thirty (30) days' written notice, provided that if the other party cures the breach before expiration of such notice period, the SOW will not terminate. Additionally, all SOWs will immediately terminate upon termination or expiration of the Agreement.

3.3 Effect of Termination. Upon termination of a SOW: (1) if such SOW provides for an hourly or per unit fee, Subscriber will pay Company such fee for the work performed up to the date of termination; and (2) if the SOW provides for a fixed fee, Subscriber will pay Company the reasonable value of the Professional Services rendered by Company up to the termination date. Termination of a SOW for any reason, including without limitation for cause, will not terminate any other SOW.

4. PROPRIETARY RIGHTS AND LICENSES.

4.1 Confidential Information. As between the parties, each party retains all ownership rights in and to its Confidential Information as set forth in the Agreement.



4.2 Subscriber Data. Subscriber does not grant to Company any rights in or to Subscriber's intellectual property except such licenses as are required for Company to perform its obligations under the Agreement.

4.3 License for Deliverables. Upon payment of fees due under an applicable SOW or Order Form, Company grants Subscriber a worldwide, perpetual, non-exclusive, non-transferable, royalty-free license to copy, maintain, use and run (as applicable) solely for its internal business purposes associated with its use of Company's Services any Deliverables created by Company solely for Subscriber under this Agreement. Company and Subscriber each retain all right, title and interest in their respective Intellectual Property and Company retains all ownership rights in the Deliverables.

5. WARRANTY.

Company represents and warrants that all Professional Services shall be performed in a professional and workmanlike manner in accordance with generally accepted industry standards. For any breach of this warranty in Section 5, Subscriber's exclusive remedy and Company's entire liability shall be the re-performance of the applicable Professional Services.

6. DISCLAIMER.

EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH SECTION 5 ABOVE, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, Company AND ITS THIRD PARTY PROVIDERS DISCLAIM ALL WARRANTIES OF ANY KIND RELATED TO THE DELIVERABLES OR THE PERFORMANCE OF PROFESSIONAL SERVICES HEREUNDER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. Company DOES NOT WARRANT THE RELIABILITY, TIMELINESS, SUITABILITY, OR ACCURACY OF THE DELIVERABLES OR THE RESULTS SUBSCRIBER MAY OBTAIN BY USING THE DELIVERABLES. IN PARTICULAR, Company DOES NOT WARRANT UNINTERRUPTED OR ERROR- FREE OPERATION OF THE DELIVERABLES, THAT THE DELIVERABLES WILL CONTINUE TO FUNCTION WITH ANY SUBSCRIPTION SERVICES AFTER THE EXPIRATION OF THE APPLICABLE WARRANTY PERIOD, OR THAT Company WILL CORRECT ALL DEFECTS OR PREVENT THIRD PARTY DISRUPTIONS OR UNAUTHORIZED THIRD PARTY ACCESS.

7. NON-EXCLUSIVITY OF PROFESSIONAL SERVICES.

Notwithstanding the Confidentiality obligations set forth in Section 8 of the Agreement and this Addendum, Subscriber acknowledges and agrees that (i) multiple Subscribers may require similar Professional Services or Deliverables and that Company may be developing similar Professional Services and Deliverables for other third parties, (ii) Company may currently or in the future be developing information internally, or receiving information from other parties, that is similar to the Confidential Information of Subscriber, (iii) nothing will prohibit Company from developing or having developed for it customizations, configurations, feature, concepts, systems or techniques that are similar to the Deliverables, and (iv) nothing will prohibit Company from re-using with another Subscriber or making generally available as part of Subscription Services all or part of any customization, configuration, feature, concept, system or technique developed hereunder.

8. IP INDEMNITY.

8.1 Indemnification by Company. In addition to the indemnification obligations set forth in Section 6 of the Agreement and subject to this Addendum, Company will (i) defend, or at its option settle, any claim, demand, action or legal proceeding ("**Claim**") made or brought against Subscriber by a third party alleging that the use of the Deliverable(s) as contemplated hereunder directly infringes the intellectual property rights of such third party, and (ii) pay (a) any final judgment or award directly resulting from such Claim to the extent such judgment or award is based upon such alleged infringement or (b) those damages agreed to by Company in a monetary settlement of such Claim. Company's obligations to defend or indemnify will not apply to the extent that a Claim is based on (I) Subscriber Data, Subscriber's or a third party's technology, software, materials, data or business processes; (II) a combination of the Deliverable(s) with non-Company products or services; or (III) any use of the Deliverable(s) not in compliance with this Addendum. In the event of a Claim, Company may, in its discretion and at no cost to Subscriber (A) modify the Deliverable(s) so that they are no longer the subject of an infringement claim, (B) obtain a license for Subscriber's continued use of the Deliverable(s) in accordance with this Addendum, or (C) suspend use of the Deliverable in question and refund to Subscriber a pro rata portion of the fees paid for every month during which Subscriber is prevented from using the infringing Deliverable as a result of such infringement, during the first three years after delivery of such Deliverable.

8.2 Indemnification by Subscriber. To the extent permitted by law and subject to this Addendum, Subscriber will (i) defend, or at its option settle, any Claim made or brought against Company by a third party alleging that (I) Subscriber Data, Subscriber's or a third party's technology, software, materials, data or business processes; (II) a combination of the Deliverables with non-Company products or services; or (III) Subscriber's use of the Deliverables , other than as authorized in this Addendum, violates applicable law or regulations or infringes the intellectual property rights of, or has otherwise harmed, a third party; and (ii) pay (a) any final judgment or award directly resulting from such Claim, or (b) or those damages agreed to in a monetary settlement of such Claim.

THIS SECTION 8 STATES COMPANY'S SOLE OBLIGATION, AND SUBSCRIBER'S SOLE REMEDY, WITH REGARDS TO CLAIMS THAT THE DELIVERABLES INFRINGE ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS.

9. LIMITATION OF LIABILITY. IN ADDITION TO THE OBLIGATIONS UNDER THE AGREEMENT, IN NO EVENT SHALL COMPANY, IN THE AGGREGATE, BE LIABLE FOR DAMAGES TO SUBSCRIBER IN EXCESS OF THE TOTAL AMOUNT PAID BY SUBSCRIBER UNDER THE APPLICABLE SOW TO WHICH THE CLAIM RELATES. THE ABOVE LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY. THE FOREGOING LIMITATION WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW. UNDER NO CIRCUMSTANCES SHALL COMPANY HAVE ANY LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR LOSS OF PROFITS, OR CONSEQUENTIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING, AND WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR PRODUCTS LIABILITY. NOTHING IN THIS SECTION SHALL LIMIT SUBSCRIBER'S PAYMENT OBLIGATIONS UNDER SECTION 4 OF THE AGREEMENT.

10. MISCELLANEOUS

10.1 Order of Precedence. In the event of a conflict, the provisions of an authorized SOW will prevail over those of this Addendum. Neither party's acts nor omissions related to Professional Services, to a SOW, or to this Addendum, including without limitation breach of a SOW or of this Addendum, will give the other party any rights or remedies not directly related to the SOW in question.



10.2 Independent Contractor. The parties are independent contractors and nothing in this Agreement should be construed to create a partnership, agency, joint venture, fiduciary or employment relationship between the parties. Neither party is authorized to make any representation or commitment on behalf of the other party. Each party assumes full responsibility for the actions of its personnel while performing Services and such party will be solely responsible for the supervision, daily direction, control of its personnel and for the payment of all of their compensation.

10.3 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

10.4 Force Majeure. Neither party will be responsible for failure or delay of performance of a SOW if caused by an act of nature, war, hostility or sabotage; an electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); or other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than thirty (30) days, either party may cancel unperformed Professional Services upon written notice.

10.5 Non-Solicitation. Except where prohibited by law, during the Term of this Addendum and for twelve (12) months thereafter, Subscriber will not solicit for employment, nor knowingly employ (either as an employee, contractor or agent), any of Company's employees or subcontractors without Company's prior written consent. For the purposes herein, "solicit" does not include broad-based recruiting efforts, including without limitation help wanted advertising and general posting open positions.

10.6 Subcontractors. Company may, in its reasonable discretion, use subcontractors inside or outside the United States to perform any of its obligations hereunder. Company will be responsible for the performance of Professional Services by its personnel (including employees and contractors) and their compliance with Company's obligations under this Addendum, except as otherwise specified herein.

10.7 Severability. If any provision of this Addendum is held by a court of competent jurisdiction to be contrary to law, the provision will be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Addendum will remain in effect.

11. DEFINITIONS.

11.1 "Change Order" means a Company change order that changes the Professional Services as set forth on a SOW, Order Form or defined in a reseller purchase. Change Orders executed by both parties shall be incorporated by reference into the applicable SOW, Order Form or reseller purchase. A Change Order cannot change Services, as defined in the Agreement to include SaaS applications.

11.2 "Deliverable" means a deliverable under an SOW or Order Form.

11.3 "SOW" means a statement of work describing Professional Services to be provided hereunder, that is entered into between Subscriber and Company or which is incorporated into an Order Form that is entered into between Subscriber and Company. A Company Affiliate that executed an SOW with Subscriber will be deemed to be Company as such term is used in this Agreement. SOWs or Order Forms are deemed incorporated herein by reference.

All other capitalized terms used but not defined herein shall have the respective meanings set forth in the Agreement.

DBS032-23, Rider KPNA201912-06 for Equipment Inventory Data Gathering Services

Final Audit Report

2022-12-21

Created:	2022-12-20
By:	Procurement Supervisor (eyvette.wright@pgcps.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA-W_Dr1DtSaphLtsMzFSGTOOX6r18zXvb

"DBS032-23, Rider KPNA201912-06 for Equipment Inventory Data Gathering Services" History

 Document created by eyvette.wright@pgcps.org eyvette.wright@pgcps.org (eyvette.wright@pgcps.org)

2022-12-20 - 7:48:29 PM GMT

 Document emailed to melissa.buchanan@brightlysoftware.com for signature

2022-12-20 - 7:56:03 PM GMT

 Email viewed by melissa.buchanan@brightlysoftware.com


2022-12-20 - 7:57:47 PM GMT

 Signer melissa.buchanan@brightlysoftware.com entered name at signing as Melissa Buchanan


2022-12-20 - 7:59:35 PM GMT

 Document e-signed by Melissa Buchanan (melissa.buchanan@brightlysoftware.com)

Signature Date: 2022-12-20 - 7:59:37 PM GMT - Time Source: server

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2022-12-20 - 7:59:39 PM GMT

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2022-12-20 - 8:19:56 PM GMT

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2022-12-20 - 8:20:39 PM GMT

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Signature Date: 2022-12-20 - 8:20:41 PM GMT - Time Source: server

 Document emailed to kevin.kemmerer@brightlysoftware.com for signature

2022-12-20 - 8:20:42 PM GMT

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2022-12-20 - 9:12:50 PM GMT

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2022-12-20 - 9:14:04 PM GMT

 Document e-signed by Kevin Kemmerer (kevin.kemmerer@brightlysoftware.com)

Signature Date: 2022-12-20 - 9:14:06 PM GMT - Time Source: server

 Document emailed to eyvette.wright@pgcps.org eyvette.wright@pgcps.org (eyvette.wright@pgcps.org) for signature


2022-12-20 - 9:14:07 PM GMT

 Email viewed by eyvette.wright@pgcps.org eyvette.wright@pgcps.org (eyvette.wright@pgcps.org)


2022-12-20 - 9:32:08 PM GMT

 Signer eyvette.wright@pgcps.org eyvette.wright@pgcps.org (eyvette.wright@pgcps.org) entered name at signing as Procurement Supervisor


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